

MINUTES

UTAH

**PHYSICIAN ASSISTANT
LICENSING
BOARD MEETING**

October 29, 2012

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

CONVENED: 8:40 A.M.

ADJOURNED: 11:50 A.M.

Bureau Manager:
Board Secretary:
Compliance Assistant:

Noël Taxin
Karen McCall
Debra Troxel

Board Members Present:

Jeffery M. Coursey, PA-C, Chairperson
Kyle Harmer, PA-C
David Schmitz, MD
Shari Bloom, PA-C
Lori G. Buhler
Robert Clark Moesinger, MD

Board Members Absent:

Robert Edward Ferguson, Jr., MD, Excused

Guests:

Bob Bunnell, UCPA

DOPL Staff Present:

Karl Perry, Assistant Attorney General

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Swearing in of Robert C. Moesinger, MD, as a Board Member

Ms. Taxin conducted the swearing in of Dr. Moesinger as a Board member. The Board welcomed him.

FYI

Ms. Taxin informed the Board of the reappointment of Dr. David Schmitz and Jeffrey Coursey, PA-C, as Board members.

Board Chairperson

Dr. Schmitz made a motion to reappoint Mr. Coursey as the Board Chairperson. Ms. Bloom seconded the

motion. **The Board vote was unanimous.**

The minutes from the May 21, 2012, Board meeting were read.

Ms. Bloom made a motion to approve the minutes with some minor revisions. Ms. Buhler seconded the motion. **The Board vote was unanimous.**

APPOINTMENTS:

Ms. Taxin, Explanation of Mr. Pontious's Stipulation and Order and an Amended Order

Ms. Taxin stated Mr. Pontious and the Division finally came to resolution in addressing the Board's and investigations concerns regarding his Physician Assistant's (PA's) practices. Ms. Taxin then reviewed the amended Order.

Mr. Coursey commented the PANRE or PANCE examinations have oversight to be sure the practitioner has the skills to practice safely.

Ms. Bloom asked if Mr. Pontious will be allowed to continue working if he does not pass the examination.

Ms. Taxin responded sometimes a practitioner is allowed to practice if they fail an exam but the Board will need to discuss the issue if he does not pass. She recommended the Board suggest he take a course to assist him with the examination. She stated he will need to submit a practice plan if he fails the examination for the Board to determine if he should continue to practice and if he fails the examination a second time then his license will be suspended until he passes the examination.

Ms. Buhler asked if MD Diet is still doing business.

Ms. Taxin responded yes.

Ms. Bloom asked if Mr. Pontious still has patients on the combo medication he was prescribing at MD Diet.

Ms. Taxin responded Mr. Pontious is no longer prescribing the combo medication to his current

patients. She recommended the Board ask Mr. Pontious what medications he is prescribing for his current patients.

The Board questioned Ms. Taxin regarding the facts in the Stipulation and Order.

Ms. Taxin suggested the Board request Mr. Pontious to explain the facts and concerns of the new Order.

Mr. Coursey asked if the facts not listed in the Order should be disclosed.

Ms. Taxin responded no.

Ms. Bloom commented she believes the biggest concern of the Board is in regard to his competency if he is working in the medical field as a PA. She also voiced she would like to see his plan regarding studying and taking the PANCE and/or PANRE.

Ms. Taxin then briefly brought Dr. Moesinger up to date regarding Mr. Pontious working at MD Diet and being on probation.

Ms. Bloom commented at the last meeting Mr. Pontious was on the cusp of letting his license expire. She asked if he completed the renewal requirements and renewed on time.

Ms. Taxin responded no. She stated Mr. Pontious continued to work on an expired license and her staff had to work with him to get his license renewed.

Mr. Harmer voiced he would not be comfortable discussing the possibility of terminating probation prior to the full three years.

Ms. Taxin responded she believes Mr. Pontious is motivated to be in compliance and improve but Mr. Harmer and other Board members may voice their frustration and tell him they are hoping he is onboard to meet the requirements to be successful. She stated they should also remind him that he is being given a chance to practice.

Dr. Schmitz commented he would be concerned about Mr. Pontious being in a non-weight loss Physicians environment. He stated Mr. Pontious has a protocol to follow for the weight loss clinic and that is the safest environment for him at this time as it is controlled.

Dr. Moesinger agreed with Dr. Schmitz. He asked where Mr. Pontious could obtain the appropriate additional education and experience to expand his knowledge environment to be able to practice with Physicians in other environments.

Dr. Schmitz responded Mr. Pontious could work at the 4th Street Clinic or other similar places.

Mr. Coursey commented Mr. Pontious could move to primary care but would need a lot more supervision.

Mr. Harmer asked if DOPL is checking the CSD prescribing for Mr. Pontious.

Mr. Troxel responded yes. She referred the Board to the CSD printout. Ms. Troxel pointed out one prescription under his name. She stated she contacted the Pharmacy and found they put it under his name in error.

Ms. Bloom asked if the Board would need to also review the entire disciplinary file today.

Ms. Taxin responded yes. She stated Mr. Pontious had said he sent a letter to the Primary Care Practitioner when co-managing a patient and the Board should ask for a copy of that letter.

Ms. Troxel commented all the required reports were submitted and Mr. Pontious is in compliance today. She stated she talked with Mr. Pontious late Friday night and he had confirmed he has not checked the CSD as he needs his password changed. Ms. Troxel stated there are several people he can contact for assistance but he did not make any contact.

9:45 am

Mr. David Pontious, Probationary Interview

Mr. Pontious met for his probationary interview.

Ms. Bloom conducted the interview.

Dr. Moesinger was introduced.

Ms. Bloom informed Mr. Pontious that the Board was just updated on his Amended Order. She stated he had asked the dates of his probation period and upon reviewing his file it was determined his original start date was December 8, 2010 for a three year probation. She stated he was not working as a PA for about six months, from June 30, 2011 to January of 2012, so that time will not count. Ms. Bloom stated his three year probation will be completed in June 2014.

Mr. Pontious voiced understanding the three year probation but stated he understood he could request the Board to consider early termination of his probation.

Ms. Taxin responded Mr. Pontious is correct. She stated he may request the Board to consider early termination at any time.

Ms. Bloom stated the biggest part of the amendment is the requirement for the PANCE or PANRE. She asked what his timeframe is to take the examination and if he has registered for a prep course.

Mr. Pontious responded he is planning to take the examination in January, February or March, 2013, and he is working on registering for a prep course.

Ms. Bloom reminded Mr. Pontious that he was requested to bring a copy of the letter he sends out to the Primary Care Practitioner regarding his managing the care of a patient. She asked if he brought that letter.

Mr. Pontious responded he did not bring a copy of the letter. He asked if he could fax it later today.

Ms. Bloom responded yes, he could fax it.

Mr. Coursey asked if the letter is the same for each patient.

Mr. Pontious responded yes for the first letter. He stated if anything changes or if there are concerns then he sends a letter specific to that patient.

Mr. Coursey asked if Mr. Pontious is still adjusting medications for diabetes and hypertension and if so, how is it received by the Primary Care Practitioners.

Mr. Pontious responded yes. He stated he has had a positive response from the Primary Care Practitioners.

Ms. Bloom asked if Mr. Pontious brought a file for the Board to review as requested.

Mr. Pontious responded yes. He gave the file to the Board for review.

Ms. Bloom reminded Mr. Pontious of the Board's recommendation to review the DOPL controlled substance database (CSD). She asked if he has done that.

Mr. Pontious responded he has not reviewed the CSD as he has had difficulty getting into the program. He stated he finally reached someone last week for assistance by has not review it yet.

Ms. Bloom again recommended he check it frequently. She stated all the prescriptions listed for him were check out and they were written by others but he needs to review it and he should be the one to follow up with the Pharmacies if the prescriptions are not written by him.

Mr. Pontious responded there was a problem with the computer system and it has been corrected so there should no longer be an issue with the CSD. He stated his supervisors keep close tabs on him to be sure he is practicing appropriately.

Dr. Schmitz asked if he is able to converse with his supervisors on a daily basis since he is on a different floor.

Mr. Pontious responded yes. He stated they meet almost daily to review questions, etc. and he meets with Dr. Barnett on a weekly basis. He stated each week a different Physician takes over his supervision and they meet electronically.

Ms. Taxin requested Mr. Pontious to explain why Dr. Barnett is listed on the weight loss treatment list.

Mr. Pontious responded the clinic is Dr. Barnett's and he may come in at any time and take a product so he signs the log at those times and also when they have their meetings scheduled.

Dr. Schmitz clarified that if Dr. Barnett schedules time to meet he signs in but Mr. Pontious has not actually prescribed anything to Dr. Barnett.

Mr. Pontious responded yes. He stated they meet to critique his services and to increase the number of patients.

Ms. Taxin stated Mr. Pontious attended a regiment course to learn the protocols. She asked if there are homeopathic remedies recommended instead of just medications.

Mr. Pontious responded he sells nothing out of the office but he does make recommendations and suggestions for patients to purchase over the counter items such as something to assist in sleeping better.

Ms. Taxin requested Mr. Pontious to walk through from when a patient arrives to when they leave if the patient is over weight but generally healthy.

Mr. Pontious responded the patient fills out the general paperwork then meets with him and they talk about family histories, etc. He stated he then goes through the body analysis and asks what the weight goal is for the patient, then reviews what is healthy and what is

not and stresses the importance of consistent exercise. He stated he then goes through the medical list and addresses the issues and the medications that could cause weight gain. Mr. Pontious stated diabetic patients are different. He stated if they follow the guidelines of the lower caloric diet their insulin is cut in half.

Dr. Schmitz asked how he reaches the lower caloric decision.

Mr. Pontious responded the diet controls the calories. He stated he presents the three programs and then the patient determines which is best for them. He stated they discuss the health of the patient and do lab work prior to the patient making the decision. Mr. Pontious stated after patients make their decision/commitment then he follows up weekly, bi-weekly or monthly with each patient.

Dr. Schmitz asked how Mr. Pontious monitors the exercise.

Mr. Pontious responded he asks the patient at each appointment and they are also given an exercise sheet to keep track of their exercise and how long they are exercising.

Dr. Schmitz asked what lab work is done.

Mr. Pontious stated he orders lab test for diabetes, testosterone, estrogen, etc. He stated if a patient is low in testosterone or estrogen it can affect their weight loss or gain and he sends the patient back to their Primary Care Practitioner for prescriptions as he does not treat those conditions.

Dr. Schmitz stated obese men normally have low testosterone. He asked how Mr. Pontious treats them.

Mr. Pontious responded if the lab tests indicate low testosterone he sends the patient back to their Primary Care Practitioner. He stated if men are low on testosterone they have a tendency to loose muscle mass.

Ms. Bloom asked Mr. Pontious to review the DOPL CSD and brought his attention to the names on the list that have been prescribed testosterone. She asked if he recognized any names on the list.

Mr. Pontious reviewed the list and responded he did recognize one of the names and this patient is being cared for by one of the Physicians at the clinic. He stated he did not recognize the other names.

Mr. Perry commented Mr. Pontious is now able to pull the list himself to review as he now has his own pin number.

Ms. Taxin suggested Mr. Pontious also contact MD Diet by writing a formal letter to be sure his name is taken off their prescription pads. She asked if Mr. Pontious had any questions of the Board.

Mr. Pontious commented he would like to do something other than weight loss. He asked if the Board would consider early termination of probation once he passes the PANCE or PANRE so that he can use his education in a different setting.

Ms. Bloom asked Mr. Pontious what makes him think the probation is the reason he cannot obtain employment in a different setting.

Mr. Pontious responded weight loss is the only experience he has had. He stated he did not receive any responses to all the applications he sent out.

Dr. Schmitz asked if Mr. Pontious has considered obtaining some practical medical experience with the 4th Street Clinic or a similar clinic as there are probationers working in those clinics.

Mr. Pontious responded he applied at some similar clinics and never received a response. He stated he also applied at Alpine, American Fork and Provo practices.

Dr. Schmitz asked if a letter from the Board would help.

Ms. Taxin responded letters of this type should not come from the Board.

Mr. Coursey stated the Meliheh has a clinic in Park City and one in Salt Lake. He stated either clinic would be a good place to obtain good supervision for clinical skills and possibly someone could then make a recommendation for him.

Ms. Bloom suggested his present employers write recommendations.

Ms. Taxin reminded Mr. Pontious that if he volunteers he will still be required to be supervised and reports will still be need to be submitted. She stated a whole new Delegation of Services Agreement will also need to be completed and submitted. Ms. Taxin stated there are no controlled substance prescriptions written at the 4th Street Clinic.

Ms. Bloom stated his request for considering early termination is premature at this time.

Dr. Schmitz commented the dates on the patient file Mr. Pontious brought for review are difficult to follow. He stated it appears the patient is not really obese. Dr. Schmitz stated it is recommended before starting anyone on Phentermine to have documentation on what they have done in the past such as diets, exercise, etc., and he is not seeing that documentation.

Mr. Pontious responded the first part of the file is from when the program was just starting and now he obtains additional documentation on each patient.

Dr. Schmitz stated the Law requires a structured program regarding why the patient is trying to loose weight and he is not seeing that information in this file. He asked if Mr. Pontious has concerns regarding other health issues besides weight gain or loss.

Mr. Pontious responded this patient is not on the

medications he prescribes and he does not believe there are concerns.

Dr. Schmitz asked if Mr. Pontious plans to use the new combination of Phentermine and Topiramade.

Mr. Pontious responded yes.

Mr. Coursey asked how familiar Mr. Pontious is with the medication.

Mr. Pontious responded the evidence is not good yet and it is only available through mail order Pharmacies.

Mr. Coursey responded Mr. Pontious is correct. He stated since the evidence is not good he should discuss the use with his supervisors to determine if it is appropriate to use.

Dr. Moesinger stated his questions are in regard to charting. He stated on the second page Mr. Pontious has indicated he recommended the patient try the diet without medications and then a week later he prescribed Phentermine. He stated the chart also indicates the patient is not really over weight. Dr. Moesinger stated he could not emphasize enough how accurate charting is crucial to patient care.

Dr. Schmitz suggested Mr. Pontious pull another chart for the Board to review of someone who is obese.

Mr. Pontious agreed to bring another patient chart to his next appointment. He stated the chart he brought is from a staff employee and is not typical of his patients.

Ms. Bloom commented Mr. Pontious works for his employers at the clinic. She stated he is a licensed provider under their supervision but as a provider he has the ability to discuss appropriate and comfortable prescribing with his supervising Physicians.

Mr. Pontious responded the Physicians at Granite Peak go by the book. He stated they do discuss the patient issues and prescribe appropriately.

Mr. Coursey asked how he manages the insulin for diabetic patients.

Mr. Pontious responded the training protocol requires the insulin to be dropped in half and then to either call the Primary Care Practitioner or send a letter to inform them. He stated within the first month the sugars are usually going down and the recommendation is for patients to test about 10 times a day.

Mr. Coursey asked if the Gastro Physicians are adjusting medications.

Mr. Pontious responded no. He stated the Physicians have all been through the weight loss course, they read his notes and if there are any issues or questions outside the normal then he talks with the Physicians regarding what procedure he should do.

Mr. Coursey stated the PA's need to see patients within the scope of the supervisors practice.

Dr. Schmitz commented the Board does not know what the supervising Physicians practice is like but all have been through the weight loss class and know the protocols which indicates they know about weight loss.

Mr. Pontious commented if the Board has any questions they may come to the Clinic and follow him around for an hour or more.

Ms. Taxin suggested Dr. Barnett meet with the Board or be available to meet telephonically on March 25, 2013, for the Board to ask questions.

Ms. Taxin asked Mr. Pontious to contact Ms. Troxel regarding the date he will be taking the examination.

The Board determined Mr. Pontious is out of compliance as he did not bring the requested letter

for the Board to review.

An appointment was made for Mr. Pontious to meet again March 25, 2013.

DISCUSSION ITEMS:

Rule Filing for CS Prescribers

Ms. Taxin informed the Board that there have been several Legislative changes in the last two years. She reminded them of taking the tutorial and examination when they renewed this year and stated they will be required to also take a controlled substance course and examination when they renew in 2014. She stated she was required to write a Rule to meet this new examination requirement. Ms. Taxin explained practitioners will be able to claim 30 minutes of CE for the tutorial and examination taken this year but the additional hours must be AMA category 1 classes. Ms. Taxin stated she understands the UMA is working on a program of modules in specialties regarding prescribing practices to meet this requirement and the Law may be opened again this year for amendments. Ms. Taxin stated she wrote the Rules and filed them. She stated a hearing has been scheduled for November 8, 2012, and Board members are invited but not required to attend.

Mr. Harmer commented that most of his CE is in controlled substance prescribing because of his practice.

Ms. Bloom asked if the two day course she completed which were specific to prescribing would count.

Ms. Taxin responded the course should be UMA approved and, if it is, it should count. She stated Med-Scape also has several courses available. Ms. Taxin stated if the CE is official, AMA category 1 or UMA approved it should count toward this requirement.

Ms. Bloom asked if DOPL will formally notify all practitioners of the changes.

Ms. Taxin responded the Division may send an email and post on the website the information but most

likely will not send letters to licensees. She stated most Associations put something in their newsletter. She reminded the Board that when practitioners renew they sign that they have read and understand the Laws and Rules and the changes are in both documents. She stated when the Rule passes she is planning to send an email to those who have provided their email addresses but those without email or individuals who have changed their email will not receive the notification. Ms. Taxin gave the Board the information regarding the Rule hearing should they have an interest in attending.

SB – Cosmetic, Effects on PA’s/UMA Article

Ms. Taxin explained the Board discussed this issue at the last Board meeting and reviewed the Division’s summary. She stated the UMA has now printed an article. Ms. Taxin stated she anticipates there are many PA’s working outside their scope of practice with this new change in scope of practice.

Mr. Bunnell responded PA’s have been doing ablative procedures for a long time. He stated the Association is going to try to get this changed back to be included as the scope of practice for PA’s.

Mr. Bunnell requested a letter of support from the Division/Board regarding PA’s continuing to be able to perform ablative procedures and the ability of the Delegation of Services Agreement (DOSA) to continue to define the scope of practice of PA’s under the Physicians supervision. He stated the Association wants to come back to the generally accepted PA practice.

Mr. Bunnell stated the Association believes if the PA and supervising Physician refer to the DOSA agreement they are practicing appropriately which could include ablative procedures.

Mr. Coursey and the Board agreed that they would write a letter of support for the Legislature to consider amending SB-40.

Verification of Education: Transcripts VS.
Program Verification

Ms. Taxin explained the Board discussed requiring transcripts or requiring documentation of completing a program. She stated she received some telephone calls

regarding transcripts not being available and graduates having to wait several weeks or months until they are available. She asked if the process should go back to requiring the program verification or if she should continue requiring official transcripts.

The Board recommended the Division accept either.

Informal Hearings

Ms. Taxin explained there is a new and additional disciplinary process which went into effect October 8, 2012. She stated it is an informal vs. formal disciplinary process. She explained she is not an expert at this point on the process. Then Ms. Taxin provided a quick overview.

She explained the following actions are now informal:

- Denial of renewal;
- Orders to Show Cause for failure to comply with probation requirements;
- Criminal Convictions;
- Discipline by another jurisdiction; and
- Surrender of Licensure while under investigation in another jurisdiction.

Ms. Taxin stated that the new procedure will hopefully be more efficient and resolve the issue of cases on the books for a long period of time. She explained one big difference from formal to informal will be the issues/violations will be discussed in the next scheduled Board meeting and the Board will make a final recommendation for action or no action.

Ms. Taxin explained the practitioner may be present or not as it will not be a court hearing with the facts being debated. She stated if there is an informal hearing the appeal process will go directly to the District Courts. Ms. Taxin stated she will educate the Board as she learns more regarding the informal process.

The Board thanked Ms. Taxin for the information.

FAQ's

Ms. Taxin explained the DOPL website for each profession/occupation has a generic FAQ. She stated she will include the CS Law and try to point to those Laws where there are the most problems. Ms. Taxin

asked if the Board had any additional information they would like included.

Dr. Schmitz requested information be included regarding where to find CE or something regarding practitioners should contact their specific academy for appropriate CE.

Ms. Taxin responded the Division cannot promote specific programs as programs come and go without her knowledge. She stated she will try to include a statement for practitioners to contact their specific academy for appropriate CE.

FYI

Noel informed the Board of the surrender of licensure of Steven I. White.

The Board reviewed the Order with no action taken.

2013 Board Meeting Schedule

The Board noted the following dates for the 2013 Board meeting schedule: March 25, June 24, September 30 and December 16, 2013.

Due to personal schedules of the Board, the June 24 meeting was changed to May 20, 2013, and the September 30 meeting was changed to October 21, 2013.

Ms. Taxin stated if there are additional probationers in 2013 then the Board may need to meet more frequently. She stated if there is anything important for the PA's at the 2013 Legislative session the Board may need to meet prior to the March 25, 2013 date.

CORRESPONDENCE:

NAMI Information

Ms. Taxin explained the NAMI group sent information for the Board to be informed about their programs.

The Board thanked Ms. Taxin for the overview.

NEXT MEETING SCHEDULED FOR:

March 25, 2013

ADJOURN:

The time is 11:50 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 25, 2013
Date Approved

(ss) Jeffery M. Coursey, PA
Chairperson, Utah Physician Assistant Licensing
Board

December 4, 2012
Date Approved

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