

MINUTES

**UTAH
PHYSICIANS
LICENSING BOARD
MEETING**

January 9, 2013

**Room 474 – 4th Floor – 9:00 A.M.
Heber M. Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:05 A.M.

ADJOURNED: 12:28 P.M.

Bureau Manager:
Board Secretary:
Compliance Assistant:

Noël Taxin
Karen McCall
Debra Troxel

Board Members Present:

Elizabeth F. Howell, MD, Chairperson
Kristen Ries, MD
Kenneth L. Schaecher, MD
Gary A Hale, R.Ph.
David D. Byrd, MD
David A. Cook, MD
Daniel J. Parker, MD
John S. Montgomery, MD

Board Members Absent/Excused:

Richard W. Chapa, MD
John W. Bennion, Ph.D.
Paul J. Affleck, MD

Guests:

Misoo Abele, MD

DOPL Staff Present:

Karl Perry, Assistant Attorney General

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the November 14, 2012 Board meeting were read.

Dr. Parker made a motion to approve the minutes with minor revisions. Dr. Cook seconded the motion. **The Board vote was unanimous.**

Following the approval of the minutes Dr. Cook asked if Mr. White stated it is allowable for practicing practitioners to fax all prescriptions except the Schedule II.

Ms. Taxin responded she would clarify what Mr. White stated with Mr. White and report back at the next scheduled meeting.

APPOINTMENTS:

9:15 am

Debra Troxel, Compliance Update

Ms. Troxel distributed updated copies of the Health Care Provider Report and the Supervisor/Employer Report for the Board to review and recommend any additional changes.

Dr. Parker recommended adding the question “How is the probationer doing on the relevant issues?” with a few lines for the response on the Supervisor/Employer Report form.

Board members agreed.

Ms. Taxin stated the revised forms will again be given for a final review at the next scheduled Board meeting.

Ms. Troxel reported **Dr. David M. Anderson** is currently in compliance with his Stipulation and Order. Ms. Troxel stated there were two controlled substance prescriptions on the database and when she checked they were Pharmacy errors.

9:18 am

Dr. Parker made a motion to close the meeting for discussion of the character, professional competence, or physical or mental health of Dr. Anderson.

Dr. Montgomery seconded the motion.

The Board vote was unanimous.

9:25 am

Dr. Montgomery made a motion to reopen the meeting.

Dr. Ries seconded the motion.

The Board vote was unanimous.

Ms. Troxel reported **Dr. John R. Corkery** is currently in compliance with his Stipulation and Order. She stated Dr. Corkery submitted a proposal to be approved to take a course through the Institute for Medical Quality (IMQ) in California instead of the PRIME course in New Jersey. Ms. Troxel stated there were four controlled substance prescriptions on the database and when she checked they were Pharmacy errors. Ms. Troxel stated Dr. Corkery is back at the Brighton ski clinic and Dr. Plunkett is supervising him there.

Ms. Taxin stated she approved the IMQ course as the information indicated it was comparable to the PRIME course. She stated Dr. Corkery had commented at his last appointment that he was criminally charged. She stated the DEA was the entity who pressed charges and if Dr. Corkery is in compliance with his Order the charges will be reduced to a misdemeanor. She stated the Board discussed issuing a controlled substance (CS) license if the DEA would agree to issue him a registration but when she called the DEA they indicated it is earlier than their normal time for them to consider but would consider issuing Dr. Corkery a DEA registration if he will apply. Ms. Taxin stated she informed the DEA that Dr. Corkery would be writing prescriptions and would not be administering. She stated Dr. Corkery will need to submit an application to the Division for a CS license and his Order will need to be amended to include controlled substance providing conditions: i.e. requiring supervision and triplicate prescriptions.

Ms. Troxel reported **Dr. Ludmil Manov** is currently in compliance with his Stipulation and Order. She stated he is now also working at the Comprehensive Psychological Services (CPS) for four hours on Thursdays.

Mr. Hale commented Dr. Currier also works for

CPS and could supervise Dr. Manov at both places of employment.

Ms. Troxel reported **Dr. Thomas A. Sazani** is currently in compliance with his Stipulation and Order.

Dr. Schaecher asked if Dr. Sazani is in compliance with his California Order. He stated at the last appointment Dr. Sazani stated he had requested early termination of his California probation. He asked if Utah received any documentation regarding that request.

Ms. Taxin responded yes, Dr. Sazani is in compliance with his California Order. She stated Dr. Sazani has not submitted any documentation regarding early termination of the California probation.

9:40 am

Dr. David Anderson, Probationary Interview

Dr. Anderson met for his probationary interview.

Dr. Byrd conducted the interview.

Dr. Anderson stated attending the PIR and AA meeting have been helpful to him for his sobriety. He stated he believes his last attempt at sobriety failed as he did not continue his activity in recovery. Dr. Anderson stated he has been reading about the recovery process. He stated he has thought about reapplying for the CS license at the two year probation mark and sent a letter to IHC to ask if they would consider putting him back on their staff if he does get the CS.

Ms. Taxin asked if Dr. Anderson has contacted the DEA for their registration.

Dr. Anderson responded not yet as his two years is not up until March.

Ms. Taxin suggested he contact the DEA as they might consider putting him on an MOU if he is in compliance with his DOPL Order.

Dr. Anderson thanked her for the information. He stated he has now started the rule of two's in his office; whenever medication are ordered, administered and/or checked, there must always be two people involved in the process.

Dr. Byrd asked if there have been any other issues at the office.

Dr. Anderson responded no. He stated December was a great month financially but he is a little worried about January.

Dr. Byrd stated the supervisor and therapy reports were very positive.

The Board determined Dr. Anderson is in compliance with his Stipulation and Order.

An appointment was made for Dr. Anderson to meet again March 20, 2013.

9:55 am

Dr. John R. Corkery, Probationary Interview

Dr. Corkery met for his probationary interview.

Dr. Byrd conducted the interview.

Dr. Byrd asked Dr. Corkery how many hours a month he is currently working.

Dr. Corkery responded he works 10 to 12 hours a month.

Dr. Byrd asked if Dr. Corkery is working at Brighton again.

Dr. Corkery responded yes. He stated he is scheduled during the week and there is not much activity at that time.

Dr. Byrd stated the Board reviewed Dr. Corkery's request to attend an ethics course through IMQ instead of the PRIME course. He stated the courses appear to be comparable. Dr. Byrd asked when Dr. Corkery plans to attend the required ethics course in California.

Dr. Corkery responded he plans to take the course in May.

Dr. Byrd requested Dr. Corkery to update the Board regarding the DEA issues he has been working on.

Dr. Corkery responded he has agreed to what the DEA has asked of him. He stated they said they would send him the paperwork but he has not received anything yet.

Dr. Byrd asked if he discussed obtaining a DEA registration.

Dr. Corkery responded he did ask and was informed he could apply but it would be a waste of his time if DOPL has not yet issued the CS license.

Ms. Taxin explained Dr. Corkery would need to submit a complete application and the fee for the CS license. She stated she will review his Order and amend as necessary to include monitoring the prescriptions he would write but he cannot write any CS's without the DEA registration. She stated she also contacted the DEA and spoke with Rob Johnson regarding issuing a CS in order for the Board to monitor Dr. Corkery if the DEA would consider issuing a registration. She stated Mr. Johnson stated the DEA would consider his request. Ms. Taxin asked if Dr. Corkery would be administering CS's.

Dr. Corkery responded yes but infrequently. He stated at the clinic where he is employed they only have two medications on the premises but Brighton has valium.

Ms. Taxin asked if there is a log for CS's that are administered.

Dr. Corkery responded yes there is a log. He stated the nurse would probably make the log entry and at the end of the day they would both review the log. He stated there is a nurse and a technician at the clinic who enter information on that log.

Dr. Schaecher asked if the Order required an appropriate prescribing course.

Ms. Taxin responded yes. She stated Dr. Corkery completed the PACE course on prescribing. She stated if Dr. Corkery has the CS he will need to write all prescriptions in triplicate with the 3rd copy being sent to the Division, his supervisor will be required to review all prescriptions he writes and she will review the current Order to determine if additional requirements might be needed in an amended Order.

Dr. Schaecher questioned amending the Order at this time as Dr. Corkery will be on probation for 5 years.

Ms. Taxin responded the DEA has verified Dr. Corkery has been cooperative with everything they have asked of him and they will consider his application for the DEA registration. She stated Dr. Corkery is in the ER and prescriptions assists in treating the patient population in that environment. She also stated it is better to monitor his prescriptive practice while he is on probation than to wait until probation is completed and not be able to monitor.

Dr. Ries asked Dr. Corkery if his supervisor reviews everything he recommends prescribed and if she ever questions his recommendations.

Dr. Corkery responded his supervisor does review and has not yet questioned his recommendations for prescriptions.

Dr. Montgomery made a motion for Board support for Dr. Corkery to submit an application for the CS license with conditions of the monitoring and supervision to be included in an amended Order.

Dr. Parker seconded the motion.

Dr. Montgomery, Dr. Howell, Dr. Ries, Dr. Cook, Mr. Hale, Dr. Byrd and Dr. Parker voted in favor of the motion. Dr. Schaecher abstained from

voting.

Ms. Taxin reminded Dr. Corkery that he cannot prescribe to family or friends. She then gave him the CS application to fill out. Ms. Taxin suggested after the CS is issued that Dr. Corkery write a letter to attach to the DEA application with a copy of his CS and his amended Order.

Dr. Byrd reminded him that he cannot prescribe at sporting events.

Dr. Corkery thanked the Board and asked if he can use the stamp he has with his DEA number on it when he writes prescriptions.

Mr. Hale responded he will need to have an original signature on his prescriptions but he can also use the stamp.

The Board determined Dr. Corkery is in compliance with his Stipulation and Order.

An appointment was made for Dr. Corkery to meet again March 20, 2013.

Dr. Schaecher Questions

Dr. Schaecher asked if it was permissible for the Board to ask probationers to leave the meeting while the Board discusses their case as sometimes the physical presence of the probationer may cause discomfort and communications to be muted. He voiced understanding the final decision is public but stated sometimes the discussion might not be a friendly discussion and if the Board could have a frank discussion it would increase the quality in achieving the monitoring goals.

Ms. Taxin and Mr. Perry responded the Board is required to follow the open public meetings requirements.

Ms. Taxin stated the Board may ask probationers to leave while they have further discussion but probationers could choose to stay in the meeting and should hear the concerns of the Board.

Following additional discussion the Board requested the agenda list the probationers with their time of meeting and then list the names again for further discussion which will take place after the appointments. The Board stated probationers would then have the option of staying to hear further discussion if there is any or the option to leave after their appointment.

10:10 am

Dr. Ludmil Manov, Probationary Interview

Dr. Manov and Dr. Currier, his supervisor, met for his probationary interview.

Mr. Hale conducted the interview.

Dr. Cook and Dr. Montgomery were introduced to Dr. Manov and Dr. Currier.

Mr. Hale requested Dr. Manov to briefly explain what brought him before the Board for the benefit of Dr. Cook and Dr. Montgomery.

Dr. Manov responded he had an inappropriate boundary issue with his landlord.

Dr. Currier stated he has discussed with Dr. Manov appropriate boundaries with patients, colleagues, office staff, etc and the importance of keeping within those boundaries always. He stated they have discussed many different areas of boundaries. He stated they meet every week as they share an office in American Fork on Fridays.

Mr. Hale stated the Board was aware of the passing of Dr. Manov's father. He asked if everything went well for Dr. Manov as he dealt with that issue.

Dr. Manov responded he went to Bulgaria where his father and family lived and everything did go well.

Ms. Taxin asked Dr. Manov to address the supervision with Dr. Currier.

Dr. Manov responded the supervision is going well. He stated no one ever informed him that he was crossing boundaries and there are no rules on personal

relationships but he has learned that he must always be aware and defensive in keeping appropriate boundaries. He stated he did not have this knowledge or training when he came to this country. Dr. Manov stated Dr. Currier has talked about different cultural issues with him.

Dr. Schaecher asked if Dr. Currier is comfortable that Dr. Manov is internalizing the discussions.

Dr. Currier responded yes. He stated Dr. Manov has been very open in their discussions.

Ms. Taxin asked if there is any changes Dr. Manov will make or things he will do different after taking the course and meeting with Dr. Currier.

Dr. Manov responded he sees patients and other people, shakes their hands and that is all. He stated he has one patient who was sexually abused but he called Ms. Taxin about how to handle that patient. He stated he is now more defensive with patients as it is not worth the risk and he now refers patients out to other practitioners. He stated he has more concern now about his own safety and always calls Ms. Taxin or Dr. Currier if he has questions. He stated if he had received more education in the United States he believes he would have been better prepared on boundary issues.

Dr. Schaecher stated the Board hopes Dr. Manov will understand boundary issues and when a patient who has been verbally and/or sexually abused he will be able to treat those patients appropriately instead of referring them out.

Ms. Taxin informed Dr. Manov and Dr. Currier of the changes in the Supervisor/Employer Report and stated it would be helpful to the Board if Dr. Currier would include more specifics on subjects discussed, etc. when he fills out the reports.

Mr. Hale voiced the Board's appreciation for the comments Dr. Currier does provide. He then thanked Dr. Currier to coming today for the

discussion.

The Board determined Dr. Manov is in compliance with his Stipulation and Order.

An appointment was made for Dr. Manov to meet again March 20, 2013.

10:25 am

Dr. Thomas A. Sazani, Telephonic
Probationary Interview

Dr. Sazani met for his telephonic probationary interview.

Dr. Schaecher conducted the interview.

Dr. Sazani reported being in compliance with the California Order and the Utah Order. He stated nothing has changed since he last met with the Utah Board.

Dr. Schaecher stated Dr. Sazani mention he was going to submit a request for early termination of his California probation. He asked if Dr. Sazani has heard back for the California Board.

Dr. Sazani responded he will not request early termination from California until August but has completed all the California requirements and has not done any internet prescribing. He stated he has the fear that the information will not be reviewed in a timely manner with the cutbacks and furloughs in California.

The Board determined Dr. Sazani is in compliance with the Utah Stipulation and Order.

Dr. Sazani requested he be excused from meeting March 20, 2013 as he will be out of the country for his daughter's graduation.

Ms. Taxin requested Dr. Sazani put the request in writing and submit it to the Board/Division.

An appointment was made for Dr. Sazani to meet again telephonically on May 1, 2013.

DISCUSSION ITEMS:

Further Discussion Regarding Licensure Exemptions for Non-Accredited Fellows

Ms. Taxin briefly explained the issue of the exemptions in the Medical Practice Act Rule, R156-67-306. She then read Dr. Alan Smith's letter and the University of Utah (U of U) information. Ms. Taxin stated an individual applied for an exemption and then withdrew his application. She then reviewed the discussion from the September 2012 Board meeting.

Following Board discussion Ms. Taxin called Dr. Smith for clarification.

Dr. Smith and Kris Springman clarified the Board's questions regarding issues that have affected the GME office at the U of U.

Ms. Springman stated there are often fellowship program directors who want candidates in their programs who are not eligible for licensure. She stated the U of U has been exploring whether or not DOPL would grant exemptions for fellowships only based on the exemption in the Law. She stated these individuals would be in an ACGME approved or non-ACGME fellowship and go through the U of U education committee for an approval with the committee. She stated the U of U would like these people to have an exemption to participate in the fellowship programs without being required to be licensed. Ms. Springman stated she and Mr. Smith talked with Ms. Taxin regarding an exemption approval for a specified time period if the program meets specific criteria. She stated they only consider fellows and call the faculty fellowships for which they have to be licensed.

Ms. Taxin clarified that they discussed the GME committee reviewing applicants and programs so the Board would not need to review all information.

Dr. Schaecher asked if the exempt fellows would be treated any different than those not requesting the exemption and if they would also be on insurance

panels, moonlight at outside locations, etc.

Ms. Springman responded they would not be treated any different than any other fellow but they would need to be licensed as soon as they became eligible as clinical training programs would require licensure. She stated the exempt fellows could participate in the medical program without licensure.

Ms. Taxin responded the U of U has residents that have not completed 12 months of residency and are not licensed but do obtain licensure after they complete that 12 months of residency. She read the Rule on the training program. She stated the Board is of the opinion that the exemption would not apply and should be removed from the current Rules.

Ms. Springman voiced being uncomfortable making the decision for exemptions due to the liability for the U of U.

Dr. Schaecher asked why they would want DOPL and the Board to take the liability for them.

Dr. Howell commented the Board and Division do not believe they are the right body to approve different fellowships for exemptions.

Ms. Taxin stated the fellowship exemptions would not be just for the U of U but could also be IHC and other programs.

Dr. Howell asked if these exempt fellows would be allowed to work independently or to moonlight.

Dr. Smith responded no.

Ms. Springman requested a written opinion from the Board/Division.

Mr. Perry responded he does not believe the Board/Division would grant the exemptions but they are recognizing there is an exemption. He stated the exemption requests would be reviewed and authorized internally at the U of U and would

not need to go through the Board/Division as it is the responsibility of the individual to determine if they meet an exemption, otherwise licensure would be required.

Ms. Taxin stated there appears to be no Law justification for the Rule but exemptions would fall under the Division Umbrella Law of 58-1. She stated she will need to file a Rule change to take that section out of the Rule.

Ms. Springman commented she believed the people practicing would not need a license and questioned would the Board/Division be comfortable with the U of U proceeding with their own internal control by following the 58-1 exemption requirements if that section is taken out of the Medical Practice Act Rules.

Dr. Cook stated those in a fellowship program who were unlicensed would have to disclose they are not licensed in Utah so the public is not confused thinking they are licensed.

Dr. Howell recommended Dr. Smith and Ms. Springman contact Michelle McOmber, UMA, regarding the language they would need to use for disclosure.

Mr. Smith and Ms. Springman voiced satisfaction with the clarification and change.

Ms. Taxin concluded the discussion and stated she will write a Rule to take that section out as it is understood fellowships will fall under the 58-1 exemption.

Dr. Smith requested a copy of the minutes.

Ms. Taxin gave Dr. Smith the website and stated the unofficial minutes and the official approved minutes will be posted on the Physician & Surgeon home page.

Dr. Howell Information

Dr. Howell distributed information for the March agenda on CeDAR, a Center for Dependency, Addiction and Rehabilitation in Denver, Colorado.

She stated the CeDAR program also conducts a four to five day psychiatric assessment.

Dr. Parker asked if the Board could approve this program and then recommend CeDAR and PineGrove.

Ms. Taxin responded yes.

Dr. Montgomery asked if Dr. Howell is comfortable with the description of the CeDAR program.

Dr. Howell responded yes.

Ms. Taxin stated it would be helpful if she had the name of a contact person she could call.

Mr. Perry stated it would also be helpful to know if CeDAR has dealt with other licensing Board issues.

Dr. Schaecher commented the CeDAR program appears to meet the needs for Utah according to the evaluations he has reviewed and it is closer in proximity.

Further review and discussion will take place at the March 20, 2013, Board meeting.

FYI

Ms. Taxin reminded the Board that Dr. Slavens was going to meet today but prior to his meeting a final CPEP evaluation from Colorado was to be submitted and that has not yet arrived and she has not heard from Dr. Slavens requesting the suspension be lifted. She stated the Board did review the preliminary report on his evaluation at the last Board meeting. Ms. Taxin stated the preliminary report recommended additional requirements be met by Dr. Slavens and she has concerns regarding lifting the suspension of his license at this time based on the preliminary report.

Dr. Schaecher responded it is Dr. Slavens responsibility to be sure the final evaluation is received by the Division and he does not believe the Board/Division should consider lifting the suspension at this time.

Dr. Ries recommended the Board discuss Dr. Slavens suspension in three or four months unless Dr. Slavens contacts the Division.

Board members agreed.

FYI

Ms. Taxin stated the AG's office is still working on amending Dr. Weitzel's Order as per Board discussion at the November 14, 2012, meeting.

Dr. Schaecher disagreed with amending the Order.

Ms. Taxin clarified that this was a Board discussion at the last meeting and she was just updating the Board on the status. She stated the amended Order will be sent to the Board to review prior to offering it to Dr. Weitzel.

FYI

Ms. Taxin informed the Board of Dr. Max G. Morgan's public reprimand. She read the facts of the reprimand and stated Dr. Morgan took full responsibility and has made corrections.

Dr. Byrd asked how the information came to the attention of the Division.

Ms. Taxin responded she could not recall.

2013 Board Meeting Schedule

The Board noted the following dates for the 2013 Board meeting schedule: February 13, **March 20**, April 10, **May 1**, June 12, **July 10**, August 14, **September 11**, October 9, **November 13**, and December 11, 2013. The Board also noted the planned dates are in **BOLD** with the additional dates in case additional meetings need to be held.

FYI

The Board noted Dr. Ries will represent the Utah Physicians Board at the FSMB Annual Conference April 18 through April 20, 2013.

CORRESPONDENCE:

FSMB Survey

Ms. Taxin reminded the Board that they deferred making a decision regarding this survey to today's meeting. She then read the survey questions regarding the USMLE and FSMB wanting to change the

approval for Step 3 for FSMB to approve or the Board/Division to approve instead of the residency programs. She stated each State has different requirements but the Utah Law and/or Rule would need to be changed for FSMB approval and/or the Board/Division approval for Step 3.

Dr. Schaecher asked if FSMB would use the same standards the Utah Board would be using even if other States requirements might be different. He voiced concern regarding taking away approval from an independent body, i.e.; the University program approvals.

Dr. Howell read the questions and stated there would need to be rule change if FSMB or the Board/Division approve for Step 3 of the USMLE. She asked if this is a push toward national licensure.

Dr. Schaecher made a motion that the Utah Board is not against the concept of FSMB approving for Step 3 of the USMLE and yes, the Utah Law and/or Rule would need to be changed.

Dr. Ries seconded the motion.

The Board vote was unanimous.

FSMB Notification of USMLE Policy on Attempt Limits

The Board reviewed the information with no action taken.

NEXT MEETING SCHEDULED FOR:

March 20, 2013

ADJOURN:

The time is 12:28 pm 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 20, 2013
Date Approved

Elizabeth F. Howell, MD
Chairperson, Utah Physicians Licensing Board

January 30, 2013
Date Approved

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