

MINUTES

**UTAH
DENTIST and
DENTAL HYGIENIST LICENSING BOARD**

BOARD MEETING

November 19, 2009

**Room 474 – 4th Floor – 1:30 P.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 1:30 P.M.

ADJOURNED: 6:08 P.M.

Bureau Manager:

Noel Taxin

Board Secretary:

Karen McCall

Compliance Specialist:

Ronda Trujillo

Board Members Present:

Alexander B. Larsen, DDS, Chairperson

Brian L. Lundberg, DMD

Karen S. Bateman, RDH

Rich S. Radmall, DDS

Greg T. Beyeler, DDS

Constance A. Sliwinski, RDH

Mark R. Taylor, DDS

Board Members Absent:

Warren Woolsey, DDS

Pamela L. Jolley

Guests:

Mitchell Jones, Assistant Attorney General

Monte Thompson, UDA

Marilyn Pickett, UDHA

Elizabeth Bowman, Legal Counsel for Dr. Dansie

Richard Ingar, PIE

DOPL Staff Present:

Mitchell Jones, Assistant Attorney General

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Swearing in of Constance A. Sliwinski, RDH,
and Mark R. Taylor, DDS, as Board Members

Ms. Taxin conducted the swearing in of Constance A.
Sliwinski, Dental Hygienist, and Mark R. Taylor,
Dentist, as Board members.

They were welcomed by the Board.

MINUTES:

The minutes from the September 17, 2009 Board meeting were read.

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

BUSINESS FROM PREVIOUS MEETING

Further Discussion regarding Botox/Injections – Dr. Keefe’s Inquiry regarding Botox/Injections being within the Scope of Dentistry Practice

This item was addressed in the next discussion item.

Reports from Board Members regarding their Research on the Botox/Injections issue being within the Scope of Dentistry

Dr. Larsen reminded the Board they had the assigned to research the issue if Botox/Injections are within the scope of Dentistry practice. He requested Board members to respond.

Dr. Radmall stated when he researched the issue he was surprised that it is more prevalent an issue than he believed. He stated there are quite a few courses that encourage learning the procedures to use in the practice of Dentistry. He stated one site had a poll that leaned in favor of Dentists doing Botox treatments. Dr. Radmall stated he believes there is a turf war going on and most of the Board would agree sedation Dentistry has been a positive thing. He stated the practice of Botox has to be practiced in a safe manner and he believes there are some Utah Dentists currently doing Botox. Dr. Radmall stated there are Estheticians doing Botox but a Physician is required to be present. He stated he would not do Botox/Injections and believes it is a little premature to say Dentist should do it.

Dr. Beyeler responded he requested a response from ADA regarding their position. He stated ADA responded it should be on a case by case basis and refer to applicable State Laws and the training completed. Dr. Beyeler stated several States have taken the position that the practice is not the practice of Dentistry but it is apparently a hot topic

around the nation.

Dr. Lundberg stated he viewed the ADA Legislative site and determined ADA has not taken a position. He stated many Boards have taken a stance that it is in the scope but 3 Boards have determined it is in the scope of Dental practice but the use for cosmetic purposes is not appropriate.

Ms. Bateman asked how Botox can treat fibromialgia.

The Dentists responded Botox kills tissue which lessens the pain of fibromialgia.

Dr. Lundberg commented he found some positive results in his research. He stated as long as the use of Botox is in the treatment of Dentistry there is documentation to back it up as the practice of Dentistry.

Ms Taxin stated there is a prescription called Latisse for eyelash enhancement growth and she has been asked if Latisse is appropriate for Dentists to prescribe. She stated there are some Dentists selling the product out of there offices which is unlawful in Utah without a dispensing Pharmacy license. Ms. Taxin stated she has also been asked about Dentists injecting Restilin. She stated with Dentists offices becoming slower due to the economy prescribing Latisse and injecting Restilin are quick money makers. Ms. Taxin stated the Utah Statute does not address if these specific procedures are in the Dental scope. She stated the Utah Board to date has taken the position that the use of Botox/injections, Latisse and Restilin are not in the practice of Dentistry but it is not specifically addressed in the Law. She stated there are some states coming up with language to include these practices in their scope of practice for Dentists. She stated on the Dental Administrators website some states have mimicked the language of other states. Ms. Taxin stated Nevada Law says it is permissible so long as it is providing dental treatment. She stated Ohio asked if other states are approving courses for Dentists as the courses are trying to promote it for the practice of Dentistry.

Dr. Radmall commented Dental treatment can move out into other areas such as the ears but there are specialists for those treatments. He stated the courses he reviewed were presented by credentialed professionals.

Ms. Sliwinski asked what proper training would consist of.

Dr. Radmall responded he does not know but believes a company selling a product and offering training would not be proper training.

Ms. Taxin explained specific proper training would be developed and required if the procedures are approved for Utah.

Dr. Larsen commented he was approached by a Dentist who asked if he knew a Dentist who is doing Botox procedures. He stated he called the Dentist who was slow coming to the phone. Dr. Larsen stated he explained he was calling with questions and not as a witch hunt. He stated the Dentist said his wife was having some treatments done at a day spa and had commented how painful the treatments were. Dr. Larsen stated the Dentist said last year he found and attended a course for training and found all in attendance were Physicians except him. He told Dr. Larsen this year he again attended the course and there were a lot of Dentists and one Physician. Dr. Larsen stated this Dentist's wife organized a group of Botox parties for him to do the Botox treatments. Dr. Larsen stated the Board/Division may say it is not in the scope of practice for a Dentist and on first glance people think Dentists should not be doing the treatments. He stated he asked his staff to do some research on the subject and they found in Nevada a Dr. Ascotto says Botox will relieve TMJ pain and there is a woman who drive from Utah to Nevada for the treatments. Dr. Larsen asked if the Board/Division approves the treatment for one area how do they not approve it for another area.

Ms. Taxin responded the Botox parties can be illegal unless documented very well on each patient and

professionally provided. She stated the Law allows for a Physician, Physician Assistant and APRN (a nurse who can prescribe) to do the injections. She stated Estheticians cannot do Botox injections but medical assistants can do injections under the direct and immediate supervision of a Physician as per Statute.

Dr. Larsen stated no matter what the Board/Division does, there are complications with some procedures.

Dr. Beyeler asked what risks there are in Botox treatments.

Dr. Radmall responded one risk is facial paralysis. He stated the paralysis can be temporary or permanent.

Ms. Taxin stated patients sometimes cannot smile and/or loose to much facial muscle control and a Dentist would know you only inject so much and where to inject it. She stated she understands an area could be paralyzed and a patient she knows was paralyzed for over 6 months. She stated a non-Dentist might go into an area and harm another organ such as the eye because they are not trained properly. She also stated there are a lot of different side effects with fillers and they cannot be taken out once injected.

Dr. Beyeler asked how plastic surgeons felt about Dentists doing Botox injections.

Ms. Taxin stated she has not brought it up with the Physicians Board or UMA. She suggested Mr. Thompson write up some language for her to present to the Physicians Board. She stated in the medical profession there are also practitioners who do not have the training in their specialty but are doing the procedure.

Ms. Bateman stated she thought this was an interesting discussion. She stated the Board is saying if a procedure affects the smile it is the practice of Dentistry and almost everything affects the smile. She stated she now understands if the chart documents the treatment is for therapeutic

dental purposes and not for wrinkles it is acceptable.

Ms. Taxin asked if the UDA could conduct a survey at their February 2010 conference to determine what the mass of Dentists believe. She stated if the Dentists believe it is appropriate then the Board/Division and UDA would have additional information to consider and review.

Mr. Thompson, UDA, stated in his research Ohio indicates there are now 16 states who say Botox can be in the scope of practice for Dentists with training as long as it is Dental oral and Dental related. He read the practice of Dentistry in the Utah Law and stated the scope of practice is a body area which may include treatments of or prescribing Botox/injections and fillers without making any changes to the Law as the treatment may or may not deal with teeth in the areas of maxillofacial area. He stated he does not believe prescribing Latisse deals with the maxillofacial region and would not be appropriate for a Dentist.

Mr. Thompson stated the use of Botox by Dentists occurred first in Florida about 9 years ago where they did not say you need to know what you are doing and must have some training. He stated Dentists should not try to be more than they are trained for.

Dr. Taylor asked how many people would seek a Dentist for facial skin cosmetic treatments. He stated he would go to a plastic surgeon.

Ms. Bateman stated she might also go to a dermatologist.

Following additional discussion Ms. Taxin stated she and her staff receive a lot of questions and it would be helpful to have some specific language in the Law to address if these procedures are in the scope of Dentistry. She stated trying to list in the Law everything a Dentist can and cannot do is very restrictive and that she is not recommending too detailed of a description but clarification.

Dr. Larsen stated cosmetic procedures are irreversible. He asked if there is time to get input from the Dental professionals at large.

Ms. Taxin stated there is some time to get input. She stated clarification for practitioners might be good to have in the language in the Law. Ms. Taxin stated the next question might be can the Dentist do skin improvement laser as the patient has a spot near the mouth. She stated some laser machines can do about 20 different procedures. Ms. Taxin reminded the Board to think of what is safe for the public. She stated the Board would have to clarify and she does not believe there is any authority in Statute to say Dentists can do skin laser treatments. Ms. Taxin stated if a Dentist harmed a patient it could be a problem. Ms. Taxin stated the procedure is a very quick way to make money and with the economy down practitioners could start getting into the financial aspect. She recommended the Board stay with their position that Botox, fillers and Laser treatments are not the practice of Dentistry unless it is used within the periodontal area until more research is pursued.

APPOINTMENTS:

1:45 pm

Ronda Trujillo, Compliance Update

Ms. Trujillo updated the Board regarding the compliance or non-compliance of probationers.

Ms. Trujillo reported **Dr. Troy W. Yates** is currently in compliance with his Stipulation and Order. She stated Dr. Yates is scheduled to terminate probation in January. Ms. Trujillo reminded the Board they requested Dr. Yates to submit a letter from his father regarding the reason's his father treated him and prescribed for him.

Dr. Lundberg asked if Dr. Yates is required to submit additional PIR documentation.

Ms. Taxin responded Dr. Lundberg could ask Dr. Yates for a final report for his file so it is documented that he has done well in the PIR program. She stated he can get a letter from a sponsor or a support leader.

Dr. Larsen recommended Dr. Yates meet again at the December meeting and bring the letters with him.

Ms. Trujillo reported **Dr. Monte Dansie** is meeting for his initial interview today. She stated Dr. Dansie has a 1 year probation and is required to complete CE in ethics and record keeping. Ms. Trujillo stated Dr. Dansie has submitted documentation of completing 11 on-line courses and a record keeping course. She stated he is also to submit an essay during the year.

Ms. Taxin stated Dr. Dansie has been proactive in doing several courses. She stated he did a Stepping Stones course on record keeping and 15 on-line ethics courses which she approved. She stated he has not yet submitted the required essay.

Dr. Radmall commented he took 2 of the ethics courses which took him about 2 ½ hours to complete. He stated he believes they are good courses but geared more toward dental students. He stated there are a lot of resources and information on the courses.

Ms. Taxin thanked Dr. Radmall for doing the courses and stated she will continue to put them on her approved list for ethics.

Ms. Trujillo reported **Dr. Rodney Slater** is currently in compliance with his Stipulation and Order. She stated Dr. Slater submitted a letter requesting early termination of his probation and a letter from his supervisor, Dr. Frandsen, supporting early termination.

Ms. Taxin stated she believed Dr. Slater was going to apply for his CS but he submitted an incomplete application for the Dentist – Anesthesia II license which will be completed, reviewed and brought in for the Board to review and approve. She stated Dr. Slater was put on probation for substance abuse but has had negative drug tests for several years. Ms. Taxin stated the Board could continue

to monitor him or consider his request for early termination of his probation.

2:00 pm

Dr. Troy W. Yates, Probationary Interview

Dr. Yates met for his probationary interview.

New Board members were introduced.

Dr. Lundberg conducted the interview.

Dr. Lundberg stated there were a few issues at the last meeting but everything has been received and Dr. Yates is in compliance today. He stated a letter from Dr. Yates father was received explaining the accident Dr. Yates had and the reasons he was treated by his father and an explanation from Dr. Yates. Dr. Lundberg read the letters. He stated he had concerns regarding the ethics of Dr. Yates, Sr., treating Dr. Yates, Jr., but now believes there is no issue.

Ms. Taxin stated in the future if Dr. Yates is treating family members and determines a CS is necessary he should involve another practitioner but if he does prescribe to be sure to document completely in a patient chart.

Dr. Lundberg asked if there have been any other changes Dr. Yates would like to share.

Dr. Yates stated his mother has had health issues and his father has continued to work with Dr. Yates to help with his probation. He stated he believes his father will retire when Dr. Yates probation is completed. He stated his future is in the hands of the Board.

Dr. Lundberg acknowledged Dr. Yates has made improvements since he has been on probation. He stated Dr. Yates should meet in December and needs to be completely in compliance. Dr. Lundberg requested Dr. Yates to submit a letter of support for early termination from someone in his PIR group, a sponsor or supervisor.

Dr. Yates responded there is no group leader at the PIR program he attends.

Dr. Lundberg then requested Dr. Yates to write a letter regarding what he has learned from the probationary process and how it will help him in the future.

Ms. Taxin also requested him to address what support resources he will use if he needs them as the Board/Division want to be sure he has coping methods, his sobriety, his resources and any relapses. Additionally she requested he explain how he believes he is safe to practice.

Dr. Yates responded he will submit the letter. He stated he is assuming he will be granted a DEA number again and asked what he has to do.

Ms. Taxin responded Dr. Yates will need the Utah CS license prior to applying for his DEA number. She instructed him to submit his application to be reviewed and approved and then he will need to call the DEA. She stated if he does not have the number to contact her for it. She stated he should contact them as soon as possible as it may take some time for the DEA to make a decision. Ms. Taxin recommended Dr. Yates check the website yearly to review the Laws and Rules so if there are any Legislative changes he will be aware of those changes.

Dr. Yates commented he has thought about what he would say at his exit interview. He stated he was very scared to meet with the Board and was disappointed with himself regarding the probation, his family and his life. He stated the experience has been extremely humiliating and humbling and he does not want to go through it again. He thanked the Board for how they have treated him with respect.

Dr. Larsen stated the Board has appreciated Dr. Yates attitude through the process.

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

An appointment was made for Dr. Yates to meet

again December 17, 2009.

2:15 pm

Dr. Monte Dansie and Elizabeth Bowman,
Legal counsel, Initial Probationary Interview

Dr. Dansie and Ms. Bowman met for his initial
probationary interview.

Board members and Division staff were introduced.

Ms. Bateman conducted the interview.

**Ms. Bateman requested Dr. Dansie to briefly
explain what brought him before the Board and the
charges.**

Dr. Dansie briefly stated he had some prescriptions
written with his DEA number and about a year and a
half later the DEA came into his office for an
explanation.

**Dr. Larsen and Ms. Taxin requested Ms. Bateman
to read the facts to the Board.**

Ms. Bowman read the facts of the case to the Board.

**Dr. Larsen asked if the prescriptions were ordered
through a mail order company with his regular
order.**

Dr. Dansie responded Dr. Larsen is correct.

Ms. Bowman explained the company, Henry Schein,
already had Dr. Dansie's DEA number and the
specific CS was ordered and sent with his regular
order. She stated when he discovered the CS was in
his order he cancelled any additional CS orders and
then the DEA came to Dr. Dansie's office.

**Ms. Taxin asked if Dr. Dansie would mind sharing
with the Board the name of the person who added
the CS order to his regular order.**

Ms. Bowman responded they do mind and will not be
sharing that information.

**Ms. Bateman stated Dr. Dansie submitted
documentation of taking several CE courses. She**

asked Dr. Dansie to explain briefly the content of the courses.

Dr. Dansie responded the course Stepping Stones Record Keeping covered the type of dental records needed for patients, what should be in the medical histories, informed consent information that needs to be signed by the Dentist and the patient and what information Dentists should have on new patients. He stated he learned a lot from the course and recommended Dentists who may have any questions take the course. Dr. Dansie stated the original PACE course in the Order covered more medical information than Dental and he thought the self study course was better than the lecture course. He stated there is a written examination at the end that went through the course thoroughly.

Dr. Dansie stated the 15 ethics on-line courses took him about an hour or a little more to complete. He stated he has had similar experiences as the situations in about 5 of the courses and talked about difference courses of action that may be taken. He stated some other courses talked about different ethical models that he believes psychologists wrote about and those were not quite as interesting for him. Dr. Dansie stated the last 3 courses did not have examinations but were more philosophical, wordy and a little hard to understand. He stated there were not certificates of completion for the last 3 courses as there were no examinations but he did complete all 15 courses.

Dr. Larsen asked if Dr. Dansie does computer generated prescriptions.

Dr. Dansie responded he does only hand written prescriptions.

Dr. Larsen asked if the prescription pads are kept in a safe place.

Dr. Dansie responded the prescriptions pads are kept in one spot only in a drawer behind his secretary's desk.

Ms. Bowman stated Dr. Dansie ran the CS database as

part of his negotiations and were told he is one of the lowest prescribing practitioners.

Ms. Taxin asked who told him he was one of the lowest prescribing practitioners.

Ms. Bowman responded Dr. Dansie talked with Marvin Sims.

Dr. Taylor clarified Dr. Dansie's office would submit CS orders to Henry Shine who would fill the orders and send them back to Dr. Dansie and someone in his office ordered additional CS's without Dr. Dansie's knowledge. He clarified that the CS's were some Dr. Dansie does not use or give out to his patients.

Dr. Dansie responded Dr. Taylor was correct.

Dr. Beyeler asked if that person in his office opened the CS order and removed the CS's prior to giving the order to Dr. Dansie.

Dr. Dansie responded Dr. Beyeler was correct.

Mr. Jones, AG, re-read part of the facts of the case as the information/facts just presented were not accurate.

Ms. Bowman commented that Dr. Dansie's case is in a plea in abeyance and the case will be dismissed. She stated she believes the DEA misinterpreted the facts of the case.

Mr. Jones stated Dr. Dansie's Stipulation and Order states Dr. Dansie "agrees not to take any action or make any public statement, that creates, or tends to create, the impression that any of the matters set forth in this Stipulation and Order are without factual basis. A public statement includes statements to one or more Board members during a meeting of the Board. Any such action or statement shall be considered a violation of this Stipulation and Order".

Ms. Bowman responded she and Dr. Dansie have the

right to answer the Board's questions.

Ms. Taxin stated there is more in the scope of the incident than Dr. Dansie or Ms. Bowman are disclosing. She stated Dr. Dansie was not charged for doing nothing and he was found guilty. She stated there must have been enough evidence for the DEA to take the registration and for Dr. Dansie to be monitored for a period of time. She stated Dr. Dansie's requirements are the easiest the Division has required and it is important for Dr. Dansie to understand what got him into the situation so it does not happen again. She stated the Board and Division want to make sure he has safe guards in effect in his office.

Ms. Bowman clarified Dr. Dansie pled no contest.

Dr. Larsen stated Henry Shine is a business and Dr. Dansie has a responsibility to be sure he has safe guards in place. He asked if Dr. Dansie still orders bulk from Henry Shine and if he stores a lot of medications in his office.

Dr. Dansie responded he does not store medications in his office. He explained he does order and receive antibiotics and Ibuprofen.

Ms. Taxin suggested Dr. Dansie require all orders be signed by him prior to ordering so he knows what is being ordered/received.

Dr. Dansie responded there was a lot going on in his life at that time and he did not keep track of things in his office as he should have.

Ms. Bateman asked if Dr. Dansie is not checking invoices against each order.

Dr. Dansie responded he is no longer writing any CS's for a year and 4 months but does plan to check the CS website on a continued basis once a month as soon as he has his CS license and DEA number again and is allowed to write CS's.

Ms. Taxin explained that Dr. Dansie will be unable

to check the CS website as he does not have an active CS license at this time. Ms. Taxin suggested Dr. Dansie keep his prescription pads in a safe place where they are not easily accessible so others cannot pull one off and make copies. She stated more practitioners are moving toward electronic prescriptions and asked if Dr. Dansie has considered using electronic.

Dr. Dansie asked if the CS pads should be numbered.

Dr. Taylor responded the pads should be numbered consecutively and Dr. Dansie should require his signature to be written in blue ink as it is more difficult for others to copy.

Ms. Bowman responded Dr. Dansie does want to put an electronic system in his office at some point.

Ms. Taxin stated when Dr. Dansie reorders his prescription pads he should have consecutive numbers printed on the pads and then keep them locked up in a safe place. She stated most probationers are required to have triplicate numbered copies of their prescriptions and must submit the triplicate copy for their file. She stated if he has triplicate copies then he can verify the numbers, patient names, prescriptions and amounts.

Ms. Bowman responded Dr. Dansie cannot write prescriptions at this time. She asked if he has the ability to lock up prescription pads.

Dr. Dansie responded he does have a file cabinet that locks and could put them in that cabinet.

Dr. Larsen stated he hoped Dr. Dansie was listening while he waited to what happened to Dr. Yates as Dr. Yates was in a similar situation and the Board is here to help Dr. Dansie be successful. He stated Dr. Dansie has to help the Board by being open as the Board is not trying to pry, they are trying to understand. He stated the Board is not trying to punish Dr. Dansie further. He stated the situation is unfortunate but the Board is here to

help Dr. Dansie and protect the public.

Ms. Bowman stated she made copies of Dr. Dansie's essay for the Board to review and consider or approve.

Ms. Taxin stated the Board could read the information and then discuss it at the Dr. Dansie's next appointment.

Ms. Bowman stated she and Dr. Dansie were hoping the Board would read it today so they could be finished today. She stated Dr. Dansie signed one copy for his and the other copies should be given back to her to shred.

Dr. Larsen responded the document is too long for the Board to review and discuss today. He asked if Dr. Dansie had anything further to discuss today.

Ms. Bowman responded Dr. Dansie's Order requires him to meet as directed and she and Dr. Dansie believe annually would be a good schedule for Dr. Dansie to meet.

Dr. Larsen responded usually probationers meet monthly for 6 months and then, if everything appears to be in order, the Board recommends quarterly appointments. He stated the Board would like to meet with Dr. Dansie quarterly at the very least.

Ms. Taxin stated when the Order was written she and the AG were planning for Dr. Dansie to meet quarterly. She stated the next appointment would be March 18, 2010 and Ms. McCall will send out the invite letter about 2 weeks prior to that date.

Ms. Bowman stated, in regard to the information she copied for the Board to review, would Board members bring the copies back in March for her to count and shred.

Ms. Bateman responded the Board will be sure Ms. Bowman gets the copies back.

Ms. Bowman and Dr. Dansie left the meeting.

Ms. Taxin reminded the Board they should vote on accepting the CE documentation Dr. Dansie submitted as meeting the requirement or not meeting the requirement. She reminded the Board that Ms. Bowman had said Dr. Dansie completed the CE requirement. She stated Dr. Dansie completed the Stepping Stone courses in record keeping and the 15 on-line courses in ethics through dentaethics.org. Ms. Taxin asked the Board if they believe Dr. Dansie needs to document completion of the 3 extra courses. She stated she believes Dr. Dansie should have some type of documentation of completing the extra 3 courses.

Ms. Bateman stated the Stepping Stones information documents they are PACE approved courses.

Dr. Beyeler stated if Dr. Dansie produces documentation of completion of the 3 courses in question then he believes the hours should be approved.

Ms. Taxin stated the Board should vote on the CE hours at the next scheduled meeting.

Ms. Taxin introduced Mitchell Jones, AG.

Mr. Jones explained that sometimes licensees admit to the allegations during the negotiations and then meet with the Board and try to convince the Board that they did not admit to everything. He stated the Board can only hold the licensee accountable for the facts they agreed to in the Stipulation and Order or the Memorandum of Understanding. He stated it is difficult for licensees to admit before the Board that they have done something wrong but it is necessary for them to take accountability for their wrong doing in the Board meeting. He stated that is the reason he likes everyone to have a copy of the Order to refer to. He stated Dr. Dansie admitted in court the charges in the Order and the agreed upon Order. He stated he stated the unnamed person was also reprimanded.

Ms. Taxin acknowledged most probationers do not bring their attorney with them since the Board meeting is not a hearing and an Order has been agreed upon. She stated the probationers are nervous but most will tell what happened. She stated each Board member has the tracking form with the list of what has been admitted to. She stated the interviewer has the file with a copy of the Order and should refer to that Order to be sure all conditions are met. Ms. Taxin explained substance abuse probationers usually relapse in about 5 years so their Order's require them to be on probation a longer period of time. She stated there are times when the probationer is very angry when they meet and the Board/Division hopes they will relax and open up so the process will work for them. She pointed out that Dr. Dansie is only on probation for one year and she is hoping he will take responsibility and be more aware of his practice and what is going on in his office. She suggested the Board ask Dr. Dansie at his next appointment what safeguards he has put in place. Ms. Taxin stated his attorney may say she does not want him to answer any questions but the Board can say you want him to answer the questions as this is part of the monitoring process.

Mr. Jones stated the Order is meant to set limits for Dr. Dansie and he cannot say the facts did not happen but the Board cannot add additional requirements.

Ms. Taxin stated if the Board believes additional requirements should be added in an Order they can recommend an Order to Show Cause and have a hearing.

Ms. Sliwinski asked if Mr. Jones attends each Board meeting.

Mr. Jones responded he only attends meetings that potentially may have an issue. He stated Ms. Taxin has the authority to make decisions and he writes the Stipulation and Orders.

Ms. Taxin reminded the Board their position is to

protect the public. She stated there are times when the Board members need to let the probationer know they are not being honest and the Board should hold the probationers to the requirements they agreed to.

The Board thanked Mr. Jones and Ms. Taxin for the discussion.

3:00 pm

Dr. Loel Nelson Question: Does the Board believe the Law and Rule needs to be adapted to require dental offices to be owned by Dentists

Mr. Nelson did not meet with the Board to discuss his question. He indicated he may meet at another time.

3:30 pm

Dr. Rodney J. Slater, Probationary Interview

Dr. Slater met for his probationary interview.

New Board members were introduced.

Dr. Radmall conducted the interview.

Dr. Slater stated he is still working with Horizon Dental in Bountiful. He stated there was a pediatric Dentist he was going to work with but after 3 days realized it would not work out for him. He reminded the Board they had recommended he submit an application for the Class II Dentist and to write a plan regarding the use of Nitrous Oxide. He stated he did write the letter and included in his plan that he would never be in a room alone with Nitrous Oxide. He stated many Dental clinics have a central key to allow the system to be turned on and if that is the case he would not need a key. Dr. Slater stated in emergency cases he would have another person in the office with him. He stated Dr. Cory Stark has agreed to have him work one day a week with him in West Jordan. He stated if he is issued the Dentist II license he will go through the same process with Dr. Stark and make sure he is never alone in the office.

Dr. Slater stated his current employment in Bountiful is a family practice. He stated previously there the insurance reimbursement was not an issue as claims were completed by the agency and submitted. He

stated Monarch would have provided fulltime employment if he could be credentialed with the insurance companies but they will not credential while he is on probation.

In conclusion, Dr. Slater submitted a letter from Horizon Dental and one from himself requesting early termination of his probation.

Ms. Taxin clarified she has had several discussions with Kase Peery, the owner of Horizon. She explained Mr. Peery was billing for Dr. Slater under another Dentist and wanted Ms. Taxin to approve the process. She stated they could not pretend someone else did the service in order to receive insurance payments. Ms. Taxin stated the insurance agent contacted her regarding billing concerns. Ms. Taxin stated she instructed Dr. Slater to call the insurance agent. She stated Mr. Peery then called her to say Dr. Slater's probation needed to be terminated as he could not get reimbursement for Dr. Slater's work. Ms. Taxin stated one practitioner cannot write prescriptions for another practitioner's patient without having seen the patient and made the assessment themselves and one Dentist cannot provide a service and then bill under another Dentists name.

Dr. Slater confirmed his work was being billed under another Dentist. He stated he was not sure how serious Mr. Peery is about terminating his employment if he his probation is not terminated. He explained when he started probation Dan Jones was the Bureau Manager and the original Order was to be completed the end of January 2010 but by the time the document was signed by the Division Director the completion date was March 2010. He stated he knows he is now ready to practice safely, competently and will not allow his past to interfere with his practice. Dr. Slater read his letter requesting early termination. He then stated his Arizona license was surrendered and his issues with Arizona are still unresolved. He stated since completing his drug program he has followed the guidelines and now feels good about going to work as a Dentist. He stated he is still attending the support groups.

Dr. Larsen asked how often Dr. Slater meets with Dr. Crookston for counseling.

Dr. Slater responded he usually meets once a month with Dr. Crookston and sees him at the support meetings.

Dr. Larsen voiced concern regarding the billing of services as he believes it is insurance fraud.

Mr. Ingar, insurance representative, commented the billing practice is insurance fraud.

Ms. Taxin recommended Dr. Slater listen to the Board members and Mr. Ingar. She stated when she talked with the insurance person she asked if they could credential Dr. Slater. Ms. Taxin stated Dr. Slater was to call the insurance person to discuss the process.

Dr. Slater responded the insurance person he contacted was unable to assist him in credentialing until he is off probation.

Dr. Radmall stated he feels it is unfair that insurance companies drop probationers insurance and requested the Division try to resolve the issue with insurance.

Ms. Taxin commented the Division cannot tell another entity what procedure to use and/or the qualifiers to be insured. She stated maybe the Association will need to go to the Legislature with the problem of the insurance companies dropping some licensees who are on probation and not others. Ms. Taxin stated the position of the Board/Division is to protect the public.

Ms. Taxin referred back to Dr. Slater's reference that the Division errored in his termination date. She explained there was no error in Dr. Slater's Order as his license was suspended for a period of time based on Dr. Slater's abuse of prescription medications to the point of having to go to the emergency room. She stated when the suspension was lifted the license was put on probation. Ms.

Taxin stated the Board would need to determine if Dr. Slater has met the requirements of his probation and could recommend termination of his probation. She stated the Board could also recommend Dr. Slater continue on probation.

Dr. Larsen commented Dr. Slater today appears to be a very different person from when he started his probation. He stated he believes Dr. Slater has made a huge amount of progress. He stated he would like to see Dr. Slater resolve the billing issue and believes it would be a benefit to Dr. Slater's personal life and employment for his probation to be terminated.

Ms. Bateman asked if Dr. Slater is seeing the same Physician he has had for the last few years.

Dr. Slater responded yes, Dr. Crookston is the same Physician he has been seeing.

Ms. Taxin asked Dr. Slater to explain what he is hoping to do with the Class II Dentist license.

Dr. Slater responded he plans to continue to work with Dr. Stark as there are opportunities there. He stated he has been using light conscious sedation for patients with anxiety. He stated he has found private practice does not have a high demand for CS use. Dr. Slater stated he knows the DEA will have to review his application to them and he would be willing to log all prescriptions he writes for the Board to monitor for a year if necessary.

Dr. Beyeler asked what the long term plan is for working with Dr. Stark.

Dr. Slater responded he does not know yet. He stated many practitioners do not accept Medicaid patients and Dr. Stark still does so he would like to continue there.

Dr. Lundberg stated once Dr. Slater is off probation the Board has no authority to continue to monitor him.

Dr. Slater responded Dr. Crookston has made his office available for random urinalysis. He stated he believes he could work something out with Dr. Crookston and the continued daily calling which may be good for him. He stated Dr. Crookston is over the Day Spring program.

Dr. Larsen asked if Dr. Crookston is an approved evaluator.

Ms. Taxin responded yes, Dr. Crookston is a psychiatrist.

Ms. Bateman asked if Dr. Crookston still submits reports.

Ms. Trujillo responded he does submit reports.

Dr. Radmall read the report.

Ms. Bateman asked if Dr. Slater has a plan on how long he will continue to see Dr. Crookston.

Dr. Slater responded he does not have a plan. He stated Dr. Crookston still prescribes his medications and he enjoys going to see him. He stated he will probably see Dr. Crookston another year or two and probably on a quarterly basis.

Dr. Radmall asked if there are other colleagues he meets with on a professional basis.

Dr. Slater responded there is not but he is looking into a study group as he has been told they are the best way to keep up with current information. He stated if he pursues a position with Monarch there will be several practitioners there. He stated in the future he would like to be in a practice with others as he likes the camaraderie of the office environment.

Dr. Lundberg made a motion for early termination based on Dr. Slater's compliance with everything asked of him.

Dr. Beyeler seconded the motion.

Ms. Bateman voiced concern regarding relapse. She stated she believes he is doing better but it has been only 3 years that he has been drug free and that is not very long.

Dr. Lundberg commented 4 months is not long enough to see any changes if they were to monitor him while he has the Class II license and the CS license.

Dr. Radmall commented he would like to have Dr. Slater have some safeguards in place as the stress will not end.

Ms. Taxin asked Dr. Slater to listen to the comments, to keep up with Dr. Crookston, find support groups and maybe meet with the Association. She stated he should use his resources as it helps to have the support systems.

Dr. Lundberg amended the original motion to be not to terminate the probation today but terminate in December and for Dr. Slater to submit a letter outlining the steps he will take to be a safe practitioner and a letter from Dr. Crookston supporting early termination of probation.

Dr. Radmall seconded the amendment.

The Board vote was unanimous.

EXAMINATION COMPARISON:

Rebecca D. Kroutil, Examination Comparison for Dental Hygienist Licensure

The Board reviewed Ms. Kroutil's examination comparison and determined it is equivalent to the WREB. Licensure was recommended.

Jessica Reeder, Examination Comparison for Dental Hygienist Licensure

The Board reviewed Ms. Reeder's examination comparison and determined it is equivalent to the WREB. Licensure was recommended.

EDUCATION REVIEW:

Re-review Dr. Ken Molen's Dental Assistant Radiology Course

The Board again reviewed Dr. Ken Molen's dental assistant radiology course and determined it now meets the requirements as outlined in the Rules. Course approval was recommended.

Lorraine A. Elias, Dental Hygienist
Application Review regarding 6 years out of
Practice, No CE or WREB Skills Assessment

Ms. Taxin explained Ms. Elias took the NERB examination in 1995 and became licensed as a Dental Hygienist in Georgia. She stated Elias let her license expire 6 years ago and has not practiced since, not completed any CE or taken a WREB skills assessment. Ms. Taxin stated if Ms. Elias was a Dentist she would be required to take the WREB skills examination. She asked the Board for their recommendation.

Following discussion the Board recommended Ms. Elias be instructed to complete the WREB skills examination for licensure in Utah or, if WREB does not offer a WREB skills examination for Dental Hygienists, to contact a Dental Hygienist program for courses to update her skills.

DISCUSSION ITEMS:

Monte Thompson, UDA Director, Question
regarding Latisse being a Dental Procedure

Ms. Taxin stated she and her staff have received a lot of telephone calls from people who want to buy into these businesses who do teeth whitening, Botox and Latisse procedures. She stated they have been informed that the Law does not address this type of practice and to talk with their legal counsel for guidance. She stated since it is not addressed the Dental Law there are Estheticians and others doing the procedures.

Mr. Thompson asked if the AG's office could assist in answering the question if these procedures are the practice of Dentistry. He stated it would be helpful to have their opinion to determine if the Association should pursue Legislation. Mr. Thompson stated several years ago the AG's office would give an opinion or tell the Association to go to the Legislature. He stated the District Court in Alabama rules say people cannot assist in anyway people who are whitening their teeth, which means no coaching, instructing or anything else. He stated the ruling was upheld by the District Courts.

Mr. Jones clarified that the Alabama opinion was asking a declaratory judgment on a legal question. He stated he represents the Division and Ms. Taxin represents the Board. He stated he can give Ms. Taxin advice but he does not represent the Board

or the Association. Mr. Jones explained there is a process for requesting a formal AG opinion and when the AG reviews the request he may say he will not give an opinion. He stated if the request does get to the AG it is a legal process and a legal opinion which is published. He stated it is appropriate for the Association to determine if they should seek Legislation. He stated the Association may ask his opinion but his opinion is not binding through the courts and has no authority. Mr. Jones stated the Alabama Court statement has no authority in Utah but many people have given the question a lot of thought for it to get to the legal statement and if Utah wanted to go after someone they already have that Court document in place.

Dr. Taylor asked if anyone has been harmed by the teeth whitener.

Dr. Radmall responded yes, people can aspirate with the whitener in their mouth.

Ms. Taxin responded yes, there have been people with their gums burned.

Mr. Thompson thanked Mr. Jones for the advice. He stated at least the AG's office is aware of the issue and the Association will do what they believe is right for the public.

Ms. Taxin stated changes are a long process. She stated other States are having the same issues regarding defining the scope of practice for Dentists. Ms. Taxin stated the Utah Board may recommend the Utah Law stay as it is currently but kiosks can open anywhere and the public can go to them.

The Board stated the use of teeth whiteners is a Dental procedure.

Ms. Taxin explained Latisse is used for growing eyelashes. She asked if that would be a Dental procedure.

Following discussion, the Board stated the use of Latisse is not a Dental procedure.

FYI

The Board noted the 2010 Board meeting schedule as follows: Thursdays from 1:30 pm to 5:30 pm: January 21, March 18, April 22, May 20, June 17, July 22, August 19, September 16, October 21, November 18 and December 16, 2010. The Board also noted the February 18, 2010 meeting will be cancelled due to the UDA Conference.

CORRESPONDENCE:

CODA update

The Board reviewed the CODA update regarding State Board participation on accreditation site visits.

Ms. Taxin stated CODA is requested 2 volunteers to attend 2 locations with them to review the accreditation.

Board members responded they have never been requested to attend an accreditation review. They declined the request at this time.

Tony Hewlett Letter regarding Use of Lasers in Dentistry

Ms. Taxin read Mr. Hewlett's letter.

Dr. Radmall commented the Board has not endorsed the use of lasers in Dentistry for skin enhancement reasons but only for Dental purposes.

Board members concurred with his statement and the letter was not specific enough to endorse.

Notification of AADE Name Change to American Association of Dental Boards (AADB)

The Board noted the name change. **No Board action was taken.**

Katherine L. Barbush, ADA, Letter regarding CRDTS Termination of Agreement with ADEX

The board noted CRDTS will administer their own examination again.

Ms. Bateman stated Utah accepts CRDTS as equivalent but do not accept ADEX and ADLEX. She stated CRDTS is making it easier as their examination will now automatically be documented on the CRDTS letterhead.

The Board noted the information.

John B. Roberson, DMD, Letter regarding

Ms. Taxin read Dr. Roberson's letter of request for

Allowing CE Devoted to Medical Emergencies and Preparedness

allowing CE for preparation for medical emergencies.

Ms. Bateman asked if the course meets the Utah CE guidelines.

Ms. Taxin responded it does not.

The Board denied the request for the course to be endorsed by Utah for CE.

FYI

Ms. Taxin stated she had heard the University of Utah (U of U) is working toward opening a Dental program.

Dr. Radmall and Dr. Beyeler responded the program must go before the Legislature and the U of U is planning for 2012 for the program to start if everything is in place.

FYI

Mr. Ingar stated the insurance companies receive a lot of telephone calls wanting dermafillers to be in the practice of Dentistry. He asked the Board for their input.

The Board responded dermafillers would be the practice of Dentistry if it is for Dental reasons in the area of the mouth/teeth but not for cosmetic reasons.

NEXT MEETING SCHEDULED FOR:

December 17, 2009

ADJOURN:

The time is 6:08 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.

December 17, 2009
Date Approved

(ss) Alexander B. Larsen, DDS
Chairperson, Utah Dentist & Dental Hygienist
Licensing Board

December 10, 2009
Date Approved

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