

MINUTES

**UTAH
PHYSICIAN ASSISTANT
LICENSING
BOARD MEETING**

October 21, 2013

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

CONVENED: 8:37 A.M.

ADJOURNED: 12:38 P.M

Bureau Manager:
Board Secretary:
Compliance Assistant:

Noël Taxin
Tammy Baker
Debbie Harry

Board Members Present:

Kyle Harmer, PA-C
Robert E. Ferguson, Jr. MD
Lori G. Buhler
Shari Bloom, PA-C
David Schmitz, MD
Robert C. Moesinger, MD

Board Members Absent and Excused:

Jeffrey M. Coursey, PA-C, Chairperson

Guests:

Terry Jeffries
Kassi Pontious

TOPICS FOR DISCUSSION

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the May 20, 2013 Board meeting were read.

Dr. Schmitz made a motion to approve the minutes as read. Ms. Bloom seconded the motion. The Board vote was unanimous.

APPOINTMENTS:

8:45 am

Debbie Harry, Compliance Update on David Pontious

Ms. Harry reported that Mr. Pontious is out of compliance with his Stipulation and Order due to the fact that the reports from his Supervising Physician have not been submitted on time.

Ms. Taxin stated that Mr. Pontious is requesting early termination from his probationary status; she stated that he has positive and supportive supervisor and employer reports, and passed his recertification exam. The Board will need to make a decision as to whether Mr. Pontious will continue on probation or be terminated.

Ms. Bloom voiced concerns that Mr. Pontious does not have current solid employment though she did state that she does not want to see the Board impede Mr. Pontious from gaining employment.

Ms. Taxin stated that Mr. Pontious would be required to submit a DOSA approved by the Division before he is allowed to practice, and that he would be required to be in compliance with the current Laws and Rules for practice.

Dr. Schmitz stated that the Board should not interfere with Mr. Pontious's ability to obtain work and that it is the Physician's responsibility to make sure that the PA's are abiding within the DOSA.

Ms. Bloom stated that Mr. Pontious passed the required recertification exams, and completed the required CE courses. She stated that Mr. Pontious has abided by the Stipulations of the Board and the Board should not hold back Mr. Pontious from gaining employment.

Noel Taxin, Compliance Update on Hansel Rayner

Ms. Taxin read the Stipulation and Order facts on Mr. Rayner. Ms. Taxin stated Mr. Rayner is a PA acting as a Physician and is treating patients without a Supervising Physician.

Ms. Bloom asked the percentage of direct supervision

required by a DOSA agreement.

Ms. Taxin answered that according to the Stipulation and Order, the supervisor shall review 20% of Respondent's patient records and 100% of all controlled substance prescriptions issued by Mr. Rayner.

The Board had many questions regarding the Scope of Practice of Mr. Rayner.

Ms. Taxin answered by stating that the Board needs to ask Mr. Rayner directly about the supervisory relationships, the services he has been offering and the practice that he is working at.

9:00 am
David Pontious, Probationary Interview

Ms. Bloom and the Board welcomed Mr. Pontious, Ms. Taxin asked Mr. Pontious to update the Board.

Mr. Pontious stated that he sent a letter to the Board requesting early termination. He stated his employment is ending at the end of the month and that he is now working approximately 25-30 hours per week. Mr. Pontious referred to his letter stating he went through the PACE program and passed the Boards again. He stated the things that he has learned along the way including always having a Supervising Physician and knowing the Laws and Rules regarding the DOSA and practice standards. Mr. Pontious stated he realizes that the Doctor is responsible for what he does and he is just an extension of the doctor. Mr. Pontious stated he quit MD diet and applied for many jobs but was turned down for multiple positions due to his probationary status which delayed his ability to work and be in compliance with his Order. Mr. Pontious feels that being on probation is hindering his ability to gain employment. Mr. Pontious would like the Board to consider allowing him to terminate his probation early due to his cooperation and completion of the requirements required by his Stipulation and Order.

Ms. Bloom congratulated Mr. Pontious for passing the Boards and stated that the Physician Assistant Licensing Board does not want to impede Mr.

Pontious in gaining employment. Ms. Bloom stated that Mr. Pontious needs to make sure that his DOSA is submitted and that it complies with the Laws and Rules.

Ms. Taxin stated that the DOSA is a contract that outlines his relationship with the physician and is supposed to support Mr. Pontious and protect him.

Dr. Schmitz made a motion to terminate Mr. Pontious's probation eight months early, allowing him to terminate immediately rather than the original date of December 8, 2013 with an extension to June 8, 2014. Ms. Bloom seconded the motion. The Board vote was unanimous.

Mr. Pontious asked if he was required by law to disclose his probationary status to potential employers during the time between the PA Board Meeting until he receives his final termination papers from the Division.

Ms. Taxin answered that the final termination approval will have to come from Mr. Steinagel and the probation will continue until final approval is received from Mr. Steinagel.

9:25 am

Board Discussion regarding Probationer, Mr. Rayner and review of documentation.

The Board looked at Mr. Rayner's CSD report for this quarter and noted there was only one prescription written. The Board requested, and obtained Mr. Rayner's CSD report from October 2012. The Board discussed the amount of narcotics that were prescribed by Mr. Rayner and the Laws and Rules pertaining to a Supervising Physician signing all prescriptions written for Narcotics by a Physician Assistant.

Ms. Taxin referred to the Physician Assistant Laws and Rules, reading 58-70a-501(2), and referring the Board to R156-70a-501, Working Relationship and Delegation of Duties.

The Board read the Practice Plan asking questions about whether Mr. Rayner can supervise MA's and asking about "Charts created by Mr. Rayner".

9:40 am

Hansel Rayner, Initial Probationary Interview and telephonic interview with Supervising Physician, Dr. Paul Satter.

The Board inquired if Mr. Rayner is doing Radiology as the practice plan listed.

Ms. Taxin stated that if the facility is doing Radiology, they need to ensure there is a Radiologist reading the Radiology Reports.

Dr. Schmitz stated he wants to clarify the Scope of Practice of all the Supervising Physicians.

The Board welcomed Mr. Rayner and introduced themselves. The Board stated they would begin by contacting Mr. Rayner's Supervising Physician, Dr. Satter.

Dr. Schmitz conducted the interview, asking Dr. Satter what his practice involves and asked him to explain his understanding of what his supervisory relationship with Mr. Rayner involves.

Dr. Satter answered that he practices Internal Medicine and that he is not in the same facility as Mr. Rayner, but works down the street. Dr. Satter stated that he does chart review via telephone, internet, and that his office processes all of Mr. Rayner's billing and checks for a 5% fee.

Dr. Schmitz asked who supervises Mr. Rayner when Dr. Satter is out of the office.

Dr. Ferguson asked about the physical availability of a Physician when Dr. Satter is on vacation.

Dr. Satter stated he is always available; "24/7".

Dr. Schmitz asked Dr. Satter if he ever left town to go on vacation.

Dr. Satter answered yes, he just returned from vacation.

Dr. Satter stated that he wanted to clarify with the Board that the patients are Mr. Rayners and that he never sees the patients personally, he just likes Mr. Rayner and is doing him a favor.

Dr. Schmitz asked Dr. Satter about the DOSA agreement and how he was planning on reviewing charts and using Mr. Rayner as an extension of his practice.

Dr. Satter stated he does not go to Mr. Rayner's office to review charts.

Dr. Schmitz and Ms. Bloom asked why the DOSA was signed stating the charts would be reviewed weekly.

Dr. Satter stated it would be more convenient to have Mr. Rayner practicing at his location, but he just considers Mr. Rayner a good guy and he is trying to do him a favor.

Ms. Bloom asked whether Dr. Satter has ever worked with PA's in the past.

Dr. Satter said once in the year 2000 he worked with a PA for approximately eight months.

Ms. Bloom asked Dr. Satter if he realizes that the patients are supposed to be patients of the Supervising Physician and that the PA is supposed to be an extension of the Physician.

Dr. Schmitz asked if Dr. Satter has ever read through the PA Laws and Rules.

Dr. Satter stated he never had read the Laws and Rules.

Ms. Taxin referred Dr. Satter to the DOPL web page recommending that he print and read the Laws and Rules. Ms. Taxin stated that Dr. Satter needs to be very clear about the Laws and Rules before he commits to being a Supervising Physician because at this point the patients should be his and not Mr. Rayner's.

Dr. Moesinger asked whether Dr. Satter reads ultra-sounds.

Dr. Satter stated, no, he thinks Mr. Rayner sends them

to an outside source to be read.

The Board thanked Dr. Satter for his time, stating they may call him back with further questions once they spoke with Mr. Rayner.

Dr. Schmitz conducted the interview, asking Mr. Rayner what his understanding is as to why he is in front of the Board.

Mr. Rayner answered by stating that his practice grew so quickly and he did not document and keep his paperwork organized as well as he should have.

Dr. Schmitz asked how long Mr. Rayner has been practicing in his current facility and how long he has been practicing without a Supervising Physician.

Mr. Rayner stated he has been practicing at his current location for approximately two years and he has never been without a Supervising Physician. Mr. Rayner continued by naming his multiple Supervising Physician's, their specialties, and where they are currently at in their careers.

Mr. Rayner stated that he misinterpreted the law, originally having the Supervising Physician sign a blank chart, but now he is aware that the Supervising Physician has to review the charts after treatment.

Dr. Moesinger wanted to know who admitted the patients into the hospital when they were there for Endocrinology treatments.

Mr. Rayner answered by stating that Dr. Hansen is the Endocrinology specialist.

Dr. Ferguson asked whether fine needle aspiration was performed at the facility and whether a physician is physically available at the facility during the procedures.

Mr. Rayner stated, "not always".

Ms. Taxin asked Mr. Rayner what his

understanding is regarding the relationship between a Supervising Physician and the Physician Assistant.

Mr. Rayner stated that as long as he (the PA) has a Physician available to advise him and review his charts, whether on the telephone, satellite, or in person, then he can see and treat patients.

Dr. Schmitz asked the name of Dr. Satter's Practice and the name of Mr. Rayner's practice.

Mr. Rayner stated the name of Dr. Satter's practice is, *Complete Care Clinic*, and the name of his practice is, *Tooele Diabetes, Endocrinology, and Ultrasound*.

Mr. Rayner stated that his patients are supposed to be billed by Dr. Satter and that the patients are the Supervising Physician's patients and not his.

Ms. Bloom asked how the patients are referred to Mr. Rayner for treatment or if they are walk-in's.

Mr. Rayner stated that they are both referrals and walk-in's.

Mr. Rayner stated if he is ever uncomfortable with the scope of practice, he will send them to their Primary Care Physician or the Supervising Physician.

Dr. Ferguson asked who owned the building that Mr. Rayner is practicing in.

Mr. Rayner stated that he signed on a five year lease.

Mr. Rayner stated that when Dr. Anderson was his Supervising Physician, he did not want to lease the building so Mr. Rayner agreed that he would sign the lease and the patients would remain Dr. Anderson's. Mr. Rayner stated that Dr. Anderson is no longer with the practice.

Dr. Ferguson asked who owns all of the equipment in the building that Mr. Rayner is practicing in.

Mr. Rayner answered that he owns all of the

equipment.

Dr. Ferguson asked who supervises the MA's and other employees that work in Mr. Rayner's business.

Mr. Rayner stated that Dr. Satter supervises the employees and when Dr. Satter is unavailable, Dr. Cullen Archer supervises.

Dr. Ferguson asked if there are any other health care providers on location.

Mr. Rayner stated yes, Dr. Junejo.

Ms. Taxin stated that she spoke to Dr. Junejo who stated that she was just renting space from Mr. Rayner and that when he had her sign the DOSA, she did not realize what she was signing or comprehend the implications behind signing the document. Dr. Junejo stated that she made the Division aware that she is not Mr. Rayner's Supervising Physician.

Ms. Bloom asked Mr. Rayner if he had ever had other Supervising Physician's before his current practice and what his relationships had been like with those Supervising Physicians in the past.

Mr. Rayner stated he was supervised via satellite and met once a week with his Supervising Physician.

Ms. Taxin asked Mr. Rayner whether he was previously licensed in other states.

Mr. Rayner answered yes, Iowa and Kansas.

Ms. Bloom asked Mr. Rayner to clarify the scope of his practice.

Mr. Rayner stated he prefers focusing on thyroid and diabetes and limits all other treatments. Mr. Rayner stated he will not do pain management because he does not prefer it.

Dr. Schmitz explained that the intent of the Laws

and Rules are not being applied and that Mr. Rayner should not be an independent provider. He stated that Mr. Rayner intentionally diverted the Supervising Physician/PA relationship by opening his own practice.

Dr. Ferguson asked Mr. Rayner how he advertises to attract new patients.

Mr. Rayner stated that he had placed about four advertisements and he gets new patients through provider referrals, and some patients hear about him through word of mouth.

Dr. Ferguson stated that on Mr. Rayner's, *Tooele Diabetes, Endocrinology and Ultrasound* Facebook Page it states that he is a Physician.

Ms. Taxin stated that some patient's are under the impression that Mr. Rayner is a Physician.

Mr. Rayner stated that there are signs in the facility stating that the patients are Dr. Satter's.

Ms. Taxin referred to the phone call with Dr. Satter who stated that the facility and the patients were not his, that they were Mr. Rayner's.

Ms. Taxin asked if there was another provider available to supervise Mr. Rayner.

Mr. Rayner stated he approached Dr. Burr, but that was not possible due to location limitations. He also approached IASIS, but the CEO stated he was not interested in handling diabetic patients and laid off most of the diabetic staff. He then asked IHC, but was turned down.

Ms. Taxin asked about the U of U.

Mr. Rayner stated he spoke to Dr. Chamberlain but when he tried to follow up, Dr. Chamberlain was gone.

Dr. Ferguson asked who at the facility administered insulin.

Mr. Rayner stated it was given on a sample basis and the only narcotic kept in the facility is Testosterone. Mr. Rayner referred the Board to his practice plan and the controlled substances section.

Ms. Bloom asked who administered the Testosterone.

Mr. Rayner stated that he administers the Testosterone.

Dr. Schmitz referred to the CSD report and asked if Mr. Rayner is going to continue to treat patients for ADHD.

Mr. Rayner stated that he has three patients that he is going to continue to treat for ADHD, but he will not take on additional ADHD patients.

Mr. Harmer referred to the CSD report and the amount of Oxycodone prescribed to a particular patient, questioning Mr. Rayner as to whether he was practicing pain management.

Mr. Rayner stated that he referred the pain patient to another physician.

Dr. Moesinger asked what Dr. Archer's specialty is.

Mr. Rayner answered that Dr. Archer is an OBGYN.

Ms. Taxin asked if Dr. Archer is currently practicing medicine.

Mr. Rayner stated that Dr. Archer is meeting with him at least two times a week to review charts and that he is also going to Law School.

Dr. Schmitz stated that the Board will have to vote on whether Mr. Rayner's Supervising Physician's are acceptable.

Dr. Schmitz read part of the Stipulation and Order, reminding Mr. Rayner that he needs to

attend the PRIME Course in New Jersey and submit an essay to the Board within a year of the effective date of the Order.

Dr. Moesinger asked what kind of medicine Dr. Trudel practices.

Mr. Rayner answered that he is an Internal Medicine doctor.

Dr. Moesinger stated that bouncing an idea off a physician does not constitute a Supervising Physician and he clarified what a patient/doctor relationship is supposed to be, reiterating that the Supervising Physician should have an ownership to the patients.

Mr. Rayner stated that his patient's are the patients of the Supervising Physician.

Ms. Taxin stated that Mr. Rayner is saying it right, but that Dr. Satter clearly stated that the patients going to *Tooele Diabetes, Endocrinology and Ultrasound* are Mr. Rayer's patients.

Mr. Rayner stated that Dr. Trudel is the Supervising Physician of his patients.

Dr. Schmitz stated that Dr. Trudel's patients are in the hospital and that it is a different relationship than the patient's that are being seen in Mr. Rayner's facility.

Dr. Schmitz suggested to the Board that 100% of new patients must be seen by Dr. Satter before going to Mr. Rayner.

Mr. Rayner agreed stating that they all get referred to Dr. Satter.

Ms. Taxin stated that new patients need to start with Dr. Satter and if he feels patients should be seen by Mr. Rayner then he can refer them.

Ms. Taxin stated that the Laws and Rules first need to be read by Dr. Satter before establishing a

Supervising Physician relationship.

Mr. Rayner stated that Dr. Archer knows all the Laws and Rules and that he should be his Supervising Physician.

Ms. Harry read an email submitted by Dr. Archer that stated he is unavailable Monday – Thursday from 9:00 am – 3:00 pm because he is currently in Law School. The Division also received information that Dr. Archer is retired from his OBGYN practice.

Dr. Schmitz stated that he wants 100% of patients to be seen by a Supervising Physician.

Mr. Rayner stated that he has approximately 1400 patients.

Ms. Bloom asked if Dr. Satter would even be willing to see new patients.

Dr. Ferguson stated that ability is not in question; it is the Laws and Rules that need to be applied.

Mr. Rayner stated that he would like help from the Board to establish a practice that is helpful to the community and in compliance with the law.

Dr. Schmitz made a motion that between October 23, 2013 and the next scheduled Board meeting on December 16, 2013, 100% of all new patient's must first be seen by Dr. Satter and then if he chooses, he may refer them to see Mr. Rayner. Existing patients that are treated during the same time period must have a chart review done by Dr. Satter. Dr. Moesinger seconded the motion. The motion was modified by the Board to state that all new patients can initiate treatment through Mr. Rayner but must be seen by Dr. Satter within 30 days of the initial treatment. The Board vote was unanimous.

Dr. Ferguson stated that a Supervising Physician and Substitute Physician need to be established before the next meeting and that Mr. Rayner needs

to discuss the naming of the two different facilities because as it stands at the moment, the two facilities are completely different. He stated that the MA's and other staff need clarification as to who their supervisor is and this also needs to be discussed with Dr. Satter.

Mr. Rayner interjected to direct the Board to page eight of his practice plan. Mr. Rayner stated that all ultrasound and radiology images are uploaded and submitted to ONRAD and that all employees are certified or licensed.

Ms. Taxin pointed out that the supervision of staff should be under the Supervising Physician not the Physician Assistant, nor should they be working independently.

Mr. Rayner stated that all employees are employed by Dr. Satter and that he receives a paycheck every two weeks just like all of his other employees.

Ms. Bloom stated that Dr. Archer is an OBGYN and as Mr. Rayner's Supervising Physician they would have to be in the same Scope of Practice.

The Board asked Mr. Rayner if fine needle aspirations were being performed and if they were, then by whom?

Mr. Rayner answered that yes, he performed fine needle aspirations.

The Board also asked who at Mr. Rayner's facility has hospital admitting rights.

Mr. Rayner stated that he has hospital admitting rights through Dr. Trudel and Dr. Hansen.

Dr. Ferguson stated that the terminology that Dr. Rayner is using "bringing Supervising Physicians in" to help him is not appropriately establishing the intended relationship.

Ms. Taxin stated that Mr. Rayner has to change his practice because it cannot be his practice. None of

these doctors are even aware of one another.

Mr. Rayner stated he is not trying to circumvent the law.

The Board continued to discuss the logistics of the Practice and the Supervising Physician's role in supervising the Physician Assistant, ensuring that the patients belong and are received by the Physician.

Dr. Ferguson stated that the practice model needs to change.

Dr. Schmitz reiterated that he wants all charts to be reviewed 100% between now and the next Board meeting.

Ms. Taxin stated that Mr. Rayner cannot continue to work in his current arrangement. Mr. Rayner needs a Supervising Physician that is in compliance with the Laws and Rules or he needs to quit working with patients.

Mr. Rayner proposed that patients begin to be funneled through Dr. Satter's office.

Dr. Ferguson wants the ultimate goal to be clarification that it is the Physician's practice and not the PA's practice. He wants a detailed plan submitted by the next meeting showing how the DOSA is going to work.

Ms. Taxin stated that she wants a new plan with only one Supervising Physician along with a substitute.

Dr. Moesing was excused at 12:05 P.M.

The Board called Dr. Satter to confirm that he would be willing to see 100% of new patients in his practice within 30 days of initial treatment.

Dr. Satter confirmed that he would be the Primary Care Physician and that Mr. Rayner would receive referrals as the Endocrinology specialist.

Dr. Schmitz stated that Dr. Satter would have to take on the responsibility of being Mr. Rayner's Supervising Physician according to Utah's Law's and Rules.

Ms. Taxin stated that Dr. Satter would be in charge and that he would be establishing the type of practice and treatments given to patients, not Mr. Rayner. She stated that whether Mr. Rayner agrees or not, he needs to be in compliance with the Laws and Rules.

Mr. Rayner stated that he wants to be in compliance with the law and that he will make sure that he develops an acceptable plan with Dr. Satter.

Dr. Furguson stated that along with the practice plan, he would like to see a letter, approved by the Board, sent to each patient letting them know that Mr. Rayner has merged with Dr. Satter and that Dr. Satter is the Primary Care Physician.

Ms. Taxin stated that there has to be a substitute physician agreed upon by Dr. Satter and if there is not a substitute physician, then Mr. Rayner should not be working while Dr. Satter is unavailable.

Mr. Rayner stated that he will be working in the hospital under Dr. Trudel and at the *Tooele Diabetes, Endocrinology, and Ultrasound* facility under Dr. Satter.

Dr. Ferguson wants absolute clarity between all Supervising Physicians as to where Mr. Rayner falls into their practice.

Mr. Rayner asked the Board if he can continue to treat his staff members.

Dr. Schmitz said no, under Utah's Laws and Rules, it is not best practice to treat your own staff.

Mr. Rayner asked the Board what status his employees will be.

The Board recommended Mr. Rayner speaks to an

attorney, stating that it is the intent of the law for the supervisor to take responsibility for the professional practice and ensure the PA is functionally as an extension of their services, not as an independent practitioner.

Mr. Rayner's next meeting scheduled with the Board is scheduled for December 16, 2013.

DISCUSSION ITEMS:

Board Member Training

Postponed

Requirements for the Four Hours of Continuing Education on Prescribing

Ms. Taxin stated that CE requirements for the 2014 – 2016 renewal will include 4 hours of opioid training. She stated that the UMA is currently putting a course together and that Board Members may be a part of the test pilot.

If the PA Board would like other organizations to submit courses, they would have to be REMS and Utah Law compliant.

Dr. Schmitz clarified that PA's should have the same training as the Physician's that supervise them.

PA Rule came into effect in August

Ms. Taxin stated that the new wording in R156-70a-304 was passed. Ms. Taxin read the Rule to the Board.

2014 Board Meeting Schedule, **March 17, June 16, September 15, December 15**

Ms. Bloom requested scheduling meetings discussion at the next scheduled Board Meeting, when all members are present.

CORRESPONDENCE:

FSMB Model Policy for the treatment of pain update

Ms. Taxin presented the new 2013 FSMB Policy on opioid prescribing for the Board to review. She stated she would like to update R156-1-501 to include the new 2013 FSMB policy.

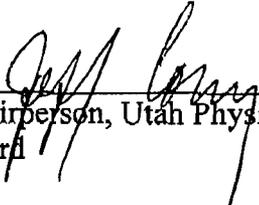
Ms. Bloom made a motion to add the 2013 FSMB Model Policy along with the 2004 FSMB Model Policy into R156-1-501. Dr. Ferguson Seconded the motion. The Board vote was unanimous.

NEXT MEETING SCHEDULED FOR: November 13, 2013

ADJOURN: 12:38 P.M.

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.

12.17.13
Date Approved



Chairperson, Utah Physician Assistant Licensing Board

11/7/13
Date Approved



Bureau Manager, Division of Occupational & Professional Licensing