MINUTES UTAH PHYSICIANS LICENSING BOARD MEETING
NOVEMBER 1, 2018
NORTH CONFERENCE ROOM 1ST FLOOR – 9:00 A.M.
HEBER M. WELLS BLDG.
SALT LAKE CITY, UT 84114

CONVENED: 9:00 A.M.  
ADJOURNED: 1:11 P.M.

DOPL STAFF PRESENT:
Bureau Manager: Larry Marx
Board Secretary: Lisa Martin

BOARD MEMBERS PRESENT:
David A. Cook, MD Chairperson
Lindsay Klimes, MD
Gary A. Hale, R.Ph.
Rebecca Moore, MD
Craig Davis, MD

BOARD MEMBERS NOT PRESENT:
Alan Smith, MD

GUESTS:
Carrie Dunford, Pharmacy Board Member
Julieta Lewellyn, Intermountain Student

McKenzie Johnson

ADMINISTRATIVE BUSINESS:
Call Meeting to Order
Dr. Cook called the meeting to order at 9:00 am.

Read and Approve September 20, 2018 Minutes (0:03)
Dr. Montgomery made a motion to approve the minutes as written.
Dr. Behrens seconded the motion.
The board motion passed unanimously.

APPOINTMENTS:
INVESTIGATION UPDATE (0:04)
Mr. Furner reviewed investigation reports as provided.

NEENA BOWEN, COMPLIANCE REPORT (0:07)
Dr. Walsh has not submitted therapy reports. Dr. Walsh has submitted supervisor and meeting reports.
Dr. Chenoweth has submitted supervisor and meeting reports. Dr. Chenoweth has not submitted the requested updated CV for the proposed supervisor Dr. Greenwood.

Dr. Long has submitted documentation concerning her missed appointment in September. Dr. Long reported attending one meeting in September.

Dr. Wyatt has not submitted any supervisor reports. Dr. Wyatt has submitted therapy reports.

Dr. Vincent has submitted all required reports.

Dr. Blackburn has not submitted reports and is continues to reside in Oregon.

**DR. WILLIAM WALSH, PROBATIONARY INTERVIEW (0:40)**

Mr. Hale conducted the interview asking how Dr. Walsh is doing.

Dr. Walsh stated he continues to work at both the Slovenia and Salson clinics.

Mr. Hale stated the therapy reports have not been submitted.

Dr. Walsh stated he will follow up with the therapist to get the reports submitted.

Ms. Bowen stated typically the therapist will submit a report every six months which is not the current requirement. Ms. Bowen stated reports must be submitted on a quarterly report. Ms. Bowen stated Dr. Walsh can connect with the Division to ensure the reports have been submitted.

Dr. Moulton made a motion approving Dr. Walsh to meet with the Board every four months. Dr. Montgomery seconded the motion. The Board motion passed unanimously.

The Board determined Dr. Walsh is in compliance with his stipulation.

An appointment was made for Dr. Walsh to meet with the board on March 21, 2019.

**DR. CHAD CHENOWETH, PROBATIONARY INTERVIEW (0:51)**

Dr. Moulton conducted the meeting asking how Dr. Chenoweth is doing.

Dr. Chenoweth stated he is no longer requesting Dr. Greenwood as a supervisor. Dr. Chenoweth stated the new proposed supervisor is Dr. Matthew Andersen.

Dr. Moulton asked Dr. Andersen if there were any questions concerning the role of supervisor.

Dr. Andersen stated he has no questions and summarized his intent as a supervisor.
Dr. Moulton made a motion approving Dr. Andersen as a supervisor. Dr. Behrens seconded the motion. The Board motion passed unanimously.

Dr. Chenoweth stated Medicare has requested copies UAs, evaluations, and supervisor reports as well as a compliance letter.

Mr. Marx requested a copy of the Medicare letter and the Division will compose the compliance letter.

Ms. Bowen stated the other items requested can be supplied by a GRAMMA request. Ms. Bowen stated she will work with Dr. Chenoweth to complete the request.

An appointment was made for Dr. Chenoweth to meet with the board on January 17, 2019.

DR. DEANNE LONG, PROBATIONARY INTERVIEW (1:24)
Dr. Moore conducted the interview asking how Dr. Long is doing.

Dr. Long discussed the reason for the missed appointment in September.

Dr. Moore stated the meeting report only includes one meeting. Dr. Moore asked how many meetings are required in Dr. Long's stipulation.

Dr. Long stated she is required to attend two AA meetings and two PIR meetings a month. Dr. Long stated she struggles to find the time to attend meetings. Dr. Long stated she is working too much.

Dr. Moulton asked how many days a week Dr. Long is working.

Dr. Long stated she works five days a week.

Dr. Moulton stated that allows two days to attend meetings. Dr. Moulton stated continuing the same behaviors is self-sabotaging. Dr. Moulton stated the signed stipulation must be followed.

Dr. Moore stated during the July meeting Dr. Long's probation was extended by six months as a result of continuous non-compliance.

Dr. Long expressed frustration with the probation process. Dr. Long stated probation feels like a punishment for screwing up. Dr. Long stated meetings are not beneficial to her and they feel like a waste of time. Dr. Long stated it was her understanding she was found non-compliant due to the required therapy.

Dr. Moore stated the Board's expectation is that probationers be in compliance by completing all the requirements in their stipulation.
Dr. Moulton suggested allowing Dr. Long to increase individual therapy to cover the required meeting attendance. Dr. Moulton stated this option may be more beneficial for Dr. Long.

Dr. Long stated individual therapy is expensive and would not be an option.

Dr. Klimes stated the concern about the amount of work Dr. Long is describing does not allow time for self-care.

Dr. Montgomery asked if Dr. Long found therapy useful.

Dr. Long stated she does not find it to be useful. Dr. Long stated she would rather move on however because of probation the past needs to be faced every day.

Dr. Moore stated the expectation is for Dr. Long to attend meetings as required in the stipulation and the discussion will be resumed in January.

The Board determined Dr. Long is not in compliance with her stipulation.

An appointment was made for Dr. Long to meet with the board on January 17, 2019.

**DR. P. WADE WYATT, PROBATIONARY INTERVIEW (1:54)**

Dr. Bair conducted the interview stating the submitted therapy reports had not been signed.

Dr. Wyatt stated he will provide the reports back to the therapist. Dr. Wyatt stated he attempted to attend the India course twice however there were issues that have prevented his attendance. Dr. Wyatt stated he plans to attend the course in January.

**Dr. Bair stated the supervisor reports have not been submitted.**

Dr. Wyatt stated there has been a focus on the records review and the supervisor report had been neglected. Dr. Wyatt stated he will get the supervisor reports submitted.

An appointment was made for Dr. Wyatt to meet with the board on March 21, 2019.

**DR. DRAKE VINCENT, PROBATIONARY INTERVIEW (2:02)**

Dr. Klimes conducted the interview asking how Dr. Vincent is doing.

Dr. Vincent stated his personal life has improved and the practice continues to do well.

**Dr. Klimes asked about Dr. Vincent’s reinstated DEA license.**
Dr. Vincent stated the DEA has placed a limitation of ordering in house narcotics. Dr. Vincent stated the compliance manager from a pharmacy has a restriction placed from the Office of the Inspector General (OIG list).

Mr. Hale stated typically to get removed from the OIG list the provider must obtain a lawyer to contacted the OIG office.

Dr. Vincent asked about the process to change his supervisor.

Dr. Klimes stated the proposed supervisor would need to provide a CV and should plan on meeting with the Board.

The Board determined Dr. Vincent is in compliance with his stipulation.

An appointment was made for Dr. Vincent to meet with the board on March 21, 2019.

DR. ROY BLACKBURN, TELEPHONIC PROBATIONARY INTERVIEW (2:12)

Dr. Montgomery conducted the interview asking how Dr. Blackburn is doing.

Dr. Blackburn stated there have been no changes in his situation. Dr. Blackburn stated he has not found work in the medical field. Dr. Blackburn stated he is currently working with a security company.

Dr. Montgomery asked Dr. Blackburn about the search for clinical employment.

Dr. Blackburn stated he has not had any success in finding clinical employment. Dr. Blackburn stated he is volunteering at Occupied Medical; a mobile clinic that works with the homeless population. Dr. Blackburn stated he applied for a family practice residency in Ogden. Dr. Blackburn stated he has not had any feedback from the program.

Dr. Montgomery asked about Dr. Blackburn’s status in Oregon.

Dr. Blackburn stated the Oregon license is still restricted and he has been complying with that order. Dr. Blackburn stated the restriction is for a minimum of five years which would end in July of 2019. Dr. Blackburn stated he meets with the Oregon Board telephonically on a regular basis.

Dr. Montgomery asked when Dr. Blackburn last met with the Oregon Board.

Dr. Blackburn stated his last appointment with the Oregon Board was in April. Dr. Blackburn stated he is not required to provide documentation to the Oregon Board.

Dr. Cook asked what Dr. Blackburn’s intentions are once he is off of probation or restricted status.

Dr. Blackburn stated his intention is to leave the state of Oregon.
Mr. Marx asked how much continuing education Dr. Blackburn is completing.

Dr. Blackburn stated he completes continuing education through WebMD.

Mr. Marx stated if Dr. Blackburn is working or volunteering the Division should have received a practice plan and supervisor information. Mr. Marx stated he will send Dr. Blackburn a request to provide the required documentation.

Dr. Moore asked if action can be taken on the license as Dr. Blackburn has been working in the medical field and has not provided the required documentation.

Dr. Moulton stated the Board is concerned about a physician returning to unrestricted practice without any monitoring in the past five years.

Mr. Marx stated he will contact the Oregon Board for a compliance report.

An appointment will be made for Dr. Blackburn if there are changes in the Oregon status or if employment is obtained.

IMMUNIZATION PROTOCOL (0:29 & 1:06)
Mr. Marx stated currently pharmacists are permitted to provide immunizations and the Pharmacy Board is seeking pharmacy interns and pharmacy technicians to have the same authority under direct supervision.

Ms. Blackburn introduced the drafted protocol and reviewed the rules that would be effected.

Dr. Cook asked if the pharmacy technicians are trained in injections as part of their licensure.

Mr. Hale stated technicians are not trained in administering injections.

Ms. Zaelit stated prior to a pharmacy technician being able to perform injections they would be required to complete a specific training as well as obtain approval from the pharmacist on site.

Dr. Montgomery asked about procedures for any adverse event.

Mr. Marx stated there are components on the second page of the protocol.

Dr. Bair stated the adverse events section of the protocol should include if epinephrine is used EMS services must be called.

Dr. Klimes referred to the epinephrine section of the protocol requesting the order of subsections be revised in progressive weight.
Dr. Bair made a motion approving the protocol draft after the discussed revisions are addressed and a final review is completed by a member of the Physician Board. Dr. Klimes seconded the motion. The Board motion passed unanimously.

DISCUSSION ITEMS:

STANDARD OF CARE, DR. MICHAEL KAGEN (2:35)
Dr. Cook welcomed Dr. Kagen to the meeting and requested he introduce the topic.

Dr. Kagen stated it was his understanding that standards are being developed for IVs that are done outside of traditional facilities. Dr. Kagen asked if there are currently any limitations in regard to medical services outside of standard medical facilities.

Dr. Bair stated the question presented is broad as there are obvious limitations for certain procedures. Dr. Bair stated currently limitations on sedation are being developed.

Mr. Marx stated the current statute does not address the location that medical procedures are performed. Mr. Marx stated this would be a standard of care issue.

Dr. Bair summarized the current standard of care process includes the physician having seen the patient and has created a treatment plan regardless of where the treatment is provided.

Dr. Kagen asked if patients are well protected by Utah law when treated in hotels.

Mr. Marx stated that is the current concern. Mr. Marx introduced two investigators and a member of the Pharmacy Board.

Dr. Moulton stated the concern is not that a person is getting IV fluids at a hotel rather the question is where the fluids were mixed and if a doctor patient relationship had been established prior to administering the fluids.

Dr. Cook asked if the Dr. Kagen is aware of specific instances or concerns.

Dr. Kagen stated currently he has general questions to be addressed. Dr. Kagen asked if existing laws in Utah adequately protect patients when being diagnosed and treated in hotel rooms by licensed nurses who are not supervisor or communicating with their physician employers in real time. Dr. Kagen stated the important detail of this question was addressed with the mention of an established patient relationship.

Dr. Moulton stated registered nurses cannot diagnose.

Dr. Kagen asked if there is an expectation that the patient relationships needs to be established in an inpatient or telemedicine visit prior to an IV being placed. Dr. Kagen
stated the tele-visit should include real-time video and audio between the physician and patient.

Dr. Davis stated the AMA has guidelines on patient-provider relationships. Dr. Davis stated it is important to maintain and recognize the AMA's definition of an established patient relationship.

Dr. Kagen stated he does not believe a phone call to the provider does not establish as physician patient relationship. Dr. Kagen stated the establishment of a physician patient relationship can be established via telemedicine which includes real-time video and audio.

Mr. Marx referred to definitions in the Telehealth Act section 26-60-102 found in the Department of Health code which defines a phone call as telehealth.

Mr. Hibler read from section 26-60-103(1)(b) of the Telehealth Act.

Dr. Kagen stated referred to the Utah Administrative Code section R414-42-2(1) which defines telehealth differently then what was stated in the Telehealth Act. Dr. Kagen stated the Administrative Code requires at a minimum audio and video equipment.

Dr. Moulton stated this has been a concern that is continuing to be discussed by the Board.

The Board agreed that a provider must make a diagnosis prior to any treatment being administered.

Dr. Moulton suggested creating a rule in regards to non-urgent non-controlled settings which would address new patients, elective care, and non-traditional setting.

Dr. Cook stated the rule should address requiring contact between the physician and patient.

Dr. Bair recommended using the term ‘clinician’ rather than ‘provider’ as nurses are considered providers.

ETHICS AND BOUNDARIES ASSESSMENT SERVICES (0:33)
Ms. Martin stated this topic was presented at the combined September meeting. Ms. Martin stated it was requested that the topic be researched and discussed again.

OPEN MEETINGS ACT (0:15)
Mr. Marx reviewed the Open Meetings Act.

PROPOSED RULE CHANGE (0:16)
Mr. Marx reviewed the proposed rule. Mr. Marx stated the statute requires an applicant to be of 'good moral character'. Mr. Marx stated the proposed rule helps to define good moral character.
Dr. Klimes recommended a change to subsection (e) which currently lists specific specialties be restricted as there are several other specialties that work with children.

Dr. Cook suggested the section state 'an applicant or licensee shall be permanently restricted from treating minors'.

Mr. Marx stated the draft will be revised based upon this discussion and an updated draft will be presented at the January meeting.

CORRESPONDENCE:

NEXT SCHEDULED MEETING: JANUARY 17, 2018

ADJOURN:
Meeting adjourned at 1:11 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.

[Signatures]
Date Approved
[Date]
Chairperson, Utah Board of Physician Licensing Board

Date Approved
[Date]
Bureau Manager, DOPL