

MINUTES
UTAH
CHIROPRACTIC PHYSICIAN LICENSING BOARD

July 23, 2019
Room 474– 4th Floor – 9:00 A.M.
Heber M. Wells Building
160 E. 300 S. Salt Lake City, Utah

CONVENED 9:00 AM

ADJOURNED 12:38 PM

DOPL STAFF PRESENT:

Allyson Pettley, Bureau Manager
Ernest Gamonal, Board Secretary

Sicily Hill, Compliance Specialist

BOARD MEMBERS PRESENT:

Terry Martin, DC, Chair
Kristina Stitcher, DC, Vice Chair
Richard Engar, DDS

Dan S. Monson, DC
Larry Vance, DC

GUESTS:

Roxy Cross, UCPA
Lew Wheelwright, UCPA
Jay Anderson, Past Chair
Matthew Roller, UCPA
John Krage
Neil Erickson, UCA
Anthony Simone

Jeff Metler, UCPA
Matthew Zarit
Larry Ziegler, UCPA
Kent Pollock
Jace Ferguson
Teri Ferguson

Philip Wilkins
Rick Amon, UCPA
Z. Harrison
Greg Molis
Angie Canada, UCPA
Mark Brinton, UMA

ADMINISTRATIVE BUSINESS: (00:02:00)

Ms. Pettley administered the Oath of Office to new Board Member, Larry Vance, DC.

Read and Approve Minutes

The minutes from the April 23, 2019 meeting were reviewed. Dr. Stitcher made a motion to approve the minutes as written, seconded by Dr. Engar. The motion passed; four in favor and one abstention from the new board member.

Dr. Wheelwright notified the board of the passing of Dr. Ryan Campbell and requested a moment of silence in his memory.

COMPLIANCE UPDATE: (00:07:39)

Ms. Hill provided a report on the probationers being seen today. Questions were asked and answered.

APPOINTMENTS:

John Krage, DC (14:24)

Dr. Monson interviewed Dr. Krage. Dr. Krage updated his current status. Dr. Krage is asking the California Board for an early termination of his probation. Dr. Krage provided a background of his probation in Utah and California and the \$50,000 he has paid in restitution. Dr. Monson asked about and Dr. Krage provided an update with respect to Dr. Krage's continuing education. Dr. Krage asked if the Utah Board would be willing to write a letter showing his compliance with Utah's probation. Ms. Pettley asked if Dr. Krage has petitioned California to release Dr. Krage's probation and it would be more likely for the Division to consider any amendments to the Utah Order based on action taken in California. It may be possible for Dr. Krage to meet with the Board on October 22, 2019 telephonically.

COMPLIANT

Anthony Simone, DC (00:25:00)

Dr. Vance interviewed Dr. Simone. Dr. Vance asked for an update. Dr. Simone is happy with his work and currently works Monday, Wednesday, Friday and Sunday. His workplace recently changed ownership. Dr. Simone said he completed 10 online Continuing Education (CE) hours; but he wanted to know about his additional 30 hours of billing classes for the Order. Ms. Pettley said that as long as the CEs were accepted in another state's jurisdiction for Chiropractic Physicians the law allows them to be accepted in Utah and for the CE's ordered in the stipulation, online submission was acceptable. Dr. Simone asked the Board if anyone knew where he could find the 30 hours of live continuing education hours. Roxy Cross, Utah Chiropractic Physicians Association (UCPA), Executive Director, offered some CE options available from the Association. Ms. Pettley also asked Ms. Cross to explain how CE hours are obtained during the UCPA's Golf CE event which Ms. Cross explained. Dr. Simone will meet with the Board on October 22, 2019.

COMPLIANT

Matthew Zarit, DC (00:35:06)

Dr. Martin interviewed Dr. Zarit and asked him about his work schedule. Dr. Zarit is working Monday through Friday from 3 – 6 as a Chiropractic Physician and Monday through Friday from 7 – 3 with his job at the Health Department. Dr. Engar asked about, and Dr. Zarit answered to, the report requested by the Board at the previous meeting. Dr. Stichter asked about, and Dr. Zarit clarified, his final paragraph.

Dr. Engar made a motion to recommend the Division terminate probation early. Dr. Stichter seconded and the motion passed unanimously. Ms. Pettley explained what the next steps will be for Dr. Zarit.

COMPLIANT

Jace Ferguson, DC (00:46:39)

Dr. Stitcher interviewed Dr. Ferguson and asked him how things are going. Dr. Ferguson said that things are going well and he sees a steady 25 patients per week. Dr. Ferguson has had no change in location or staff. Dr. Ferguson has plans to complete his CEs before the next renewal. Dr. Stitcher asked about Dr. Ferguson's business entity registration and informed him that one of his DBAs is still listed as pending. Dr. Stitcher said that the patient chart notes have had a significantly improved. Dr. Engar noted that the vitamins & minerals are noted in the financials but not the notes. A discussion was held with respect to Dr. Ferguson's re-examination policy. Dr. Stitcher suggested that Dr. Ferguson schedule his patients in advance for reevaluation after the initial visit, especially for personal injury patients. Dr. Stitcher asked Dr. Ferguson what he learned from this process. Dr. Ferguson credits his improved paperwork and compliance for his practice. He learned about the importance of HIPPA compliance. Dr. Ferguson thinks that this experience was a necessity and was important to learn all that he has during this period.

Dr. Stitcher stated that she appreciates the responsibility Dr. Ferguson has taken and made a motion to terminate Dr. Ferguson's probation. Dr. Monson seconded and the motion passed unanimously. Ms. Pettley explained what to expect for the termination of probation process.

COMPLIANT

APPLICATION REVIEW:

Kent Pollock (01:13:15)

Ms. Pettley explained how Mr. Pollock contacted her to find out what was necessary to do to become licensed in Utah.

Mr. Pollock explained that while he was practicing in California, he was not in control of his billing which resulted in convictions of insurance fraud and lost his license in California for ten years. In 2016 Mr. Pollock applied to reinstate his license; however, California denied the application. Mr. Pollock did not timely file an appeal of the denial. Mr. Pollock has not obtained any continuing education.

Dr. Martin stated that Mr. Pollock would be required to take the Special Purposes Exam for Chiropractors (SPEC) exam and if any future license would be granted that Mr. Pollock would be ultimately responsible for his billing practices.

The Board members discussed Mr. Pollock's situation recommended he take and pass the SPEC and Utah Law and Rule exams and apply for his Utah license. Ms. Pettley stated that it would be likely a discussion would need to be held with respect to a possible probationary license.

Philip Wilkins (01:42:06)

Philip Wilkins met with the Board to discuss his qualification for licensure as a chiropractic physician although his Utah license expired on May 31, 2010. He has

been working in neurophysiology, beginning in Connecticut and other travel throughout the country, monitoring and assisting during surgeries with respect to neurophysiology and patient safety. His desire is to be more involved in holistic practices.

Dr. Stitcher made a motion that Dr. Wilkins will not be required to take the SPEC exam. Dr. Engar seconded and the motion passed unanimously.

Dr. Martin asked whether the Board can make the determination whether an applicant is required to take the SPEC exam following a period of time out of practice be discussed at a future meeting. Ms. Pettley clarified that the Division considers recommendations made by all licensing Boards, as the majority of Board members are licensed professionals in their field.

DISCUSSION ITEMS:

Federal Aviation Administration (FAA) Examinations

Mark Brinton provided detailed information with respect to the FAA examination and the areas that are evaluated. Dr. Stitcher stated that all areas that Mr. Brinton outlined are taught in chiropractic education.

A discussion was held between the Board and members of the public.

Dr. Stitcher made a motion to state that it is within chiropractic physicians' scope of practice and can perform these types of examinations. Dr. Vance seconded and the motion passed unanimously.

Rule Draft

Additional sections to be added to Utah Administrative Code R156-73-501 were discussed. Input was provided by the Board and members of the public.

Dr. Stitcher made a motion to break the added sections for unprofessional conduct. Dr. Engar seconded the motion. The motion passed with Dr. Monson opposing. The sections to be filed separately are as follows:

Rule filing one:

“Unprofessional Conduct” includes:

- *as required by court or administrative proceedings, using patient records of another chiropractic physician without physically performing a patient examination to determine medical necessity while the patient is under active care*

Rule filing two:

“Unprofessional Conduct” includes:

- *soliciting, receiving, or paying compensation to any person or entity for sending or referring a patient in excess of \$50 per patient*
- *soliciting, receiving, or paying compensation to any person or entity for a product or service to or from a chiropractic physician or chiropractic facility including commissions, rebates, kickbacks or bribes*

Rule filing three:

“Unprofessional Conduct” includes:

- *aiding or abetting, advising or otherwise participating in conduct described in R156-73-501.*
- *failing to provide a written refund policy for pre-paid plans before the provision of service;*
- *failing to obtain written acknowledgement of the patient's acceptance and understanding of a prepaid plan before the provision of service;*
- *making a guarantee of outcomes of care*

Ms. Pettley stated that she would welcome any input with respect to drafting the associated fiscal analysis related to these filings.

TENTATIVE MEETING DATES

October 22, 2019

July 28, 2020

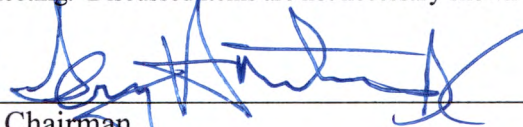
January 28, 2020

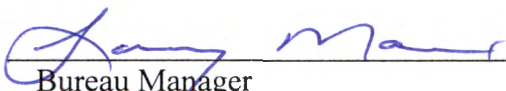
October 27, 2020

April 28, 2020

ADJOURN: 12:38 p.m. (no motion required)

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 necessary shown in the chronological order they occurred.

10/22/19 
Date Approved Chairman
Chiropractic Physician Licensing Board

10/22/19 
Date Approved Bureau Manager
Division of Occupational & Professional Licensing