

Friday, May 28, 2021 9:00 – 10:20 am

LB Cancer Center Conference Room

Present: Dr. Sue Cullinan, Leslie Smith, Dr. Steve Weiss

Dr. Susan Cullinan and I met with Dr. Weiss on May 28, 2021 to interview him in connection with our employment investigation. We thanked Dr. Weiss for coming in to meet. He voiced appreciation for being allowed an opportunity to present information before any decision is made about potential employment action.

Dr. Cullinan let Dr. Weiss know we were interested in hearing his thoughts and perspective about the key issues during the discussion today. Dr. Cullinan made it clear we expected he would share his thoughts with both of us and she would not be spending time with him individually following the meeting as he requested in a private email to her.

Dr. Weiss began by indicating his leave was a very jarring experience, particularly being escorted out by security which he did not believe was necessary. Dr. Weiss said his phone was scrubbed and he lost all of his contacts including family and friends. Dr. Cullinan noted the standard process occurred and his access to the network was disabled just as it is for others who are placed on leave. Dr. Weiss re-emphasized his phone was scrubbed and stated he couldn't get in touch with his mother or best friend. He did not feel that was appropriate.

I joined the discussion to ensure all participants had the same information and update Dr. Cullinan on the conversations Dr. Weiss and I had over the past few days. I noted that copies of three relevant Mayo policies were sent to Dr. Weiss as requested and they were pulled from an earlier email Dan Lea had sent to Dr. Weiss with links to the policies. I also sent a copy of Dr. Weiss' current employment agreement to him. Dr. Weiss then asked if I would be providing him with a copy of the current new physician contract template. I told Dr. Weiss I couldn't send him a copy of a contract that isn't his. I indicated there are changes that happen to the contracts over the years and what new contracts say isn't relevant to the issue of what his contract says. Dr. Weiss agreed there have been many changes to the contract since he received his. He believes his contract was more supportive of the physician. He said there was no "not for cause" provision in his contract and he could only be terminated for something really egregious after receiving a hearing with the board. I pointed out that both "for cause" and "not for cause" provisions were part of his contract by pulling his contract up on my laptop and showing him both sections.

Dr. Cullinan indicated we had questions from the PPC but first wanted to allow him to make any comments as we wanted to make sure he had an opportunity to tell his side of the story. Dr. Weiss indicated we could simply go ahead and ask the questions.

Dr. Cullinan indicated the first several questions were about policies. She asked Dr. Weiss if he ever contemplated contacting Compliance before publishing the book. Dr. Weiss said "I just didn't think about it." He went on to say he knew Dr. Helmers and others were upset and believe "I put my thumb in the eye of Mayo." Dr. Weiss said he has always been political and had written op eds for 30 years without incident. Dr. Weiss commented further that the institution indicated he received a prior written warning about it but he doesn't remember that. He stated that on the written warning about the op ed, he told the reporter not to say he was from Mayo but the reporter did anyway. Dr. Weiss then said he thought he told the reporter to not identify his employer but "maybe I didn't." Dr. Weiss stated he was not trying to antagonize anyone or go around the rules. He said "habits are hard to break and it was always ok for 30 years."

Dr. Weiss voiced his regret for putting Mayo on the book dust cover. He said "I never thought about it but would change it looking back now." He added "there's no way anyone who reads the book would think I'm speaking for Mayo..... I tried to praise Mayo effusively but there were some policies and decisions I disagreed with." He knows Mayo protects its brand and wished he hadn't put Mayo in the book. He said "I didn't know that would be a specific concern..... I don't always think it through." Dr. Cullinan clarified that the issue was not the fact that he wrote a book, as this is allowed, but the issue lies in the fact that he included the Mayo name and Patient vignettes without Mayo or patient approval.

Dr. Weiss stated the idea of creating a book started as a daily diary for 9-10 days. His son helped him turn it into a blog. Dr. Weiss said he had several dozen followers and Dr. Bill Rupp is a big supporter. He added Dr. Charles Rohren plugged

the blog and book, and none of his colleagues told him he couldn't do what he was doing. He indicated he was very careful about HIPAA and Janelle Potter said there were no HIPAA violations.

Dr. Cullinan commented: "But Steve, you had previous warnings about these policies so it's hard to say you didn't know." Dr. Weiss' comment was "it would have been nice if I had known about all these rules."

I then asked Dr. Weiss a clarifying question about the blog and why he took it down.

Dr. Weiss said "Well, it was finished anyway. I had submitted one of the blog stories to Maureen at WPR who wanted it read on the radio. I contacted Dan Lea who said no. He never got back to me so I checked again and Administration said no so I took the blog down." Dr. Weiss apologized again for "saying Mayo anywhere in the book."

Dr. Cullinan said "Steve, this is serious. Not just the book but the previous warnings you received. It's hard to say you didn't know the rules when you had those previous warnings." Dr. Weiss responded with "what they would like more than anything is for me to give you a letter of resignation with no severance. I'm not going to do that."

Dr. Cullinan attempted to refocus the discussion and asked "Do you feel you violated these 3 policies?" Dr. Weiss said the concern about using the Mayo name in the book was legitimate and he was taking steps to correct that. Dr. Weiss indicated he was having the book changed to include a statement that the views expressed are his own.

Dr. Cullinan asked Dr. Weiss about the email where he told a reporter Mayo was not happy with him about the book, and that might help sell it. Dr. Weiss stated: "I think that was just a few weeks ago. At that time I thought I was going to be terminated from Mayo and my termination would make an interesting story."

Dr. Cullinan inquired about the patient vignettes. She asked if Dr. Weiss was concerned one of his patients might see him/herself in the book. Dr. Weiss said he is changing the book so patient conversations will be conversations with colleagues/acquaintances. He said there were 2 chapters in the book he's having changed and that the process is slow and expensive but he's working on it.

Dr. Cullinan then inquired about one of the emails in which Dr. Weiss mentioned asking patients about their political views. She asked Dr. Weiss: "Do you feel that's appropriate?" Dr. Weiss stated "I'm just curious about people and where they're coming from. I don't often share my own views, although they probably already know. I just think it's helpful to understand people."

Dr. Cullinan next asked Dr. Weiss about the previous warnings. She said "Did you think about those when moving forward with the book?" Dr. Weiss indicated the prior warnings were unrelated. He pointed out that one was about the Med-Ex student and "Dr. Bill Rupp thought the letter put into my file was highly inappropriate." Dr. Weiss added "I never had anything in my file before Bob Peck took over. I had 25 years with nothing."

Dr. Weiss described the Med-Ex issue as a "system problem." He stated: "Mayo put a student in my exam room with no training. I didn't have my normal nurse that day, and the nurse didn't highlight that the patient didn't want the student in the room. I was in a hurry so I didn't look for it. I take responsibility for that. I'm the captain of the ship, but the warning seemed excessive. When the PPC makes these decisions there's a whole bunch of group think that happens."

Dr. Weiss commented on the second written warning about a patient's daughter. He described the warning letter as "libelous" and affirmatively stated that Dr. Peck put information in the letter that didn't happen. Dr. Weiss said "I never asked the daughter anything. Maybe I noticed she didn't have a ring. I said something to the patient that I noticed the daughter was single and she's very intelligent, and I would like to take her to dinner sometime. The patient was ok with it but his wife wasn't." Dr. Weiss said Dr. Peck called and said they had to talk but at the end of the day because "when I'm done you won't be in any frame of mind to take care of patients." Dr. Weiss didn't feel this was fair and thought the meeting could perhaps occur over lunch.

Dr. Weiss then described the third warning as being about the Leader Telegram article. He stated "That was a legitimate concern."

After referencing the warnings Dr. Weiss began commenting about leadership. He stated: "Bob Peck and Rick Helmers kind of have it in for me. In July 2018 when Bobbie Gostout was here I asked a polite question about the EMR and process efficiency. Mark Tomasi ended up answering my question but it was fine. Two weeks later Helmers comes to my office and chewed my ass for embarrassing him." Dr. Weiss continued "I never had problems with previous leaders like Linton, Rupp, Bailey, and others. I even emailed Rick Helmers during the surge to tell him how great things were being handled. He thanked me for saying that. I haven't been thumbing my nose at leaders just to thumb my nose at them."

Dr. Cullinan asked Dr. Weiss about the emails he sent to PPC members related to his CIM/HIM proposal. She asked him "Do you think those were appropriate?" Dr. Weiss indicated he took a hybrid proposal to the PPC because he wanted to work from age 63 to 67 in that split. He said HIM really wanted him and voted unanimously to have him join. Dr. Weiss said his partners in CIM approved it 11-1 but the PPC denied it. According to Dr. Weiss, Larry Sprecher was shocked and said he didn't even know it needed PPC approval. Dr. Weiss said the proposal "Wasn't just Steve Weiss wants to do this. I was thinking about the department and future recruitment improvements by being able to offer this model. I went to the PPC to explain the proposal. Lisa Gillette asked me the same question twice and then before I could sign off zoom she said I just don't understand how this will work. Lisa was emotionally, adamantly against it. I sent her 2 emails - Leslie you've seen them, I think they were very professional. Then Copa sends me a letter saying I'm bullying Lisa Gillette. At PPC Felix asked one question and I think Catherine asked one question so they seemed fine with it. Bob called me a few hours later and said there were 2 or 3 people on the committee who had problems with inbox management. I know one had to be Lisa Gillette and I assume the other is Krista who I don't know."

I asked Dr. Weiss if he was referring to Dr. Krissa Schuldt. He stated "Right, so I assume it's her and Lisa who are opposed. Because I don't know her I just emailed Lisa." I asked Dr. Weiss if he said Joe Copa sent him a letter. Dr. Weiss said "Well, he sent it to my lawyer but it's the same thing."

Dr. Cullinan then commented: "Steve, there's just a lot here. All these separate instances that just keep happening. It's a lot for the PPC to understand how this won't keep happening." Dr. Weiss stated: "Tell Bob and Rick I'll behave myself, it won't happen again. I had no idea Mayo had the right to pre-approve the book, no idea. I didn't willfully put my finger in their eye. I think that's what people think I'm doing. I work at the Free Clinic trying to make Mayo look good, I'm not trying to make them look bad. I'm very well known in the community and think patients will support me."

Dr. Cullinan followed up by asking him how a patient might feel if they see themselves in the book and whether he considered that before writing the book. Dr. Weiss stated "That's a very legitimate concern that I'm addressing now."

Dr. Cullinan reiterated the seriousness of the situation to Dr. Weiss. He replied by stating: "I'm not dumb, I know it's serious. They are not paying me, which by the way, may be a violation of my contract. They scrubbed my phone so I lost all my contacts. I realize I have 3 options here: I can be reinstated. I would want a lot of money to resign. If you fire me, it's not going to be good. I won't be quiet. The only worse person to fire is Dan Kincaid in the community. Look, I'm sorry, I didn't think about it."

Dr. Cullinan asked what would happen if he returned to the practice and something like this happened again. He responded "If I do it again, fire me and I won't say a thing. I thought a book was different than an op ed, I didn't know. I apologize, I will absolutely make sure it never happens again. The worst possible thing to do is to fire me. I know they're mad. I'm sorry and I won't do it again. I apologize, I'm sorry."

Dr. Cullinan indicated she was trying not to take his statements as a threat but they felt like a threat. Dr. Weiss stated "No, it's not a threat. If they want me to resign it will take a lot of money, not just 3 months of pay. I got the message. I've gotten it before but I've got it now. The best decision for my patients, me, and Mayo is for me to come back to care for my patients. I have a lot of support in the community. I was talking to a pastor last night about this who told me

there are 3 entities involved here: me, Mayo and all my Mayo patients who need me. I feel we also need to consider them.”

Dr. Cullinan responded there are really 4 groups as his patients may be divided and there may be a subset who are upset their story is told in public and may not continue to see him as a doctor. She asked Dr. Weiss to consider the part of the community who sees themselves in the book and other community members who won't come to Mayo for their care because they don't want to see themselves in a future book.

Dr. Weiss said many of the patient vignettes were about Covid patients and “many of them died.” I pointed out that family members still may not want to see a loved one in the book. He responded: “I don't think that will happen. I'll compensate Mayo \$10,000 for every complaint from a patient or the community.” Dr. Cullinan said we're not looking for that today but are seeking to understand how we could be sure this wouldn't keep happening. Dr. Weiss: stated “You know, nobody told me I shouldn't do this. Many physician colleagues read the book. Bill Rupp read the book. No one said anything about maybe I should check with someone.”

Dr. Weiss continued: “It's my fault, I have too much tunnel vision, I'm too driven. It's been a painful process, mostly personal, this past year. I'm going through my second divorce and that's been hard. Joe Copa says I do whatever I want to, irrespective of what anyone tells me.” I asked him if he had spoken with Joe Copa and Dr. Weiss said he was referencing part of a letter sent to his lawyer.

I then redirected the discussion back to a comment Dr. Weiss had made. I said I wanted to be sure to have his statement correct so it wouldn't be misrepresented. I asked if he said “If you fire me, it's not going to be good. I won't be quiet.” Dr. Weiss stated “I can see how that sounds but I'm just saying I have a lot of support in the community.” He then asked Dr. Cullinan about what he should do and how he could rectify the situation.

Dr. Cullinan reiterated the seriousness of the situation. She told Dr. Weiss what he chose to do was a personal decision he needed to make. Dr. Cullinan pointed out that our review was not only about the book and again referenced (1) the previous warnings; (2) the email Dr. Weiss wrote indicating Mayo didn't like the book and he hoped that would sell more books; and (3) the email traffic establishing that Dr. Weiss did, in fact, have knowledge of relevant policies and expectations at the time he chose to write the book.

Dr. Weiss repeated he's taking steps to make changes to the book and stated: “All I was thinking was that I was identifying who I work for, not that my views are Mayo's views.” He continued: “I'm preparing to be terminated. They'd love to get rid of me but it's a risk management issue. I had no idea there were publishing rules. I love Mayo Clinic. I'm proud to be a Mayo Clinic doctor. Mayo's not mad when I use their name at the Free Clinic. I have a lot of support in the community.”

Dr. Cullinan then tried to refocus the discussion on the pertinent issues. She asked again about patients who might not be happy about the book. Dr. Weiss dismissed the concern by stating: “I just don't think that's an issue. If patients complain to me, I'll be happy to pass that along to Administration.”

He also stated: “The previous warnings were all different issues, they're not the same.” I commented the commonality between the three prior warnings was the judgment he used in making decisions in each situation. Dr. Weiss nodded but did not comment on that.

I then returned to Dr. Weiss' prior comment about the hybrid proposal discussion. I told Dr. Weiss I wanted to set his mind at ease that Lisa Gillette was not leading an opposition to his proposal. I told him the PPC does a very good job thoroughly discussing issues and weighing both sides of every issue, and there was no one person leading a charge to deny his request. Dr. Weiss said Dr. Peck told him it was 2 or 3 people.

Dr. Weiss asked if we could provide a timeline on when a decision would be made. I told him there would be a lot of activity next week. I shared that the PPC will discuss the issue and it would also be discussed at MCHS PC Exec. I reminded him of the prior discussion about his contract and indicated the Board may be involved. I also shared that this

concern had risen to top Mayo leadership including Dr. Rihal, chair of MC PC and PCC, and Dr. Farrugia so additional input may be needed.

Dr. Weiss asked if Mike Perry still sits on our board and indicated they are friends. I told Dr. Weiss I didn't know who was on the board but he should not contact board members asking for support. Dr. Cullinan said "no, definitely don't do that".

Dr. Weiss commented he believes committees engage in a lot of "group think." He added "Like with the pelvic exam issue, I didn't get to talk to the committee and represent myself. Rupp said it was pretty shady. Eric Dovre said it was pretty ridiculous. The letter from Bob Peck was horrible." He then stated: "I never had problems but then Horecki started giving me bad grades. I had always been good before so I knew it was Horecki. I went to talk to him about it. He told me I'm too independent and I need to be a rule follower. His office was right next to Bob Peck's so I knew it was coming from both of them." He continued: "There are ways to interpret those first 2 warnings but I didn't get a chance to tell my side of the story. There's a pattern of less than collegial treatment and understanding. There's a desire to put a black mark on someone."

Dr. Cullinan asked if Dr. Weiss had any further comments. He did not. She reiterated all the things discussed were on the table including termination, resignation, and retirement. We thanked him for speaking with us and he indicated his appreciation for being allowed the opportunity to tell his story.