

MINUTES

**UTAH
PHYSICIANS
LICENSING BOARD**

August 13, 2008

**Room 474 – 4th Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:00 A.M.

ADJOURNED: 12:58 P.M.

Bureau Manager:
Board Secretary:
Division Compliance Specialist:

Noel Taxin
Karen McCall
Debbie Harry

Board Members Present:

Marc E. Babitz, MD, Chairperson
James R. Fowler, MD
John W. Bennion, Ph.D.
Kristen Ries, MD
Stephen E. Lamb, MD
Lori G. Buhler
James H. Pingree, MD
Elizabeth F. Howell, MD

Board Members Absent:

Richard J. Sperry, MD
George C. Pingree, MD

Guests:

Candelida Ramos, Director of Outreach and Diversity
at University of Utah
Leanne Pope, Dr. Pope's Wife
Carrie Towner, Legal Counsel

DOPL Staff Present:

David Stanley, Division Director
Kent Barnes, Sr. Business Analyst
Judi Jensen, AG

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The Board reviewed the July 9, 2008 minutes.

Dr. Ries made a motion to approve the minutes with
minor revisions. Ms. Buhler seconded the motion.
The Board vote was unanimous.

APPOINTMENTS:

9:15 am

Debbie Harry , Compliance Update

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

Ms. Harry informed the Board that Dr. Judy Engen, a probationer, passed away in May 2008.

Ms. Harry explained the new tracking form for the Board.

Ms. Harry reported that **Dr. David Michael Pope** will be meeting for his first probationary interview. She briefly reviewed Dr. Pope's probationary requirements.

Dr. Fowler asked how Dr. Pope came to the attention of the Division.

Ms. Taxin responded that Dr. Pope came to the attention of the Division from a patient calling in or from the database due to excessive prescribing.

Dr. Babitz read the Finding of Facts for the Board.

Dr. Howell asked if it is common to have a 2 year probation for this type of situation.

Ms. Taxin responded that if the situation is personal substance abuse then the probation usually is for 5 years. She stated that Dr. Pope's situation is something that he can work on and complete within a shorter period of time.

Ms. Harry reported that **Dr. Alan F. Heap** is in compliance with his Stipulation and Order. She stated that he has worked hard to come into compliance.

Ms. Taxin explained that Dr. Heap has 2 new office managers who are on task to assist him in being in compliance.

Ms. Harry stated that one staff member runs the office and the other one is in charge of the billing.

Ms. Harry reported that **Dr. Steven R. Pack** is in compliance with his Stipulation and Order. She stated that she received the supervisor report by fax last night.

Ms. Harry reported that **Dr. Layfe Anthony** is out of compliance with his Stipulation and Order. She stated that Dr. Anthony has not completed the required course, he has not submitted the triplicate copies of his prescriptions for May 2008 through August 2008 and he has not submitted the office log for purchased and administered controlled substances. She stated that Dr. Anthony was excused from meeting in June and was rescheduled to meet today.

Ms. Harry reported that **Dr. William R. Gulledge** is in compliance with his Stipulation and Order. She stated that she received information last night that documents Dr. Gulledge completed the Texas probation, he completed the Texas required CE and a favorable therapist report was received. She stated that the Board is scheduled to discuss possible termination of Dr. Gulledge probation later today.

Ms. Harry reported that the Board is scheduled to review a letter submitted by **Dr. Terrell Sellers** requesting some amendments to his Stipulation and Order due to some issues with finding employment.

9:30 am to 10:00 am

Dr. David Michael Pope, Initial Probationary Interview

Dr. Pope met for his initial probationary interview. Leanne Pope, Dr. Pope's wife, and Dr. Chappell accompanied Dr. Pope.

Board members and Division staff were introduced.

Dr. Babitz conducted the interview.

Dr. Babitz requested Dr. Pope to briefly explain what brought him before the Board.

Dr. Pope responded that he is not sure how the problems started but the investigators had concerns regarding his prescribing medications and issues regarding his documentation in his files.

Dr. Babitz commented that it appears that Dr. Pope was prescribing for a drug addict, that he was over prescribing and lacked documentation in his files. He then requested Dr. Pope to explain his understanding of his requirements during probation.

Dr. Pope responded the he understands he is required to complete the following:

1. Pay a \$1,000.00 fine by a specified time, which has not yet been paid;
2. Meet with the Board;
3. Complete a comprehensive education program on pain management which is pre-approved by the Board;
4. Submit triplicate, consecutive numbered prescriptions;
5. Have a Board approved supervising Physician;
6. Not treat chronic pain patients.

Dr. Pope stated that he has completed an AMA course on-line for 12 hours. He submitted a certificate of completion. He stated that he has also completed some CME with Kim Bateman. He stated that he met with Kim Bateman last week and will have about 20 hours of CME when he completes that program. He stated that he has asked Dr. Chappell to be his supervising Physician and he asked if the Board would approve Dr. Chappell.

Dr. Pope stated that he refers his chronic pain patients to another Physician. He explained that he is in a rural area and there are complications in rural areas. He stated that many patients, including many with chronic pain, have Medicaid Insurance who will not pay for them to see a specialist. Dr. Pope stated that he made a lot of decisions on how to run the pain management portion of his practice. He stated that patients still come to see him. Dr. Pope stated that he believes the goal is to improve his pain management skills to be able to help those patients.

Dr. Babitz responded that Salt Lake area has a chronic pain specialist who will see the Medicaid patients. He stated that it is a long way from Richfield but is an option for those patients. He

stated that the first goal is for Dr. Pope to be in compliance with his Stipulation and Order requirements. He stated that he admires Dr. Pope's dedication to the patients who need his care but if he does not have a license then he will have no patients. Dr. Babitz stated that the Stipulation and Order says Dr. Pope will not treat any patients for pain management and Dr. Pope needs to follow that requirement. He stated that he recommends Dr. Pope tell his patients that he cannot treat them for pain management and that he has to get his own things together in order to have a license to treat them as a patient. He stated that Dr. Pope's Stipulation requires Board approved CME and until the Board approves the CME then Dr. Pope does not have it completed.

Dr. Babitz then asked Dr. Chappell what his understanding is regarding supervising Dr. Pope.

Dr. Chappell did not respond.

Dr. Pope responded that if he cannot treat pain management patients then there is nothing for Dr. Chappell to supervise but if he does treat pain management patients then Dr. Chappell would review 10% of his files.

Ms. Taxin recommended Dr. Pope and Dr. Chappell review the Stipulation and Order together, discuss the issues and write out a plan.

Dr. Pope asked if he and Dr. Chappell could review files by telephone as they are physically separated in their practices.

Dr. Chappell commented that his practice is in Bicknell and Dr. Pope practices in Richfield. He stated that the locations are several miles apart.

Dr. Babitz responded that they could review files by telephone. He reminded Dr. Pope that Dr. Chappell is required to submit reports monthly and, if everything is going well for 6 months, the Board would then recommend the reports be submitted quarterly.

Dr. Pope informed the Board that he supervises 2 Physician Assistants (PA). He stated that one comes in twice a week and the other PA works full-time. He stated that the PA's do not prescribe controlled substances at the clinic. Dr. Pope stated that one PA does see some chronic pain patients through hospice. He stated that the PA is also supervised by another Physician and that hospice is excluded in the Stipulation as the patients are in a care center.

Dr. Babitz recommended Dr. Chappell review the hospice files as Dr. Pope is the supervising Physician and the responsible Physician.

Dr. James Pingree asked if the PA will be allowed to treat patients with chronic pain even though Dr. Pope is the responsible Physician.

Ms. Taxin responded that the PA is able to treat patients with chronic pain.

Dr. Babitz commented that the PA has not been charged with anything. He stated that he would hope the PA is documenting correctly and treating properly. Dr. Babitz stated that he would like those files reviewed by Dr. Chappell regarding adequate history, adequate medications and diagnosis. He stated that Dr. Chappell should send in a report next month regarding the PA's prescribing.

Dr. Howell and Dr. James Pingree clarified that there is no issue with supervising a PA who is not prescribing.

Dr. Pope stated that he uses a electronic prescription tool. He stated that his clinic has been involved with some studies in using the electronic prescription which causes a complication in producing a triplicate prescription copy. He stated that he is not sure if there is a way to reconcile the issue.

Dr. Babitz responded that Medicare and Medicaid are moving toward using the electronic prescription tool. He stated that he would

recommend Dr. Pope continue to use the electronic prescription tool but also to do the triplicate prescription in order to submit copies to the Division and to place a copy in the patient files.

Dr. Pope stated the program is designed to print a prescription. He stated that writing out a prescription on the triplicate pad creates a lot of extra work. He asked if there was another way to be compliant, still be efficient and have his clinic run smoothly.

Dr. Babitz responded that there is not an easy way at this point. He stated that Dr. Pope must meet the requirements of the Stipulation and Order. He stated that Dr. Pope needs to be sure he has the paper trail and correct record keeping as these were part of the problem that caused him to be on probation.

Dr. Babitz stated that he reviewed the AMA course and it appears appropriate, however, it is the expectation of the Board that Dr. Pope will attend live CME courses for the interaction with others and the instructor.

Dr. Chappell commented that Kim Bateman's course will be a statewide education program which is in person.

Dr. Pope reminded the Board that it is presented by Dr. Bateman. He stated that the program is quite interactive and explains how to get on the DOPL database, how to prescribe chronic pain medications, what to look for and interactions with opiates. He stated that it includes patient pain agreements and follow up so it is aimed at a lot of things he wants to do in changing the way he practices such as screening well and proper testing. He stated that it is a good program.

Dr. Babitz asked if it goes into obtaining adequate history on the patient, backup opinions, a physical exam. He reminded Dr. Pope that these were some of his issues. Dr. Babitz then recommended Dr. Pope be required to complete a Board approve course.

Ms. Taxin then gave Dr. Pope a list of 3 Board approved courses. She stated that she has had positive feedback on these courses.

Dr. Howell reminded Dr. Pope that he is required to complete pre-approved CME and the Board may have approved Dr. Bateman's course if he had submitted the request prior to taking the course. She stated that Dr. Pope did not give the Board that opportunity.

Dr. Pope responded that he would like to complete the CE requirement as soon as possible. He asked what he should do if these courses are not available in the near future. He then stated that he has referred patients out to pain management Physicians but the Stipulation and Order says he must not practice pain management at his clinic unless prior written approval is granted by the Division and Board until the course referred to in subparagraph 2(b) has been completed. He asked how he obtains Board approval to treat the pain management patient.

Dr. Ries asked how many patients Dr. Pope is referring to.

Dr. Pope responded that he has about 40 to 50 patients he treats for chronic pain.

Ms. Buhler asked how many total patients Dr. Pope sees in his clinic.

Dr. Pope responded that he has about 100 total patients.

Dr. Babitz again reminded Dr. Pope that his problem is having a license versus helping these 40 to 50 patients. He stated that he would recommend that he talk with the other Physician's in the community and ask them for their help with the issue of referring his patients. He stated that if Dr. Pope deems the situation is a medical emergency then he could treat the patient but should be very sure everything is documented correctly in the patient file and that the file goes to Dr. Chappell

immediately for review and a report for the Board. Dr. Babitz stated that Utah is currently going through a lot of changes regarding the care of chronic pain patients due to the many deaths.

Ms. Taxin stated that the Federation has a good book called Prescribing Practices or Prescribing Controlled Substances. She recommended Dr. Pope read the book.

Dr. Pope commented that he has continued to prescribe the chronic pain medication for his patients. He asked if that is ok.

Dr. Babitz responded that it is not ok and as of now Dr. Pope needs to stop prescribing all medications to any chronic pain patients.

Dr. Babitz stated that Dr. Chappell needs to submit reports. He stated that if Dr. Pope meets again and there are Controlled Substances on the database but he has not submitted the triplicate prescription then the Board will be concerned. He stated that the prescriptions at the care center must have a triplicate prescription submitted. He stated that chronic pain patients that are seen in the Emergency Room and at the care center will be reviewed by Dr. Chappell with a report submitted.

Dr. Lamb reminded Dr. Pope that all Controlled Substance prescriptions administered are required to be noted on a log.

Ms. Harry stated that all triplicate prescription copies and the reports are due by the 28th of each month. She reminded Dr. Pope that the fine is due by September 16, 2008.

An appointment was made for Dr. Pope to meet again November 12, 2008.

10:00 am

Dr. Alan F. Heap, Probationary Interview

Dr. Heap met for his probationary interview.

Dr. Fowler conducted the interview.

Dr. Fowler requested Dr. Heap to update the Board regarding his practice in Tooele.

Dr. Heap responded that since he last met with the Board he has had cardiac issues and has hired a new office manager and a secretary. He stated that his long time secretary embezzled money from him and was not running his office properly. Dr. Heap then stated that his health is doing better. He stated that the 2 secretaries are getting him signed up for courses and making sure he is on track with his Stipulation and Order requirements.

Dr. Fowler stated that Dr. Heap indicated that he was thinking of retiring. He asked if Dr. Heap is still considering that option.

Dr. Heap responded that he is now working about 4 days a week and is not considering retirement at this time. He stated that he and Dr. Jay Spectrum started meeting again last week. He stated that he has been derailed for a long time but is now back on track to complete his probationary requirements.

Dr. Fowler noted that Dr. Heap is in compliance with his Stipulation and Order. He stated that the triplicate copies of the prescriptions were received and Dr. Heap noted what he did wrong on the triplicates.

Ms. Taxin commented that Dr. Heap has completed his CE requirement and the Board concurred.

An appointment was made for Dr. Heap to meet again November 12, 2008.

10:20 am

Dr. Steven R. Pack, Probationary Interview

Dr. Pack met for his probationary interview.

Dr. Lamb conducted interview.

Dr. Pack informed the Board that the insurance companies are currently working with him following a review of his records. He stated that they believe he did not intentionally do anything wrong. He explained that the insurance companies dropped him based on

their review of the DOPL website information. He stated that he then met with the insurance companies to discuss his situation where he submitted information about the lie detector test he took, the hearing test, the psychiatrist evaluation and the medications he was taking. He stated that they requested many things and all came out in his favor after the review. Dr. Pack stated that the lie detector test indicated that he did nothing intentionally and the Stipulation and Order says that he failed to keep track of the narcotics. He stated that he has gone back through the files and had a private investigator contact each patient to account for the medications to be sure they were used appropriately. He stated that all of this process has taught him that he cannot just call a Pharmacist and rely on the Pharmacist to fill a prescription appropriately and to document appropriately without any written documentation. He stated that there are some panels who have now added him back on their panels, some retained him and some dropped him until his probation is completed. He stated that he now checks the DOPL database to be sure his patients are not Physician shopping.

Dr. Lamb asked if it is a change to use pain medications more liberally.

Dr. Pack responded that it is a change. He stated that one of the seminars on narcotics that he attended did not talk about the use and prescribing but did talk about getting patients off the medications. He stated that he asked how long it takes to get patients into pain clinics in Ohio and was told patients could be admitted with a month. Dr. Pack stated that it takes 3 to 6 months here in Utah to get a patient admitted into a pain clinic.

Dr. Pack stated that Regence has requested that the Utah Board write a letter on a quarterly basis confirming that he is in compliance with his Stipulation and Order.

Ms. Taxin responded that she could write the letter but will need the address of where to mail it.

Dr. Pack stated that he will get her the address. He

then stated that at his last appointment the Board had stated that they would discuss the possibility of his appointments moving from quarterly to every 6 months. He stated that he would like to start meeting every 6 months.

Dr. Lamb made a motion for Dr. Pack to meet with the Board on a semi-annual basis based on his consistent compliance with his stipulation and Order.

Dr. James Pingree seconded the motion.

The Board vote was unanimous.

Dr. Lamb noted that Dr. Pack is currently in compliance with his Stipulation and Order.

An appointment was made for Dr. Pack to meet again in February 2009.

10:40 am

Dr. Layfe Anthony, Probationary Interview

Dr. Anthony met for his probationary interview.

Kerry Towner, Dr. Anthony's legal counsel, attended the meeting with Dr. Anthony.

Dr. Howell conducted the interview.

Dr. Howell informed Dr. Anthony that the Board has not received the required triplicate prescriptions.

Dr. Anthony responded that he brought the triplicate prescriptions today. He stated that he was advised to bring the triplicate prescriptions with him due to his concerns regarding them being lost in the mail. He submitted the triplicate prescriptions for the Board to review and informed the Board that his log is also in the file.

Dr. Howell stated that the chart review has not been submitted.

Dr. Anthony responded that he brought the charts today for review.

Dr. Howell asked if Dr. Anthony is planning on training in an OB mini-residency or if he is going to practice with a restricted license.

Dr. Anthony responded that he does not practice as an OB. He stated that he wants his practice to be as low key as possible and if he practices OB then he is back in surgery and not low key any longer. He requested the Board to lift the restriction on his license.

Dr. Howell responded that he has discussed this issue with the Board several times.

Dr. Lamb stated that if the restriction is removed then Dr. Anthony may go anywhere and practice OB. He stated that with the restricted license if Dr. Anthony moves everyone still knows that his license is restricted.

Dr. Anthony commented that he does not mind doing the OB but he cannot find anything. He stated that the restriction is not good for him to find employment.

Dr. Howell asked what type of practice he is currently doing.

Dr. Anthony responded that he worked at the jail for awhile but is not there now. He stated that he wants to change his address so is submitting a new practice plan for the Board to review. He stated that the only change is the location. He stated that his practice is growing and now sees about 20 patients. Dr. Anthony stated that he has been doing house calls but has arranged for a clinic to have patients come to him. He stated that he would like to be self employed and would like approval from the Board to open his new clinic immediately.

Dr. Anthony stated that Dr. Van Koman has been his supervisor but has recently left to serve a mission. He stated that he has now arranged with Dr. Hamula to supervise him.

Dr. Howell asked if Dr. Anthony is requesting the Board to approve a new supervisor.

Dr. Anthony responded that he is not as the Board already approved the 2 supervisors. He stated that his practice is limited as he cannot see Medicare, Medicaid or insured patients.

Ms. Taxin commented that the last chart review was submitted 2 months ago.

Dr. Howell asked if the Board has to approve or accept Dr. Hamula to review Dr. Anthony's charts.

Ms. Taxin responded that Dr. Howell is correct.

Ms. Buhler asked if Dr. Anthony is currently affiliated with any female Physician's.

Dr. Anthony responded that he is not.

Dr. Howell asked Dr. Anthony to explain what happened at the jail that he is no longer there.

Dr. Anthony responded that he was replaced by another Physician. He stated that he is still on call if there is a laceration but has not been called for the last month.

Dr. Howell commented that Dr. Anthony has prescribed controlled substances to about 30 patients. She asked Dr. Anthony to respond.

Dr. Anthony responded that he has only one patient on Oxycodone.

Ms. Taxin stated that she is not sure why Dr. Anthony would submit a new practice plan when his probation is scheduled to terminate on August 26, 2008. She stated that there are some items that need to be submitted as they have not yet been received. Ms. Taxin asked Dr. Anthony if he would be willing to have his probation extended for a short period of time to give himself time to submit the information.

Dr. Anthony responded that he wanted to submit information last month but was informed that the schedule was full and he would have to meet in

August. He stated that he believed he needed the Board's approval prior to starting a practice at his new office. He stated that he has only been practicing with house calls.

Ms. Taxin asked if the prescriptions have been generated from house calls only.

Dr. Anthony responded that she is correct. He stated that he parted ways with his partner about 5 weeks ago as his partner wanted to travel all over the country and he wants to see patients at his new clinic. Dr. Anthony stated that Dr. Hamula is on his new practice plan.

Dr. Howell commented that the Board recommended Dr. Anthony check with the DOPL database regarding reports on patients. She asked if he has done that. She stated that the Board also brought up the issue of prescribing controlled substances to several members of the same family. She asked if he is still doing that.

Dr. Anthony responded that he has not checked with the DOPL database. He stated that he does not have a lot of new patients, he has a small practice and does not advertise. He stated that he does have a number of patients within families and does prescribe to several members of families.

Dr. James Pingree made a motion to accept Dr. Anthony's new practice plan.

Dr. Howell seconded the motion.

The Board vote was unanimous.

Dr. Babitz commented that Dr. Anthony is behind 2 reports from supervisors. He stated that Dr. Anthony's probation is scheduled to terminate in 2 weeks. Dr. Babitz stated that Ms. Taxin offered to extend the probation to allow Dr. Anthony to clear up some of the issues. He stated that when Dr. Anthony is released from probation he will still have a restricted license as that is the way the Stipulation and Order is written. Dr. Babitz stated these are questions and concerns that the Board

has regarding his practice.

Dr. Howell stated that Ms. Harry sent Dr. Anthony an e-mail on August 6, 2008 informing him to submit all information. She stated that it would be helpful if Dr. Anthony would write a one sentence statement that he did not administer any controlled substances.

Dr. Anthony commented that the Stipulation and Order does not say that he will have a restricted license after probation. He stated that Diana Baker brought up the issue at the December Board meeting.

Ms. Taxin referred Dr. Anthony to his Stipulation and Order, Item 6(d). She read that portion to Dr. Anthony.

Dr. Anthony responded that Item 6(d) is only if he is doing OB and he told the Board 5 years ago that he would not be doing OB any longer. He asked the Board if they would consider a non-restricted license if he submitted statement that he will not practice OB.

Ms. Taxin responded that a statement from Dr. Anthony cannot be accepted as Utah does not license by specialty and if he has an unrestricted license he can go anywhere and practice OB without the Board being aware. She stated that there is also no provision that would allow the Board to accept that type of agreement.

Dr. Babitz suggested Dr. Anthony contact Ms. Taxin or Ms. Harry regarding extending the probation to clear up the issues.

Dr. Anthony then asked if the Board would allow him to work with a local OB and to count that as the extensive training course.

Dr. Lamb responded that he does not believe Dr. Anthony would receive the extensive training he would get from formal education. He stated that the program is usually a 6 month program.

Dr. Babitz stated that there are some fellowships

available. He stated that the Indian Health Services has had people come and do residencies through them. Dr. Babitz stated that Gallop puts these residents up for 3 months as there is such a need for help but the residents also receive the training.

The Board determined Dr. Anthony is out of compliance with his Stipulation and Order.

Ms. Buhler asked if Dr. Anthony could come back to the Board and request the restriction be lifted if he completes the specific education.

Ms. Taxin responded that Dr. Anthony may request the restriction be lifted if he completes the specific education.

An appointment was not made for Dr. Anthony at this time.

11:00 am

Dr. F. Michael Crane, Reinstatement of
Licensure Discussion

Dr. Crane met for the discussion regarding
reinstatement of his license.

Board member and Division staff were introduced.

Dr. Babitz conducted the interview.

Dr. Babitz requested Dr. Crane to briefly explain where he trained, his specialty and the Colorado issues.

Dr. Crane responded that he attended the University of Maryland, completed internships and fellowships at Walter Reed and worked in the military. He stated that he has been in Utah most of the time. Dr. Crane stated that OBGYN is his only experience and he worked in Logan for about 14 years. He stated that he did not practice OB in Colorado at the time of his issues. Dr. Crane stated that the problems at the hospital in Colorado caused Colorado to take action against his license there and Utah then took similar action. Dr. Crane explained that he was the Chief of Staff at the hospital in Colorado. He stated that the Colorado investigations regarding wrongful deaths

were over a year old and prior to his being made Chief of Staff. He stated that his mistake at the hospital was that he believed the patient was more important than the finances. He stated that if there are no patients then there is no practice. Dr. Crane stated that he voluntarily entered the Meninger clinic as his psychiatrist recommended an in-patient evaluation. He stated that the tests were inconclusive. He stated that the evaluation report showed he has narcissistic tendencies and compulsions. Dr. Crane stated that in December 2007 he applied for, was interviewed and hired by the Utah State Department of Health of the Healthcare Financial Division. He stated that he was involved in a serious accident on the way home, has had 2 spinal surgeries and been out of work since. Dr. Crane stated that he has no interest to practice clinical medicine and does not intend to practice but he needs a license for some of the administrative positions he would like to apply for.

Dr. Babitz informed Dr. Crane that the Utah license has no restrictions and with the license he could go back into clinical practice. He then asked if Dr. Crane has completed any of the renewal CME requirement.

Dr. Crane responded that he has not completed the CME requirement.

Dr. Babitz asked if Dr. Crane would be interested in a probationary license with some specific requirements. He stated that in the past the Health Department has hired people who are on probation.

Dr. Lamb commented that there were clearly some behavior issues on Dr. Crane's part that could and should have been dealt with differently. He stated that Dr. Crane did not use very good judgment. He stated that it would be helpful to the Board if there were some reports to review regarding his work.

Dr. Bennion asked if Dr. Crane believes he is ready to go back to work.

Dr. Crane responded that he believes he is ready to

return to work. He stated that he has had nothing stronger than Tylenol or Aspirin since the end of March.

Dr. Howell made a motion to issue a non-disciplinary license for 1 year to Dr. Crane which would include the following requirements:

- 1. Meet with the Board;**
- 2. Require the employer and/or supervisor to submit quarterly reports; and**
- 3. Complete 40 hours of CME of his choice this year.**

Dr. Bennion seconded the motion.

The Board vote was unanimous.

DISCUSSION ITEMS:

Update/Termination on Dr. William R. Gullede

Ms. Taxin stated that all information requested from Dr. Gullede has been received.

The Board recommended Dr. Gullede be terminated from probation.

Pharmacist Changing Day Amount of Prescription With or Without Doctor Approval, 58-17b-602(4)(b)

Ms. Taxin explained that at the Pharmacy Board meeting the question came up regarding a Pharmacist changing the day amount of prescriptions with or without the Physician's approval. She stated that the Physician may prescribe 3 refills and the Pharmacists are asking patients if they would like the 90 day supply all at once to save them some money.

Dr. Howell commented that if the patient is suicidal they should not be given a 90 day supply of their medications. She stated that the Pharmacist should contact her first to be sure she approves for the amount. Dr. Howell stated that if the medication is an addictive drug then she would also want the Pharmacist to contact her prior to give out a 90 day supply to the patient.

Dr. Ries commented that she believes it is professional courtesy and safety for the patient for a Pharmacist to contact the prescribing Physician first before filling a 90 day dose for a patient.

The Board agreed that the Physician needs to be contacted and make the decision.

Medicare Opt-Out Discussion Meeting

Ms. Taxin asked the Board if they have heard of the opt-out Medicare reimbursement issue with CNRAS.

She explained that the Division has been requested by the Governor's office to set up a Hearing on this issue. She stated that the Hearing has tentatively been scheduled for September 24, 2008 at 8:00 am for the Nursing Board, the Physician's & Surgeon's Board and the Osteopathic Physician's Board to meet. Ms. Taxin stated that a formal agenda and confirmation letter will be sent to the Board members.

Dr. Ries, Dr. Babitz and Dr. Lamb stated that they will be unavailable on September 24, 2008 as they will be attending the Governor's Native American Summit meeting.

Dr. Fowler commented that he believes the opt-out might not be a good thing for safe patient care. He stated that if a person wants to be a Physician then they should be a Physician and if they want to be a Nurse, they should be a Nurse.

The Board acknowledged the different perspectives on the issue.

FYI

The Board was reminded of the hearing at 1:00 pm today.

CORRESPONDENCE:

Montana Pain Initiative Conference
Information

No action taken.

Dr. Terrell Sellers Letter with Questions
regarding his Stipulation and Order

Ms. Taxin explained that Dr. Sellers was practicing as a Substance Abuse Counselor without a license. She stated that he was informed that he needed a license to continue practicing. Ms. Taxin stated that she called and talked with Dr. Sellers regarding the issue. She stated that he realized he was crossing boundaries and immediately stopped the Substance Abuse Counseling.

She stated that he is now doing clerical work. Ms. Taxin informed the Board that Dr. Sellers medical spa has closed so he is no longer working there. She stated that Dr. Sellers informed her verbally that he would like to be able to fully practice. She stated that he informed her that he has been offered a position in a medical spa but needs a license to have the position. She stated that she requested Dr. Sellers to submit a letter outlining what he is requesting of the Board regarding an amendment to his Stipulation and Order. Ms. Taxin asked the Board if they would consider amending Dr. Sellers Stipulation and Order to allow him to work at a medical spa but not a specifically named spa. She stated that Dr. Sellers is required to not practice clinical medicine but may practice in administration. She asked the Board what type of practice Dr. Sellers did at the Vivachi Spa.

Dr. Lamb responded that Dr. Sellers was doing Botox injections at Vivachi Spa.

Dr. Howell explained that the Board never amended the Stipulation and Order to allow Dr. Sellers to do Botox injections but did verbally approve.

The Board recommended Dr. Sellers Stipulation and Order be amended to allow Dr. Sellers to work at a medical spa and require reports to be submitted.

The Board stated they would like to discuss further with Dr. Sellers regarding his practicing clinically.

Dr. Babitz commented that Dr. Sellers time on probation has not counted to date.

NEXT MEETING SCHEDULED FOR:

September 10, 2008

Dr. Babitz notified the Board and Division that he will be absent from the meeting.

ADJOURN:

The time is 12:58 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.

September 10, 2008
Date Approved

(ss) Kristen Ries, MD
Acting Chairperson, Utah Physicians Licensing Board

September 10, 2008
Date Approved

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