

MINUTES

**UTAH
PHYSICIANS
BOARD MEETING**

March 11, 2009

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

CONVENED: 9:10 A.M.

ADJOURNED: 2:35 P.M.

Bureau Manager:
Board Secretary:
Division Compliance Specialist:

Noel Taxin
Karen McCall
Debbie Harry

Board Members Present:

Marc E. Babitz, MD, Chairperson
Richard J. Sperry, MD
George C. Pingree, MD
Stephen E. Lamb, MD
James H. Pingree, MD
John Bennion, Ph.D.
James R. Fowler, MD

Board Members Absent:

Kristen Ries, MD
Elizabeth F. Howell, MD
Daniel J. Parker, MD
Lori Buhler

Guests:

Scott N Cunningham, Attorney
Jay Spector, MD
Kimball A. Forbes

DOPL Staff Present:

Dan Lau, AG
Rick Norton, AG Assistant
David Stanley, Division Director
Wayne Holman, Chief Investigator
Kent Barnes, Sr. Business Analyst
Ronda Trujillo, Compliance Specialist
Susan Higgs, Compliance Specialist

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the February 11, 2009 Board meeting were read.

Dr. James Pingree made a motion to approve the minutes as read. Dr. George Pingree seconded the motion. **The Board vote was unanimous.**

BUSINESS FROM PREVIOUS MEETING

Review FSMB Barbara S. Schneidman, MD, MPH, letter regarding a Board Visit

Ms. Taxin read Dr. Schneidman's letter requesting a date for FSMB staff to meet with the Utah Board to discuss any FSMB areas of interest or questions the Board may have.

The Board requested information on the following:

- 1. Discussion on ethics in statutes nationally;**
- 2. How other States handle re-entry of licensing when a Physician has been out of practice for several years;**
- 3. How other States handle reinstatement of licensure for unique situations of serving in the military/religious missions; and**
- 4. Statistics regarding decision making States, Advisory States and National trends.**

The Board recommended Ms. Taxin request FSMB come to visit and offer several Board meeting scheduled dates and to meet during a working lunch.

Dr. Babitz and Dr. Lamb stated they would be willing to take the FSMB staff out to dinner.

APPOINTMENTS:

9:00 am

Debbie Harry, Compliance Update

Ms. Harry voiced concerns with

1. Probationers directly contacting Bureau Managers and Board Secretaries regarding information;
2. Not routing information directly to compliance unit; and
3. Timeliness of information being submitted as

required for compliance and preparing tracking sheets.

Ms. Harry reviewed the new therapist and employer report forms and stated they are available on the website for probationers to access. She stated probationers will be considered out of compliance if information is not received by the 28th of the month. Ms. Harry also stated there is now a model practice plan available for probationers.

Ms. Taxin stated the model practice plan is an outline or guideline to assist the probationer in writing their own plan. She stated the probationers meet with the Division to review and discuss the practice plan form.

The Board stated most probationers are required to submit documentation monthly for 6 months and then quarterly.

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

Ms. Harry reported **Dr. Alan Heap** is currently out of compliance. She stated she and the Board have talked with Dr. Heap several times regarding submitting his paperwork by the 28th of the month. She stated this month the paperwork has been received but not by the 28th of February.

Ms. Taxin stated the interviewer should recommend the need for Dr. Heap only to call Ms. Harry, not for his attorney or his supervisor to be calling as it can be confusing and create inconsistency. She asked the Board to be clear with all probationers regarding compliance or out of compliance with their Stipulation and Order. She stated a person may be in compliance by submitting paperwork on time and out of compliance based on concerns with their supervisor or with another area of their Stipulation and Order. Ms. Taxin stated Dr. Heap's attorney requested all Board members not receive a copy of his medical evaluations. She stated she made one copy for the Board to review and one copy for Dr.

Babitz as he will interview Dr. Heap. She stated a letter of support regarding Dr. Heap retaining his license was received from the Monastery and two medical records were received. Ms. Taxin stated the Board needs to conduct today's interview based only on the current Stipulation and Order.

Ms. Harry reported **Dr. Sidney M. Johnson** is currently out of compliance as we have not received his paperwork. Ms. Harry asked the Board to inquire if he has applied for his controlled substance license (CS) in Hawaii. She stated she was not sure if the Board wanted him to apply for the Utah CS license in order to monitor him before he is released from probation.

Ms. Harry reported **Dr. Mia Carson** is currently in compliance with her Stipulation and Order.

Ms. Harry reported **Dr. Aaron Jones** is currently in compliance with his Memorandum of Understanding (MOU).

Ms. Harry reported **Dr. Michael Goates** is still on suspension. She stated she put Dr. Goates out of compliance based on his missing some drug tests because his account is on hold with CVI for non-payment. Ms. Harry stated she received a letter confirming Dr. Goates is in the Day Spring program, has a sponsor, has attended AA meetings, is in therapy with his wife and individual therapy through Day Spring and will do aftercare. She stated Dr. Goates has confirmed he has closed down his practice and will be requesting the suspension on his licenses be lifted today. She stated Dr. Goates needs to submit documentation confirming what he has reported is accurate.

Ms. Taxin stated Dr. Crookston called for information and records on Dr. Goates and she informed him that Dr. Goates must sign a release for information for her to provide that to him.

Ms. Harry reported **Dr. Karl Wurster's** probation time never started as he is not working because of health reasons. She stated a report from Idaho is required if he is working as a Physician.

Ms. Harry reported **Dr. Michael Crane** is currently in compliance with his MOU as this is his first meeting with the Board. She stated the following:

1. Dr. Crane is volunteering;
2. Dr. Crane's practice plan has been received for the Board's review;
3. Letters from his supervisor and employer acknowledging they have read and understand the MOU and are willing to assist Dr. Crane in being successful in his probation; and
4. A resume from the supervisor needs to be submitted.

Ms. Harry referred the Board to review a note from Dr. Crane and stated Dr. Crane's supervisor must be approved by the Board.

Ms. Taxin stated Dr. Crane called her regarding how to do a practice plan and she was aware that he had also called Ms. Harry and Ms. McCall to discuss the same questions. She stated she did not call back but had Ms. Harry explain to him the requirements. She asked the Board if they want to consider counting the volunteer time toward Dr. Crane's probation.

Ms. Harry reported **Dr. Darrell Anderson** is currently in compliance with his Stipulation and Order. She stated Ms. Taxin made some notes on Dr. Anderson's triplicate prescriptions for the Board to review.

Ms. Taxin voiced some concern regarding high quantities and some duplicate prescriptions for the same address.

9:40 am to 10:15 am

Dr. Alan Heap, Probationary Interview

Dr. Heap, Dr. Spector, supervisor, and Mr. Cunningham, attorney, met with the Board for Dr.

Heap's probationary interview.

Dr. Babitz conducted the interview.

Dr. Babitz thanked Dr. Heap for submitting the information the Board requested but stated Dr. Heap is out of compliance due to the paperwork being late. He stated timing is very important and all information must be submitted by the 28th of the month.

Mr. Cunningham responded he was the person who tried to deliver and then mailed the information to the Division as the building was closed on Friday.

Dr. Babitz stated Dr. Heap's practice plan needs to include how he will handle issues with patients when he is out of town and when the patients are manipulative to receive specific types of medications.

Dr. Spector responded it might save some time on questions if he could give the Board some information.

Dr. Babitz turned the time over to Dr. Spector.

Dr. Spector spoke on behalf of Dr. Heap. He initially started out explaining how the brain works in highly intellectual individuals. Dr. Spector made comparisons in notable intellectuals and how Dr. Heap comprehends and mentally processes and stated Dr. Heap is a competent Physician. He then spoke about the probationary requirements and his supervision of Dr. Heap. Dr. Spector spoke for 45 minutes in support of Dr. Heap. The specifics are available on the audio tape.

The Board thanked Dr. Spector for his support of Dr. Heap.

Mr. Cunningham requested the Board to reconsider their decision regarding Dr. Heap being out of compliance based on his failure to submit his documentation prior to February 28, 2009. Mr. Cunningham stated he came to the building before March 3, 2009.

Ms. Taxin showed Mr. Cunningham the information he mailed which documents the Division's stamp of receiving the information March 3, 2009. She stated the VA information was stamped received March 5, 2009.

Following additional discussion, Dr. Sperry made a motion to close the meeting for discussion regarding Dr. Heap's mental status.

Dr. James Pingree seconded the motion.

The Board vote was unanimous.

Dr. Lamb made a motion to reopen the meeting.

Dr. George Pingree seconded the motion.

The Board vote was unanimous.

Following additional discussion, the Board requested a report from Dr. Culbertson.

They asked who Dr. Heap refers his patients to for medical problems or if he can not provide the service they desire and recommended he give his patients a couple of suggestions.

Dr. Heap responded he does not refer to a specific physician but tells his patients to find a primary physician by using the phone book.

Ms. Taxin recommended Dr. Heap create a referral list for his patients and document what type of suggestions he provides.

Dr. Babitz and the Board stated in Dr. Heap's report on "Responsible Opioid Prescribing" he has stated relieving the pain is not the point but being functional is the point. Dr. Babitz stated the Board hopes the focus would be on functionality. He stated there are new State guidelines for prescribing which are good for any prescribed CS which Dr. Heap should review.

Dr. Babitz concluded Dr. Heap is out of compliance with his Stipulation and Order based on paperwork not be submitted by the 28th of February.

An appointment was made for Dr. Heap to meet again April 8, 2009.

The Board reminded Dr. Heap to have all information submitted by March 28, 2009.

Dr. Babitz summarized the following:

- 1. Contact Dr. Culbertson to submit a letter to the Board addressing the treatment he had provided and Dr. Heap's safety to practice, this is optional;**
- 2. Submit a monthly report from Dr. Spector; and**
- 3. Submit a list of primary care providers in the Tooele or surrounding areas who Dr. Heap will recommend to his patients.**

Dr. Lamb asked Dr. Spector or Dr. Heap to respond to the issue of Dr. Heap being called the Candy Man. He explained Dr. Heap is the person who brought the name to the Board's attention as he knows he has that reputation in the Tooele area.

Dr. Spector responded Candy Man is just a name and what counts is what Dr. Heap is doing at this time. He stated he did not believe Dr. Heap referring to himself as the Candy Man helped Dr. Heap's cause with the Board. He then stated the Boards discussion after Dr. Heap's appointment was not professional by stating he is a licensed drug dealer.

Ms. Taxin explained that during the past meeting the Board was talking about Dr. Heap's prescribing and Dr. Heap stated he did not know how to deal with some of his patients in saying no to them. She stated his comment that his patients refer to him as the Candy Man put up red flags for the Board and comments on the tape after Dr. Heap's appointment were due to his statement. She stated Dr. Heap's assignments were also based on his statement.

Mr. Lau confirmed Dr. Heap needs to direct phone calls and information to Debbie Harry and not go through Mr. Cunningham, Dr. Spector, Ms. Taxin or Ms. McCall.

Dr. Heap, Mr. Cunningham and Dr. Spector confirmed understanding.

10:15 am

Dr. Sidney M. Johnson, Telephonic
Probationary Interview

Dr. Johnson met for his telephonic probationary interview.

Dr. Fowler conducted interview.

Dr. Fowler informed Dr. Johnson he is out of compliance with his Stipulation and Order as his paperwork was received after February 28, 2009. He requested Dr. Johnson to update the Board since his last appointment.

Dr. Johnson responded he is doing well and his practice is doing well.

The Board asked Dr. Johnson if he has a CS license in Hawaii and, if he does, to fax a copy to Utah for his file.

Dr. Johnson responded he does have a Hawaii CS license that is limited to schedules 3 through 5 and he will fax a copy to Utah. He explained he wants to complete his probation contracts with Hawaii, Massachusetts and Utah before he reapplies for the CS in Utah which should be another year. He stated at his last appointment he had requested the Utah Board to change the dates of his probation termination to coincide with the Massachusetts probation. He stated Hawaii has made the change and he is again requesting Utah to agree to make the change.

The Board requested Dr. Johnson to apply for the Utah CS license in order to monitor him while he is still on probation.

Ms. Taxin responded the Board could consider his request if the Massachusetts and Hawaii Board

terminate his probation. She request Dr. Johnson to submit the documentation with a letter requesting early termination which should include what he has learned from the process. The request could be considered with supporting documentation and Dr. Johnson's letter.

The Board determined Dr. Johnson is out of compliance with his Stipulation and Order as paperwork was not received by February 28, 2009. They determined he is in compliance with all other areas of his Stipulation and Order.

An appointment was made for Dr. Johnson to meet again September 9, 2009.

10:30 am

Dr. Mia Carson, Telephonic Probationary Interview

Dr. Carson met for her telephonic probationary interview.

Dr. George Pingree conducted the interview.

Dr. George Pingree requested Dr. Carson to update the Board since her last appointment.

Dr. Carson responded she is doing well in Hawaii and she is looking forward to September 2009 when her Hawaii probation is scheduled to be completed.

Based on Dr. Carson's reports being positive and drug screens negative the Board recommended Dr. Carson submit the following when her probation in Hawaii is terminated:

- 1. Submit documentation from Hawaii that she has met the requirements and is no longer on probation; and**
- 2. Submit a letter from herself requesting early termination of the Utah probation and stating what she has learned from the process.**

Dr. Carson stated she meets again with Hawaii in July. She stated Utah is easier to work with than Hawaii as the process is more structured and runs smoother.

The Board determined Dr. Carson is in compliance

with her Stipulation and Order.

An appointment was made for Dr. Carson to meet again September 9, 2009.

10:45 am

Dr. Aaron Jones, Probationary Interview

Dr. Jones met for his probationary interview.

Dr. Lamb conducted the interview.

Dr. Lamb stated at Jones last appointment he was in the process of establishing residency in the Logan area. He asked Dr. Jones to update the Board.

Dr. Jones responded he is now located in Logan and works 10 to 14 hour shifts. He stated his work is about 50/50 male and female with a lot of diabetes, blood pressure and chronic pain control. Dr. Jones stated he always has a chaperone with him when he sees female patients and he keeps the chaperone log and patient charts up to date. He stated the medical director meets every two weeks with all health care providers to review difficult patients and general health care. Dr. Jones stated his supervisor or the supervisor's wife is at the clinic nearly every day and they meet frequently to try to plan how to reach out more to the Hispanic group. He stated the clinic is considering integrating some of the things he did in his California practice in the area of cosmetic medicine.

Dr. Lamb stated the monthly reports from Dr. Jones supervisor and medical director were received and both were positive. He complimented Dr. Jones on using other staff members as chaperones when his supervisor is not available as it shows maturity, progress and that Dr. Jones has taken responsibility. Dr. Lamb commented that the chaperone log is all signed and appears to be up to date. Dr. Lamb asked if Dr. Jones completed the approved CME.

Ms. Taxin responded Dr. Jones completed the CME and submitted the documentation.

Dr. Lamb asked if his Physician Assistant

supervisor sees patients and if he reports to Dr. Jones.

Dr. Jones responded, as per the advice of his attorney, he signed off on some narcotic charts for a short time as Dr. Hilal, the designated supervisor, has recently stopped working at the clinic in Logan and works only at the Bear Lake clinic now and was not able to supervise the PA so he filled in but it was for a couple of weeks until other arrangements were made.

Dr. Lamb asked Dr. Jones to explain the status of his license in California.

Dr. Jones responded he sent a letter asking for the California probation to be put on hold and his license to be placed on inactive status as he was counseled by his attorney. He stated he then received a letter from California requesting another \$2,000.00. Dr. Jones stated he called to talk with the California Board and left a message. He stated they have not yet returned his call. Dr. Jones stated his California Stipulation and Order will not allow him to supervise PA's. He stated he has never met with the California Physicians Board.

Ms. Harry reminded Dr. Jones he has an essay due July 4, 2009.

The Board determined Dr. Jones is in compliance with his Utah Stipulation and Order.

An appointment was made for Dr. Jones to meet again June 10, 2009.

11:00 am to 11:30 am

Dr. Michael Goates, Interview regarding the Suspension of License

Dr. Goates met for his interview regarding the suspension of his license.

Dr. Babitz conducted the interview.

Dr. Babitz and the Board acknowledged Dr. Goates submitted copies of AA attendance. They asked Dr. Goates how he has been doing since his appointment last month.

Dr. Goates responded he has been busy working at the

Day Spring program 4 days a week. He stated he attends AA meetings, has a sponsor, is working the steps and has associates he can call in an emergency situation. He stated he has seen Dr. Crookston regarding his fitness to return to his practice and Ms. Taxin should have received the letter and recommendation.

Ms. Taxin responded she has not heard from Dr. Crookston yet today but she has been in the Board meeting since 9:00 am this morning. She stated she sent the information Dr. Crookston requested right after she received the release Dr. Goates signed weeks ago.

Dr. Goates responded he will contact Dr. Crookston. He continued by informing the Board

1. He and his wife have met with Dr. Harper, MFT;
2. He is still in the aftermath of closing down his University Square office and has given out a P.O. Box for patients to use to obtain their records as he no longer has a telephone.

Ms. Taxin stated Dr. Goates needs to make sure his patients have access to their records. She recommended Dr. Goates make sure he implements a process so they can get in touch with him.

Dr. Babitz asked Dr. Goates to explain his opinions regarding the Day Spring and AA programs he has attended.

Dr. Goates responded the Day Spring clinic experience has been very relaxing with a strong support group. He stated it is a lot of repeating what he did at Clearview in Mississippi. He stated he likes to listen to the stories that are told, hear the parallel to his own situation and hear what has worked for others regarding being honest, open, trusting in the program and being more spiritual.

Ms. Taxin stated it has probably been quite stressful for Dr. Goates since he has returned to Utah. She asked if he has had the urge to drink since being back.

Dr. Goates responded hanging out with the groups and staying organized with things has helped him to not have the urge to drink. He stated the work at Day Spring, watching educational videos, attending lectures, attending small groups in therapy and working the steps has helped him. He stated the lectures and support groups are for spouses and families and that has helped.

Following additional discussion, Dr. Lamb made a motion to lift the suspension on Dr. Goates licenses if the letter from Dr. Crookston indicates Dr. Goates is fit to return to work as a Physician and Surgeon and if all drug tests remain negative. The motion included to have Dr. Goates meet again April 8, 2009.

Dr. James Pingree seconded the motion.

The Board vote was unanimous.

Dr. Lamb made a motion to extend Dr. Goates probation for a period of 5 years from the date the suspension is lifted.

Dr. Bennion seconded the motion.

The Board vote was unanimous.

Mr. Lau commented that the second motion of extending the probation is not conditional on the first motion to lift the suspension.

Dr. Bennion recommended an amendment to the motion to include if there are any positive drug tests the suspension will be reinstated.

Dr. Sperry seconded the motion.

The Board vote was unanimous.

Ms. Taxin stated if Dr. Goates agrees she can amend his Stipulation and Order. She stated if he does not agree then the Board/Division would have

to go through the legal process to amend the Order.

Mr. Lau again stated he wants Dr. Goates to be clear that lifting the suspension is not dependent on his agreeing to extend the probation.

Dr. Goates voiced understanding.

Dr. Babitz stated Dr. Goates has had a serious problem and if he does not agree to the extension of the probation then Dr. Babitz would recommend and Order to Show Cause to extend the probation.

Ms. Taxin stated she can write in the document that Dr. Goats may request an early termination if in compliance.

Dr. Goates again voiced understanding. He asked how he will be made aware of the suspension being lifted once Dr. Crookston's recommendation has been submitted and reviewed.

Ms. Taxin responded she would call Dr. Goates to notify him of lifting the suspension.

Based on Dr. Goates licenses being on suspension there is no in or out of compliance with the Stipulation and Order.

An appointment was made for Dr. Goates to meet again April 8, 2009.

11:30 am

Dr. Karl Wurster, Telephonic Monitor
Interview

Dr. Wurster met for his telephonic monitoring interview.

Dr. Bennion conducted the interview.

Dr. Bennion asked if Dr. Wurster's health has improved enough for him to return to work.

Dr. Wurster responded he has not returned to work. He stated he will notify Utah if he does return to work.

Ms. Taxin asked if Idaho has a time frame

requiring Dr. Wurster to be working.

Dr. Wurster responded that Idaho does not have a time frame. He stated Idaho does not contact him regarding his status or to meet with the Board.

The Board determined Dr. Wurster is in compliance as much as he can be at this time but that his time clock has not started.

An appointment was made for Dr. Wurster to meet again September 9, 2009.

11:45 am to 12:45 pm

WORKING LUNCH

1:00 pm

Dr. F. Michael Crane, Probationary Interview

Dr. Crane met for his probationary interview.

Board members and Division staff were introduced.

Dr. James Pingree conducted the interview.

Dr. James Pingree and the Board requested Dr. Crane to update the Board regarding where he is currently working and reminded Dr. Crane that he is on probation for one year which includes him being required to practice during that time. He stated Dr. Crane is also required to submit a practice plan for the Board to review and accept or request additional information.

Dr. Crane responded his probationary status has been frustrating as employment offers were withdrawn when he revealed he was on a probationary license. He stated he made an offer to work at the free clinic in Ogden Health Clinics and they accepted the offer. Dr. Crane stated he is a volunteer but has been approached by the manager regarding some compensation to the clinic for clinic services. He stated Rhett Hansen is his supervisor and Richard Gregoire is his employer.

Dr. James Pingree and the Board stated Dr. Crane will need to meet monthly deadlines to be in compliance with his MOU. Dr. Crane must complete the following:

- 1. Submit monthly reports by the 28th;**

2. **Meet quarterly;**
3. **Work as outlined with an approved practice plan; and**
4. **Be supervised by the supervisor of the clinic.**

Following the review of Dr. Crane's practice plan, Dr. James Pingree made a motion to approve the practice plan.

Dr. Fowler seconded the motion.

The Board vote was unanimous.

Ms. Taxin stated Dr. Crane's 1 year of probation starts today, March 11, 2009, as he has not worked until just prior to this date. She stated Dr. Crane's MOU requires he be an employee and asked the Board if they will accept volunteer work.

The Board agreed that the volunteering work will count on Dr. Crane's time.

The Board determined Dr. Crane is in compliance with his MOU.

An appointment was made for Dr. Crane to meet again June 10, 2009.

1:30 pm

Dr. Darrell Anderson, Probationary Interview

Dr. Anderson met for his probationary interview.

Dr. Lamb conducted interview.

Dr. Lamb requested Dr. Anderson to update the Board regarding his health and his practice.

Dr. Anderson responded his health has deteriorated and he has notified his patients that he will be out of the office for a period of time for some surgery and recovery. He stated his practice is down to seeing about 20 patients a week at this time.

The Board requested Dr. Anderson to review his triplicate prescriptions as some appeared to be family members and in some cases it appears there was a prescription for a parent and one or two

children.

Dr. Anderson reviewed the report and responded it is correct. He reported his supervisor, Dr. Misbach, is moving out of Utah and Dr. Michael James will be taking over as his supervisor in the near future.

The Board requested Dr. Anderson provide appropriate paperwork and request at the time Dr. Misbach leaves.

The Board determined Dr. Anderson is in compliance with his Stipulation and Order based on receiving his reports, which were positive, and his triplicate prescriptions.

An appointment was made for Dr. Anderson to meet again June 10, 2009.

DISCUSSION ITEMS:

Discuss Format for Compliance Update and Probation Interviews

Dr. Lamb and the Board requested the compliance update include:

1. A short paragraph describing the history of the case;
2. Be presented just prior to the appointment;
3. Include additional information on the tracking form; and
4. If not presented just prior to each appointment then present for the morning appointments and again prior to the afternoon appointment.

Ms. Taxin voiced concern about getting delayed and rushed when doing updates just before a probationer arrives.

Ms. Harry and Ms. Taxin responded the Board could try both suggestions and decide which is best.

Review Rules regarding Code of Ethics, Violation of Professional Conduct

Dr. Lamb explained his recommendation for rule changes regarding Unethical Conduct.

The Board requested (2)ix. read: “Failure to report to DOPL unethical or illegal behavior by other physicians” and (2)x. read: “Failure to report to DOPL one’s own felony conviction.”

Following discussion, Dr. James Pingree made a motion to accept Dr. Lamb's recommendations with the 2 revisions and include them in the current Rules.

Dr. Fowler seconded the motion.

Dr. Marc E. Babitz, Dr. Richard Sperry, Dr. Stephen E. Lamb, Dr. James Pingree, Dr. James Fowler and Dr. John Bennion voted in favor of the motion. Dr. George C. Pingree voted against the motion. The motion passed with a simple majority of the Board members in attendance voting in favor.

Dr. Bennion suggested "sexual orientation" be included in number xi.

Dr. Lamb responded he left "sexual orientation" out on purpose and did not believe it should be included. He stated he believes Physicians should be able to treat or not treat specific types of patients. For instance, Dr. Lamb stated he will not do infertility treatments for single women.

Dr. Babitz agreed with Dr. Lamb and stated the Utah State Legislature has set precedence by not acknowledging the alternative lifestyles.

Following further discussion, Dr. George Pingree made a motion to include "sexual orientation" in number xi. It would then read "xi. Failure to render care to a patient on the basis of gender, race, ethnicity, religion, or disability or sexual orientation."

Dr. Bennion seconded the motion.

Dr. George Pingree, Dr. James R. Fowler and Dr. Bennion voted in favor of the motion. Dr. Marc E. Babitz, Dr. Stephen E. Lamb and Dr. James Pingree voted against the motion. Dr. Richard Sperry abstained from voting. The motion died for lack of a simple majority vote.

Dr. Fowler then made a motion to include “sexual orientation” if State staff who reviews the Rules will accept the language.

Dr. Bennion seconded the motion.

Dr. James Pingree amended the motion to be if the Division staff who review believe “sexual orientation” should be included to include it in the Rules.

Dr. Fowler seconded the amendment.

Dr. James R. Fowler, Dr. George Pingree and Dr. John Bennion voted in favor of the amended motion. Dr. Marc E. Babitz, Dr. Stephen Lamb and Dr. James Pingree voted against the motion. Dr. Richard Sperry abstained from voting. The amended motion died for lack of a simple majority vote.

It was noted after the Board meeting that the Board did not review the amendments Ms. Taxin prepared for their review.

Consent Agreement for Internet Prescribing

Ms. Taxin stated and explained the Statute that permits certain types of internet prescribing through a consent agreement. She stated a meeting to approve some programs needs to be scheduled.

Board members thanked Ms. Taxin for the information and only Dr. Babitz volunteered to be on the committee if his work schedule permits.

NEXT MEETING SCHEDULED FOR:

April 8, 2009

ADJOURN:

The time is 2:35 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.

April 8, 2009
Date Approved

(ss) John Bennion, Ph.D.
Acting Chairperson, Utah Physicians Licensing Board

March 31, 2009
Date Approved

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