

MINUTES

UTAH

PHYSICIANS LICENSING BOARD

BOARD MEETING

November 4, 2009

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

CONVENED: 9:05 A.M.

ADJOURNED: 2:25 P.M.

Bureau Manager:

Noel Taxin

Board Secretary:

Karen McCall

Compliance Specialist:

Ronda Trujillo and Debbie Harry

Board Members Present:

John Bennion, Ph.D., Board Chairperson

Lori Buhler

James H. Pingree, MD

David D. Byrd, MD

Elizabeth F. Howell, MD

Kristen Ries, MD

Daniel J. Parker, MD

Board Members Absent:

Marc E. Babitz, MD

James, R. Fowler, MD

George C. Pingree, MD

Stephen Lamb, MD

Guests:

Jordan Judkins

Michelle McOmber, UMA

Mark Brinton, UMA

Scott Robins, DO

Nancy Currier

Leanne M. Pope

DOPL Staff Present:

Dan Lau, Assistant Attorney General

Karl Perry, Assistant Attorney General

Judi Jensen, Assistant Attorney General

Irene Gayhardt, Investigator

Dr. Charles Walton, Division URAP Manager

TOPICS FOR DISCUSSION

ADMINISTRATIVE BUSINESS:

MINUTES:

DECISIONS AND RECOMMENDATIONS

The minutes from the September 9, 2009 Board meeting were read.

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

The minutes from the September 22, 2009 On-Line Prescribing Meeting were read.

Dr. Howell made a motion to approve the minutes as read. Dr. Ries seconded the motion. **The Board vote was unanimous.**

APPOINTMENTS:

9:20 am

Dr. Clark Newhall, Review Questions on Practice

Ms. Taxin explain that Dr. Newhall contacted her regarding some questions as he does not want to practice unethically. She stated he asked if he may receive internet patient referrals from E-CLINICMD, see the patients in person and write any necessary prescriptions for the patients. Ms. Taxin stated it is non-tradition medical practice as E-CLINICMD would retain the documentation, plan and organize Dr. Newhall's services. She stated Dr. Newhall's specifics of the program were sent to the Board to review for discussion. Ms. Taxin questioned Dr. Newhall's specialty and that she is not sure Dr. Newhall has practiced medicine for some time. She asked if the Board would like him to meet in January, 2010 for discussion.

Dr. Byrd asked why the patients are not seeing a primary care physician. He stated Dr. Newhall runs a medical mal-practice firm in Salt Lake City and why would he want to manage chronic pain patients. Dr. Byrd stated he believes the patients would be better managed through chronic pain clinics. He stated the way the practice has been presented it appears to be legal practice as long as Dr. Newhall sees the patients in person every 3

months.

Mr. Brinton, UMA, commented Dr. Newhall would be seeing patients for the first time and there would be no referral from another MD. He stated it is important for Dr. Newhall not to misunderstand his role.

Ms. Taxin responded she believes he does understand his role and probably would over document based on her discussion with him. She stated if the patients don't need the medications or service then he would not prescribe.

Ms. McOmber, UMA, commented Dr. Newhall would not be receiving a referral from a Physician and the UMA have concerns on where this type of care will push medicine in the State of Utah.

Following additional discussion, the Board requested Dr. Newhall be invited to meet with the Board at the January 13, 2010 Board meeting.

9:40 am

Ronda Trujillo, Compliance Update

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

Ms. Trujillo reported **Dr. Darrell G. Anderson** is currently out of compliance with his Stipulation and Order. She stated Dr. Anderson's paperwork was not received on time and paperwork from a new proposed supervisor was received last night.

Ms. Taxin reminded the Board that the last time Dr. Anderson met he indicated he may have cancer. She stated he did have cancer and has undergone chemotherapy and radiation treatments. Ms. Taxin stated Ms. Harry, Ms. McCall and Ms. Hooper have all called and talked with Dr. Anderson and all understood from the conversations that Dr. Anderson was not working. She stated all 3 DOPL employees have documented such. Ms. Taxin stated Dr. Anderson signed a new Stipulation and Order on April 17, 2009 and there is a letter in his file that states the treatments are making him sick and he asks about waiting until

June to meet with the Board. She stated she ran his prescriptions on the database which documented several pages of prescriptions he has written since January 2009. Ms. Taxin stated, based on the prescription list, Ms. McCall called Dr. Anderson and asked if he was seeing any patients and Dr. Anderson said he was seeing a handful of patients. Ms. Taxin stated Ms. McCall informed Dr. Anderson if he was seeing patients he would have to meet with the Board and must have an approved supervisor. She stated she and an AG met with Dr. Anderson and his attorney yesterday and asked if he would like to surrender as he is not meeting the requirements in his Order. She stated Dr. Anderson declined to surrender. Ms. Taxin reminded the Board that Dr. Mausberg was his supervisor and Dr. Anderson has submitted a request for Dr. Michael James to be his new supervisor. She stated Dr. James is a psychiatrist. Ms. Taxin stated Dr. James has written a letter verifying he has read the Stipulation and Order and is willing to supervise. Ms. Taxin stated the Board will need to make recommendations on the following:

- 1. Approve or deny Dr. James as the proposed supervisor;**
- 2. Request Dr. Anderson to surrender his license;**
- 3. Recommend an Order to Show Cause based on Dr. Anderson's non-compliance;**
- 4. Accept Dr. Anderson's explanation of his misunderstanding and/or not being clear with DOPL staff and give him time to get into compliance.**

Ms. Taxin requested the Board to be very clear with Dr. Anderson regarding the Board expectations.

Dr. Bennion asked how Dr. Anderson was allowed to slip through.

Ms. Taxin responded Dr. Anderson did not communicate clearly. She stated at the end of each conversation with Dr. Anderson the DOPL staff

informed him that he would need to meet with the Board and must have a supervisor if he was working.

Dr. Howell read the high doses of medications for some of Dr. Anderson's patients.

Ms. Taxin stated she did request Dr. Anderson to bring some patient charts of those on high doses of medications for the Board to review. She stated Dr. Anderson is aware and understands the requirements in his new Stipulation and Order as he explained in the meeting November 3, 2009.

Dr. Ries asked what would happen to the patients if medications were stopped today.

Dr. Howell responded some patients might to through withdrawals. She stated with stimulants there is not a dangerous withdrawal but may not be able to function as well if they are addicted. She stated another practitioner may prescribe about 1/6 the dosages Dr. Anderson has prescribed.

Ms. Trujillo reported **Dr. Edmund Chein** is currently in compliance with his Stipulation and Order.

Ms. Trujillo reported **Dr. Stephan J. Kitson** is currently in compliance with his Memorandum of Understanding.

Ms. Trujillo reported **Dr. Nathan R. Currier** is currently in compliance with his Memorandum of Understanding.

Ms. Taxin reported Dr. Currier is still working at By-Water and has been offered a position at Comprehensive Psychological Services. She stated he will bring paperwork in today and would work at both locations.

Ms. Taxin stated **Dr. David Morris** will not be

meeting today but she will update the Board regarding Dr. Morris later in the meeting.

Ms. Trujillo reported **Dr. David M. Pope** is currently in compliance with his Stipulation and Order.

Ms. Taxin stated there were some prescriptions she flagged for the Board to review. She stated they might be of concern or not. Ms. Taxin stated the summary of concerns is attached to the outside of the envelope.

Ms. Trujillo reported **Dr. Terrell L. Sellers** is currently non-compliant with his Stipulation and Order. She stated the paperwork was submitted but there was a hold on the CVI from September 9, 2009 to October 17, 2009. She voiced concern regarding the length of time it took Dr. Sellers to coordinate with CVI to have the hold removed.

Ms. Taxin stated Dr. Sellers has been consistently deficient in some area of his Stipulation and Order. She stated Ms. Harry has voiced frustration as she has to contact him several times to get the paperwork submitted. Ms. Taxin requested the Board to address the non-compliance issue and stated Dr. Sellers needs to get on track to complete his probation.

Ms. Taxin explained she sent a proposed Memorandum of Understanding (MOU) out to the Board for review regarding a probationary license for Dr. Julie Dobell, an anesthesiologist. She stated Dr. Dobell has been in a diversion program with the State of Massachusetts, then the Massachusetts Board signed a new Order for a 5 year probation. Ms. Taxin stated Dr. Dobell has not seen or reviewed the MOU but does know that she will be licensed with a probationary license. She stated Dr. Dobell will be meeting for the discussion so the Board may ask her questions they may have. Ms. Taxin stated Dr. Dobell has taken and passed the SPEX examination in preparation for Utah licensure.

Dan Lau, Assistant Attorney General,
Questions for the Board regarding possible
action

Mr. Lau, Assistant Attorney General, explained a situation has come up regarding a Physician. He referred the Board to the Law at 58-67-601 regarding mentally incompetent or incapacitated physician. Mr. Lau stated when a person is licensed as a Physician in Utah they agree to accept all sections of the Law and Rules and abide by them.

Mr. Lau explained there is a Physician with psychiatry as his specialty who is very rude to patients, overly blunt, such as:

1. telling a patient she is over weight because she is fat and over eats;
2. grabbing at a patient;
3. telling a patient that has had 8 past suicide attempts who asked what if the medication does not work that he would give her 20 pills and she could just kill herself.

Mr. Lau stated this physician is currently on several medications himself. He stated the Division and AG's office are concerned about his bluntness and rudeness to patients and he is requesting the Board to vote regarding a mandate for this physician to undergo a mental and physical evaluation.

Dr. Howell stated, based on the presentation, she made a motion to require the Physician to undergo complete mental and physical evaluations.

Dr. Ries seconded the motion.

Discussion:

Dr. James Pingree asked how long investigations has been aware of the issues with this Physician.

Ms. Gayheart responded she has been aware of the issues since 2000. She stated the Physician is taking large amounts of medications and when she asked him for his home address he responded he did not know and would have to look it up for her.

Dr. Bennion asked for a Board vote on the motion.

The Board vote was unanimous.

Dr. Howell asked if Mr. Lau could also mandate the evaluation be completed out of Utah.

Mr. Lau responded the evaluation and physical will be at the Physician's cost and going out of State may increase costs. He stated he has asked the Physician's counsel if they would voluntarily agree to an evaluation and physical and they have refused.

Dr. Howell suggested Mr. Lau ask for a list of out of state programs that will evaluate everything. She stated people should be referred out of state to get a fresh view from non-biased evaluators and Physicians.

Ms. Taxin confirmed that the Board could make recommendations.

Ms. Gayheart asked if the out-of-state programs would also do complete physical examinations.

Dr. Howell responded they will do complete physical examinations. She stated a recommendation might be better for future situations. Dr. Howell voiced concern regarding sending the Physician to a private office for the physical and evaluation. She stated the programs hold the person about 4 days and if the person comes across badly the first day they might calm down the other days or visa versa. She stated it is easier to bamboozle in an office setting than it is in a program setting. She stated some programs specialize more in sexual issues, some in drug abuse, etc. Dr. Howell stated there are only a few in Utah that evaluate impaired Physicians, of which she is one. She stated there is no program in Utah that has a complete comprehensive program.

Ms. Taxin stated she has a list of programs and will provide that to Mr. Lau following the meeting. Ms. Taxin suggested fees for the different programs be confirmed and maybe recommend an in-state program and an out-of-state program.

Dr. Ries made a motion that the Physician complete a comprehensive evaluation and physical

through an out-of-state program.

Dr. James Pingree seconded the motion.

The Board vote was unanimous.

10:00 am

Dr. Darrell G. Anderson, Probationary
Interview

Dr. Anderson met for his probationary interview.

Dr. Ries conducted the interview.

Dr. Ries informed Dr. Anderson that he is out of compliance with his Stipulation and Order as he has been working since he signed the amended Stipulation and Order, has not had a supervisor, has not met with the Board or decreased any of the high doses of medications to FDA approved levels for his patients. She asked him to explain why he is out of compliance.

Dr. Anderson responded he has been going through chemotherapy and radiation and thought his amended Order would start when he met with the Board. He stated he did not understand he would be out of compliance during this time as the Division staff have not specifically asked if he was seeing any patients but asked if he was working out of his office. He stated they have all told him not to worry about meeting with the Board but to concentrate on getting well.

Dr. Anderson responded he believes it is because he has been prescribing over the FDA recommended amounts.

Following addition discussion Ms. Taxin asked if Dr. Anderson brought some files of patients on high doses of medication for the Board to review.

Dr. Anderson responded he did bring some files.

Dr. Ries commented that the notes in the charts do not appear to be a very good evaluation for high doses of the specified medication.

Dr. Howell stated the chart she was reviewing

documents the patient is on high doses of a stimulant and is agitated and angry. She asked if the agitation and anger could be from the stimulants.

Dr. Anderson did not respond to Dr. Howell. He then submitted a complete patient list. He stated there are 65 names that are still current patients.

Following additional discussion Dr. Ries stated it seems it would be easiest for Dr. Anderson to surrender his license as he was out of compliance and has been for 6 months. She asked if he has thought of surrendering.

Dr. Anderson responded he has a 12 year old child and a 17 year old child at home and cannot afford to surrender. He stated he has always made his patients interest his number one priority and does not see it would be in the best interest of the patients for him to surrender.

Dr. Ries stated she does not believe the Board is protecting the public by allowing Dr. Anderson to continue being out of compliance. She stated he says he is practicing properly but the evidence is not backing him up.

Dr. Anderson responded most of the patients are long term and two other MD's have reviewed the charts and believe the high doses of medications are ok for those patients as they are able to function with those doses. He stated in regard to the compliance or non-compliance the DOPL staff always stated he should take care of his health and meet with the Board when he felt up to it. He again stated he thought he did not have to follow the amendment during this time and he would like the opportunity to correct the misunderstanding now.

Dr. Ries clarified Dr. Anderson does not want to surrender his license.

Dr. Anderson responded no, he does not want to surrender.

Dr. Bennion requested Ms. Taxin to list the options.

Ms. Taxin stated the Board may recommended the following:

- 1. recommended Dr. Anderson surrender;**
- 2. recommend an Order to Show Cause and a hearing for non-compliance;**
- 3. recommend suspension of the license until Dr. Anderson is medically healthy enough to practice safely; or**
- 4. give Dr. Anderson a specified time to come into compliance with the amended Order.**

Dr. Howell stated the Board has had this same discussion many times. She asked if this is just a way to delay being in compliance and allowing Dr. Anderson to continue to practice while out of compliance with his Order. She stated she believes she has heard Dr. Anderson say several times he is sorry and that he did not understand. Dr. Howell stated Dr. Anderson is a very bright person and she believes he understands very well. She stated she and the Board believe they are being jerked around by Dr. Anderson as this is the same song he has continued to sing.

Dr. Ries stated the non-compliance has continued for too long. She stated Dr. Anderson is a smart person, has said he understood and yet nothing has changed. She asked if the Board wanted to make a motion or discuss the issues further.

Ms. Taxin requested Ms. Buhler to respond regarding protection of the public and her recommendation.

Ms. Buhler responded she agrees with the Physicians on the Board regarding Dr. Anderson being told what he needed to do to be in compliance, an amended Order being presented to Dr. Anderson and him agreeing to follow the Order by signing the document. She stated he has been with the Board for a good share of the last six years she has served as a Board member and the Board is very frustrated and not sure if Dr. Anderson is not hearing them or does not want to hear them

regarding what he needs to do to be compliant. She stated it appears Dr. Anderson want to continue with his practice as it has been for many years. Ms. Buhler concurred with other Board members that not many changes have been made over the years. She stated the large doses of medications and his sloppy paperwork are a concern to her.

Dr. Byrd asked Dr. Anderson to explain his rationale regarding keeping patients on the high doses of medications. He asked if Dr. Anderson's colleagues use the higher doses, if he heard about using higher doses at conferences or if he just prescribes higher doses.

Dr. Anderson responded over the years he has found small increases would regain positive effects in patients with minimal consequences. He stated an MD at the University of Denver support using higher doses.

Dr. Howell recommended the Board discuss further at the end of the day and either Dr. Anderson return for the discussion or be notified of the outcome.

Ms. Taxin suggested Dr. Anderson return about 2:00 pm for further discussion and the decision. She requested the Board to make a recommendation at this time regarding approving Dr. James as Dr. Anderson's supervisor or submit another name.

Dr. Howell made a motion to approve Dr. Michael James as Dr. Anderson's supervising Physician for the near future if he meets and interviews with Ms. Taxin and Dr. Ries and he understands and agrees with supporting the Stipulation and Dr. Anderson.

Dr. James Pingree seconded the motion.

The Board vote was unanimous.

Ms. Taxin stated Dr. Anderson is to follow the amended Stipulation and Order immediately, meet with his supervisor immediately, develop and write

out a plan and submit it for the Board to review. She stated he should at least get those patients on high doses of medications on a plan to reduce to FDA recommendations. Ms. Taxin stated if Dr. James, the proposed supervisor, does not agree to taper down the doses then Dr. Anderson should write a justification in the patient file and report to the Board.

Ms. Jensen, AG, reminded Dr. Anderson that reducing to FDA recommendations should be done in consultation with his supervisor.

Dr. Anderson thank the Board and stated it would take him about 3 weeks to accomplish the above. He asked advice on what he should do if a patient comes in today for a refill.

Ms. Taxin responded he should consult with his supervisor.

Dr. Howell responded if the supervisor believes a patient needs to continue with the high doses then he should write a letter to document his reasons for continuing.

Dr. Anderson did not return to the meeting at 2:00 pm.

Following further discussion, Dr. Ries made the following motion:

- 1. Dr. Anderson and Dr. James to meet with the Board on January 13, 2010;**
- 2. require Dr. Anderson to meet every 2 weeks in person with Dr. James and review a specific number of files;**
- 3. taper off medications to FDA recommendations;**
- 4. write a plan for long term care for his patients;**
- 5. meet monthly with the Board for 6 months with all the data of the supervision meetings and medications; and**
- 6. have a Board member and Ms. Taxin meet with Dr. Anderson telephonically to have final approval and all parties on same page**

in regards to supervision.

Dr. James Pingree seconded the motion.

Ms. Buhler, Dr. James Pingree, Dr. Ries and Dr. Parker voted in favor of the motion. Dr. Bennion and Dr. Howell voted against the motion. Dr. Byrd had left the meeting. The motion failed for lack of a quorum.

Dr. Bennion recommended the motion again with an amendment of adding explain fully to Dr. Anderson and start laying the ground work for an Order to Show Cause if Dr. Anderson does not follow through with everything.

Dr. Parker seconded the amendment.

The Board vote was unanimous.

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

An appointment was made for Dr. Anderson to meet with the Board on January 13, 2010.

Ms. Taxin stated she would contact Dr. Anderson and Dr. James immediately for an appointment.

Dr. Ries volunteered to meet with Ms. Taxin, Dr. Anderson and Dr. James.

10:45 am

BREAK

10:50 am

Dr. Edmund Chein, Telephonic Probationary Interview

Dr. Chein met for his telephonic probationary interview.

Board members and Division staff were introduced.

Ms. Buhler conducted interview.

Ms. Buhler informed Dr. Chein that all his paperwork was received. She asked him to update the Board regarding his practice and when his California probation is scheduled to be completed.

Dr. Chein responded his practice is doing well and he will be on probation in California for another three years. He stated his continuing education (CE) was audited this year for renewal and someone from DOPL called to inform him he was a few hours short in meeting the requirement. He stated he completed the additional hours and submitted the documentation.

Ms. Buhler asked if California will consider early termination of their probationers.

Dr. Chein responded they will consider early termination after 1 year if the probationer has been consistently in compliance.

Ms. Taxin asked if there have been any changes in Dr. Chein's practice and if he is still practicing internationally.

Dr. Chein responded there have been no changes and he is still working about half of each month in the U.S. and half around the world.

Ms. Buhler asked how large Dr. Chein's practice is currently.

Dr. Chein responded his practice is small. He stated he does have a new patient who he submitted the information to his supervisor and received approval to treat. He stated he tends to refer new potential patients out so he does not get into trouble again and discourages people from coming to him.

Ms. Buhler asked if Dr. Chein has an office in Palm Springs, California.

Dr. Chein responded he does have an office in Palm Springs but does not have offices at the other locations. He stated he uses the clients he works for offices and telephones and does not worry about payroll or other office issues.

Ms. Taxin clarified Dr. Chein had said he was trying not to see patients in California so he won't have problems there. She asked how the California

Board knows he can practice safely if he does not see patients and how is he going to know the Law and Rule regarding safe practice.

Dr. Chein responded he has taken the advice of his attorney regarding not seeing patients in California. He stated he has read the Law and Rule regarding the scope of practice.

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

Ms. Harry reminded Dr. Chein that his paperwork is due by January 28, 2010.

An appointment was made for Dr. Chein to meet telephonically February 10, 2010.

11:10 am

Dr. Stephan J. Kitson, Telephonic Probationary Interview

Dr. Kitson met for his telephonic probationary interview.

Dr. Ries conducted the interview.

Dr. Kitson informed the Board that he completed his 18 month chart review and is off that portion of his Colorado probation requirements.

Dr. Ries asked what other requirements Dr. Kitson has to complete for Colorado.

Dr. Kitson responded he is to meet quarterly with the Board and meet with his psychiatrist. He stated he has had no additional problems with his license and his family is doing well.

Dr. Howell asked how long his probationary agreement is with Colorado.

Dr. Kitson responded the probation is for 5 years and February 2010 will be 2 years.

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

An appointment was made for Dr. Kitson to meet

telephonically May 5, 2010.

11:20 am

Dr. Nathan R. Currier, Probationary Interview

Dr. Currier and his wife, Marci Currier, met for his probationary interview.

Dr. Howell conducted the interview.

Dr. Currier stated he is busy with the monitoring business at Bi-Water as it contracts with four hospitals. He stated he has put together a practice plan to work in Dr. John Shakula's office part time. He stated Dr. Shakula has approved for him not treat female patients between 18 and 50. Dr. Currier stated he attended a very informative a 2 day conference for the monitoring position which covered everything from inserting needles to monitoring patients.

Dr. Howell asked how long it has been since Dr. Currier practiced psychiatry.

Dr. Currier responded it has been just over 3 years and he is a little nervous about returning to practice as it takes getting used to talking again with patients, doing the paperwork, check lists, etc. to get ready to meet with patients.

Dr. Howell asked if Dr. Currier has considered working a few hours with a few patients and then increasing the time and numbers.

Dr. Currier responded yes, he will start with half days on Friday, work up to a full day and then start half days on Thursday afternoons. He stated Dr. Shakula requires 2 new evaluations an hour and wants Dr. Currier to be working full time within a month.

Dr. Howell asked if it would be helpful to Dr. Currier for the Board to formally suggest Dr. Currier take it slow.

Dr. Currier thanked Dr. Howell and stated it might be helpful.

Ms. Taxin stated the Board and Division want Dr. Currier to be successful. She suggested he try the

position and since he will be employed at 2 places he might want to restrict work hours with Dr. Shakula. She stated he should check with the Board before he commits to additional hours.

Dr. Howell commented with working 28 hours monitoring and 10 hours with Dr. Shakula would be a total of 38 hours a week. She stated she believes he should hold it to those hours for now and then evaluate again later with the Board.

Ms. Taxin requested a verbal commitment for Dr. Currier to agree to work no more than 10 hours a week with Dr. Shakula.

Dr. Currier agreed verbally to no more than 10 hours a week with Dr. Shakula.

Dr. Howell made a motion to accept Dr. Currier's practice plan as outlined with the understanding he will only work 10 hours a week with Dr. Shakula with re-evaluation at Dr. Currier's next appointment.

Ms. Buhler seconded the motion.

The Board vote was unanimous.

Dr. Howell stated if Dr. Currier believes it is in his best interest not to work the 28 hours in one position and the 10 hours with Dr. Shakula then he should not. She stated the Board is supportive if he wants to work less hours as this is a different experience for him to be getting back into the work place.

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

An appointment was made for Dr. Currier to meet again February 10, 2010.

11:35 am
Working Lunch

Dr. David Morris Update

Ms. Taxin stated Dr. Morris was unable to meet today

due to being in California with his mother who has health issues.

Ms. Taxin informed the Board at Dr. Morris's last meeting they had said he could work and prescribe but he had to have a DEA license. She informed them Dr. Morris had a prescription for his dog and filled the prescription after his dog passed away and the DEA would not issue him a DEA license. Ms. Taxin stated, based on the non-issuance of the DEA registration, she asked Dr. Morris to surrender his CS license and he did. She stated Dr. and Mrs. Morris called and talked with her. She stated they asked if Dr. Morris could still work at the agency without the CS and DEA licenses and she said yes, but he could not prescribe. She stated she then received an e-mail asking if he could tell other Physician's at the agency what to prescribe, him write the prescription and have one of them sign it and tell the agency Ms. Taxin approved that process. She stated she responded that the other Physician's would have to see the patients, make their assessment regarding prescriptions and then write the prescriptions. Ms. Taxin stated when she talked with Dr. and Mrs. Morris they voiced understanding at that time and she recommended Dr. Morris read the prescribing guidelines. She stated there were some issues with Dr. Morris not trusting the Board/Division and/or the DEA. She stated it appears the agency is holding the position for Dr. Morris as he has not yet started working and it has been several months.

Dr. Howell commented the agency does a lot of research that would not require a CS, DEA or prescribing. She stated Dr. Morris might want to move into that section of the agency.

Ms. Taxin stated she told Dr. Morris he could meet with the Board in January and could not work until after that meeting. She stated there are emergency prescriptions from Dr. Crookston for Dr. Morris and asked if the Board would like Dr. Crookston to also meet in January. She explained Dr. Webster would be Dr. Morris's supervising Physician and Dr. Crookston is his treating Physician. She stated Dr. Morris has had a variety of incidents occur such as several medications being stolen out of his car.

Dr. Howell recommended Dr. Crookston be invited to also meet in January.

The Board concurred.

Dr. Steven Pack Update

Ms. Taxin informed the Board that there was an emergency hearing on Dr. Pack based on some inappropriate behaviors. She stated the committee supported the emergency request and Dr. Pack's licenses have been suspended. Ms. Taxin explained Dr. Pack had 20 days to respond to the suspension but it has been decided to hold on any response until the criminal charges have been resolved. She stated the Board will hear the charges at that time and decide what action should be taken in regard to Dr. Pack's license. She stated he is not practicing right now so the public is safe.

Dr. Howell requested the Division provide a copy of the monthly action report for the Board to review.

Ms. Taxin reminded the Board they can review the report on the website in the monthly newsletter. She voiced concern that a defendant's attorney might say the Board received information and are biased.

Ms. Harry stated the report is very basic with no additional information. She stated she would pull the report for the Board.

12:15 pm

Dr. David M. Pope, probationary Interview

Dr. Pope and his wife, Leanne M. Pope, met for his probationary interview.

Dr. Byrd conducted the interview.

Dr. Pope reported he is doing well with no problems. He stated he keeps the pain patients to about 5% of his patients.

Dr. Byrd asked if Dr. Pope is prescribing for 90 day supply of medication for his pain patients.

Dr. Pope responded yes, he is prescribing every 90 days. He stated he is very familiar with the patients he

is treating for pain as he has treated them for a long time and he makes sure they do not increase the use of their medications.

Dr. Byrd asked if Dr. Pope is utilizing the DOPL CS database reports and urine toxicology screens in order to ensure his patients are not abusing narcotics or selling them.

Dr. Pope responded he is pulling the DOPL database but not using urine toxicology screens. He stated most of his patients have been older but he is not getting a lot of younger patients.

Dr. Byrd recommended Dr. Pope occasionally do urine toxicology screening on his patients. He stated Ameritox will do a report relatively inexpensively and the insurance will pay for the report.

Dr. Byrd made a motion for Dr. Pope to meet every 6 months.

Dr. Parker seconded the motion.

The Board vote was unanimous.

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

An appointment was made for Dr. Pope to meet May 5, 2010.

12:40 pm

Dr. Terrell L. Sellers, Probationary Interview

Dr. Sellers met for his probationary interview.

Dr. Parker conducted the interview.

Dr. Parker reminded Dr. Sellers he was requested to submit monthly reports. He asked if Dr. Sellers has sent them.

Dr. Sellers responded he has sent monthly reports. He stated he faxed them to the compliance unit fax number and saves the confirmations.

Ms. Harry stated she has not received all the faxes but will do a search today for the missing documents.

Dr. Parker requested Dr. Sellers to explain the CVI toxicology holds and why Dr. Sellers did not test for several weeks.

Dr. Sellers responded he has had some financial difficulties and his credit card was cancelled. He stated he now has a cash credit card and has resumed his drug testing. He stated he tested the last 3 weeks, on Halloween day and Monday this week. Dr. Sellers stated the CVI testing is poorly done and should not be accepted as there is not a decent chain of custody. He stated he also is testing randomly at his work and has those reports if the Board would like them. Dr. Sellers stated he is doing well at work.

Ms. Harry informed the Board Dr. Sellers did not test from August 31, 2009 through October 13, 2009, which is quite a long period of time. She stated in the future if payment issues arise Dr. Sellers should call her as the Division can work with him. She stated she receives reports documenting there is a hold and he is not testing so the Division thinks he is trying to avoid the tests. She then requested Dr. Sellers to fax the random tests from his work for his file.

Ms. Taxin asked Dr. Sellers to communicate in the future with Ms. Harry if there are any issues. She asked Dr. Sellers what he likes about his employment.

Dr. Sellers responded he has an interesting position. He stated it wakes him up every morning and he looks forward to going to work each day. He stated in the past he has had many positions that were not fun. Dr. Sellers stated he is the medical and clinical director of a drug and alcohol 15 bed female and male treatment center for adults only. He stated he supervises and does some counseling.

Dr. Parker asked how Dr. Sellers is coping with the stress at work and in his personal life.

Dr. Sellers responded he is still playing golf, and spending time with his family.

Dr. Howell asked Dr. Sellers what he is doing to stay off the drugs.

Dr. Sellers responded he reads a lot, attends the LDS 12 Step program, attends his PIR and AA meetings, meets with his sponsor and a couple of other people. He stated he believes he is out of balance which is a recurring thing for him.

Dr. Howell asked if being out of balance was what got Dr. Sellers into trouble in the first place.

Dr. Sellers responded Dr. Howell is correct. He stated the major difference now is that he can sleep every night. He stated he does not know much about being a clinical director but is learning and believes it will get easier.

Dr. Howell stated the position as clinical director is hard. She stated she believes Dr. Sellers should learn the specialty and obtain additional education in medical procedures. She stated there are some on-line courses, conferences, out of state programs and the University of Utah School on Alcohol and other Drug Dependencies meetings every summer the first or second week in August at the U of U. She stated Dr. Sellers could apply for a scholarship to the program which is family oriented. She voiced concern regarding the position being stressful for Dr. Sellers and his trying to learn the position by doing more. She stated he is the Lone Ranger in the position and may have a tenancy to get into trouble when he is stressed. Dr. Howell recommended Dr. Sellers reach out to others in the field for support. She stated the Board does not want to work with him and get him to a point where he is able to work without Board support and then have him crash and burn in a relapse.

Dr. Sellers stated he has already been doing some courses and agrees he does need support from people in the field. He thanked her for the suggestions. Dr.

Sellers stated he is very afraid he will crash and burn when he has completed his probation and not meeting regularly with the Board. He stated he has asked for some restrictions to be lifted but has never requested early termination of his probation. He stated he does not want to go back to where he was before but his family suffers for his being on probation.

Dr. Howell stated the Board/Division want Dr. Sellers to be successful. She stated she has seen many people in Dr. Sellers position and Dr. Sellers needs to put some things in place so he does not fall back where he was.

Dr. Bennion asked how many hours a week Dr. Sellers is currently working.

Dr. Sellers responded he is currently working about 70 hours a week.

Dr. Howell stated Dr. Sellers position is a start-up position and maybe the hours will lessen later. She suggested he observe another program to get a feeling of another program that has been in existence for a long time so he can see what works and what does not. She stated he may contact her for some resources that may assist him.

Dr. Sellers thanked Dr. Howell for the recommendation and stated he will contact her.

Ms. Taxin stated Dr. Sellers needs to get the required paperwork to Ms. Harry. She suggested he mail or fax the paperwork and then call Ms. Harry to be sure it has been received. She stated the drug testing is on track now but if Dr. Sellers has a problem he should call Ms. Harry immediately. She asked the Board if they are comfortable with Dr. Sellers explanations and if they would recommend he is in compliance if Ms. Harry receives all the paperwork by fax confirming he had sent it on the due date.

It was implied Dr. Sellers would fax the information within one business day.

Dr. Parker made a motion that Dr. Sellers is in compliance today if all his paperwork is located.

Dr. James Pingree seconded the motion.

The Board vote was unanimous.

Ms. Harry stated the monthly reports could move to quarterly if all have been received.

The Board recommended the reports be due quarterly in February, May, August and November if Ms. Harry receives all information.

An appointment was made for Dr. Sellers to meet February 10, 2010.

1:20 pm

Dr. Julie Dobell, Review proposed Stipulation and Order

Dr. Dobell met for the review of her proposed probationary Stipulation and Order.

Board members and Division staff were introduced.

Dr. Charles Walton attended the meeting in support of Dr. Dobell.

Dr. Howell conducted the interview.

Dr. Howell requested Dr. Dobell to explain to the Board her background and any information regarding her Massachusetts license.

Dr. Dobell explained she has an active probationary license in Massachusetts. She stated her specialty is anesthesiology. She stated in 2004 she had to have some back surgery, became addicted to drugs, was nodding off at work and when they tested her, the test was positive. Dr. Dobell stated she was not sleeping while working but would become drowsy if she sat down and relaxed a few minutes. Dr. Dobell stated her Massachusetts license was suspended for a year and a half, she completed their required program, now has that license back on a probationary status and has been drug testing for about four and a half years. She stated Massachusetts requires 5 years of testing. She explained she was moving to Utah and would not be

under the jurisdiction of Massachusetts so she contacted DOPL and has been tested through DOPL with the diversion program for the last few years. Dr. Dobell stated if she receives her Utah license she will do some training and work as an anesthesiologist as that is her education and training. She stated she has been living off disability and her savings and needs to return to the work force.

Dr. Howell requested Dr. Walton to update the Board regarding Dr. Dobell's drug testing and status.

Dr. Walton responded Dr. Dobell is on probation for Massachusetts but she cannot work there based on her agreement with Massachusetts. He stated the Utah Diversion program has been monitoring her drug testing but she could not be put on a formal agreement as she is not licensed in Utah. Dr. Walton stated regular reports have been sent to Massachusetts by his unit. He stated the Massachusetts diversion plan is connected with their Board and Dr. Dobell has been successful in the diversion program.

Ms. Taxin explained she called Massachusetts who informed her Dr. Dobell is on disciplinary action probation in addition to the Diversion so she drafted a recommended Memorandum of Understanding (MOU) and has requested the Board to review the requirements to be sure the public will be protected if a Utah license is issued to Dr. Dobell. She explained Dr. Dobell will be required to meet with the Board in addition to other requirements which were not included in the Massachusetts Order. Ms. Taxin stated she did parallel the dates of the Massachusetts Order as is normally done.

Dr. James Pingree asked Dr. Dobell if she will be obtaining extra training in anesthesiology to bring her skills up to speed.

Dr. Dobell responded yes and is hoping she can work in a training center for awhile to refresh her skills.

Dr. Bennion asked Dr. Dobell if she is currently taking any medications for her back problems.

Dr. Dobell responded she is taking motrin and tylenol only. She stated she is feeling better since she has stopped all medications.

Ms. Taxin asked if Dr. Dobell is in counseling or therapy.

Dr. Dobell responded she is in therapy.

Dr. Walton stated Dr. Dobell has met monthly with the Utah Diversion group based on Massachusetts requirement and has faithfully done her drug tests with all negative results. He stated she has done everything Massachusetts has asked and required of her and has had to retain an attorney to help resolve her situation. He stated the Massachusetts process has been very difficult for Dr. Dobell as she will have a total of 10 years of probation and/or drug testing for Massachusetts when she is finished. Dr. Walton stated she has been in the Utah's Diversion doing drug tests for 2 years.

Dr. Howell commented Dr. Dobell has taken and passed the SPEX examination as required for Utah licensure. She stated the Board would need to decide if a license should be issued and if that license should be a probationary license.

Ms. Taxin stated Dr. Dobell would also need the controlled substance license and DEA license if she will be working as an anesthesiologist. She asked if Dr. Dobell still has her DEA license.

Dr. Dobell responded she let the DEA license expire as her attorney had advised her to do and the attorney had said it would not be an issue to obtain it again.

Ms. Taxin stated it may be an issue and she should contact the DEA. Ms. Taxin suggested Dr. Dobell contact the 4th Street Clinic as a job opportunity to update her skills.

Dr. Howell explained the 4th Street Clinic is a free

clinic for indigents and is always looking for help.

Dr. Ries also recommended Dr. Dobell contact the University of Utah and check into Ground Rounds as they are also always looking for help.

Ms. Taxin asked if Dr. Dobell has completed any courses in prescribing.

Dr. Dobell responded she has not.

Dr. Walton recommended she be allowed to take a course in general medicine as she would be writing more prescriptions if she works at the 4th Street Clinic.

Ms. Taxin stated prescribing is an area where errors occur and is a hot topic right now. She stated the Board could recommend she complete 1 prescribing course and then let her choose the other courses and allow the hours to count as CE toward the required 40 hours of CE.

Dr. Dobell stated she has had friends go through similar problems and have not had any issues with retaining their DEA license or reinstating it. She asked why she might have a problem reinstating hers.

Dr. Howell responded it is an issue for the DEA to respond to but the Board has found there are sometimes problems reinstating the DEA license.

Dr. James Pingree made a motion to revise the proposed MOU as discussed today and grant a probationary license to Dr. Dobell.

Dr. Parker seconded the motion.

The Board vote was unanimous.

Ms. Taxin stated she will make the amendments in the drug testing and the CE as recommended and all other requirements will remain as written. She stated she will not resend the MOU to the Board to review again but will send to Dr. Dobell to review and if she agrees to all requirements she should

sign the document and return it as soon as possible so a license can be issued.

DISCUSSION ITEMS:

Board Position Regarding License Portability

Ms. Taxin explained she received a phone call regarding a grant for telemedicine and explained the Utah Law and Rule regarding tele-medicine. She stated she explained Utah was for license portability and they had additional discussions. Ms. Taxin stated she then had a call from the Federation of State Medical Boards (FSMB). She explained last year FSMB created a generic application that could be used by all States and she told FSMB Utah may be interested in it but needed to review the application first and asked for one to be sent to her. Ms. Taxin stated she never received the application to review until recently and then FSMB asked if Utah would do a trial on-line application. Ms. Taxin stated she agreed to do the trial as the applicant will still send the hard copy application to Utah. She stated advantage will be FSMB will retain the application in their database so applicants will not have to fill out applications again for each State in which they want to be licensed. She stated the goal in the near future is application will be combined with the FCVS packet as one application. She stated she talked with Mr. Steinagel and he also agrees it would be an advantage for applicants. Ms. Taxin stated FSMB inquired about charging additional fees and she told them we have a fee schedule that is set by Legislation. She stated this is only a pilot program and if it does not work as planned Utah can pull out or if the Board does not agree with doing the pilot she will back out now.

Dr. James Pingree asked how many States are currently using the FSMB program

Ms. Taxin responded she believes there are currently 13 States participating and will be about 20 soon.

Dr. Howell asked if this is for initial licensing only and does not involve renewals.

Ms. Taxin responded she is correct, it is for initial licensing only and will not involve renewing a license.

Board members agreed the process would be helpful to new applicants and voiced approval.

Dr. Max K. Cannon Hearing Update

Ms. Taxin reviewed the December 9, 2009 Board Hearing schedule with the Board. She stated the hearing may take all day. Ms. Taxin stated she reviewed the probation list and determined the probationers could be deferred to the January meeting to give the Board the full day. She stated the hearing will commence at 8:30 am and hopefully conclude prior to 6:00 pm.

Ms. Taxin then read the facts to the Board. She stated Dr. Cannon had tried to reinstate his expired licenses and she denied the reinstatement based on his legal charges. She stated the Board will hear the case and determine the action to be taken if any.

Dr. Bennion asked if Dr. Cannon challenged the denial of his renewal.

Ms. Taxin responded he did and she was not comfortable with issuing him a license based on timelines of his legal issues and additional factors which will be presented in the hearing.

Dr. Bennion asked if the hearing might go a second day.

Ms. Taxin responded it is scheduled for 8:30 am to 6:00 pm on December 9, 2009, only. She stated the Division can't limit the time his attorney will take but they have been informed of the time. She stated Ms. McCall will send the confirmation letter and any information out to the Board. She asked the Board if they would like lunches to be delivered or walk across the street for a sandwich.

The Board agreed to get their own sandwiches. They noted the time for the formal hearing for Dr. Max K. Cannon and committed to be in attendance for the full day.

2010 Board Meeting Schedule

The Board noted the following dates for the 2010 Board meetings: Wednesdays, January 13, February

10, March 10, April 14, May 5, June 9, July 14,
August 11, September 8, October 13, November 10
and December 8, 2010.

CORRESPONDENCE:

Eric Carter, King Pharmaceuticals, Letter

The Board reviewed Eric Carter's, King
Pharmaceuticals, letter regarding approval of
EMBEDA.

No Board action was taken.

NEXT MEETING SCHEDULED FOR:

December 9, 2009

ADJOURN:

The time is 2:25 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.*

January 13, 2010
Date Approved

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

December 7, 2009
Date Approved

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