

**MINUTES**

**UTAH  
PHYSICIANS LICENSING BOARD**

**BOARD MEETING**

**January 13, 2010**

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

**CONVENED:** 9:00 A.M.

**ADJOURNED:** 2:17 P.M.

**Bureau Manager:**

Noel Taxin

**Board Secretary:**

Karen McCall

**Compliance Specialist:**

Debbie Harry

**Board Members Present:**

John W. Bennion, PhD, Chairperson

George C. Pingree, MD

Stephen E. Lamb, MD

James H. Pingree, MD

Elizabeth F. Howell, MD

James Fowler, MD

Daniel J. Parker, MD

Marc E. Babitz, MD

Kristen Ries, MD

David D. Byrd, MD

**Board Members Absent:**

Lori G. Buhler

**Guests:**

Brittany Esty, Student

Silvia Ellsworth

**DOPL Staff Present:**

Kent Barnes

Karl Perry, AG

Dan Lau, AG

Rick Norton, AG Assistant

**TOPICS FOR DISCUSSION**

**DECISIONS AND RECOMMENDATIONS**

**ADMINISTRATIVE BUSINESS:**

**MINUTES:**

The minutes from the November 4, 2009 Board meeting were read.

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

## **APPOINTMENTS:**

**9:20 am**

Debbie Harry, Compliance Update

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

Ms. Harry reported **Dr. David J. Morris** is currently in compliance with his Stipulation and Order without being employed.

Ms. Taxin and Ms. Harry updated the Board regarding several e-mails which were submitted from Dr. Morris.

**Ms. Taxin stated Dr. Morris is in compliance with his paperwork. She stated she and Karl Perry, AG, had a telephonic discussion with Dr. Crookston, Dr. Morris's therapist, who believes he should be an advocate for his patient(s) and Dr. Crookston voiced a conflict of interest when the Board/Division wants information regarding the patient/probationer and the Board/Division are not paying the therapist for the information. She stated Dr. Crookston believes Dr. Morris is safe to practice and he voiced no concerns. Ms. Taxin stated Dr. Morris has renewed his license.**

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

Ms. Harry reported **Dr. Julie Dobell** is currently in compliance with her Memorandum of Understanding but is unemployed.

Ms. Harry reported **Dr. Randall N. Ellsworth** is currently in compliance with his Stipulation and Order. She stated a report in favor of early termination has been received. Ms. Harry stated Dr.

Ellsworth's probation is scheduled for termination in November 2011.

**Dr. Parker asked if the Board could recommend termination of probation today.**

**Ms. Taxin responded they could make the recommendation or they could recommend he meet for a longer period of time.**

Ms. Harry reported **Dr. Alan F. Heap** is currently out of compliance with his Stipulation and Order. She stated Dr. Heap's drug and alcohol test on December 29, 2009, was positive for alcohol. She stated it was a low level of positive but positive. Ms. Harry stated Dr. Heap has informed her that he has 70 different patients who have or will be submitting letters on his behalf. She stated she and Ms. Taxin are aware of some but not all that he reported.

**Ms. Taxin commented she has enclosed a sampling of the letters received for the Board to review. She stated her concern is it appears he is sharing the Board's concerns with his patients. She stated she was notified that Dr. Heap will be bringing his prior office manager/patient, Kristy, with him. Ms. Taxin stated Dr. Heap fired his attorney, Mr. Cunningham, and when he met to sign the new amended Order, dated August 27, 2009, Kristy attended the meeting with Dr. Heap. She stated it appeared as Kristy was acting as his counsel but they clarified she was present to support him. Ms. Taxin stated Kristy's letter, dated December 30, 2009, indicates Dr. Heap was coerced into signing the agreement but Ms. Taxin's interpretation is different. She stated she informed Dr. Heap he could take the document to review and think about and he could sign it and send it back or he could notify her that he was not going to sign the amendment. Ms. Taxin stated Dr. Heap said he was not an alcoholic and could do the drug testing without a problem and he signed the amended Order. She stated Dr. Heap proposed he surrender his license until after 2012. Ms. Taxin stated after speaking with him he expressed following that**

**procedure would allow him to complete his disciplinary commitment to the Division.**

**Ms. Taxin stated Dr. Heap may bring up concerns he has with complaints the Division has received in the past and currently. She stated it would not be appropriate to discuss a current complaint in investigation.**

**Dr. Howell commented it is inappropriate for Dr. Heap to have patients assist him in writing letters regarding his concerns of unfairness with the AG and the Division.**

**Ms. Taxin stated in October Dr. Heap called her regarding the drug testing as the Order requires testing 2 days a week. Ms. Taxin stated Dr. Heap did not want to continue testing 2 times a week due to the expense and stated he does not have an alcohol problem. Ms. Taxin stated she explained he could not say he is surrendering his license until after 2012 and then just come back as his probation would start again when he came back. She stated in December he wrote again saying he would close the practice. Ms. Taxin stated she tried to call Dr. Heap back but was unable to reach him and he has not called her again. She stated she drew up a surrender Order and then sent it with an investigator to deliver. Ms. Taxin stated Dr. Heap informed her the Division is at fault for putting him out of business. Ms. Taxin stated she talked with Dr. Heap and explained to him that he can not just say he is surrendering, that there is a process.**

**Dr. Howell asked if the Board could recommend an Order to Show Cause to require Dr. Heap to have a psychological evaluation out of State.**

**Ms. Taxin responded they could.**

Ms. Harry stated Dr. Heap has asked if he could go to another State to work. She stated Ms. Taxin informed him that he would still have to complete the Utah probation. Ms. Harry stated Dr. Heap then asked about going out of the country and Ms. Taxin stated she had no information on out of country practice

while on probation. She stated Mr. Lau, Mr. Perry and Ms. Taxin have spent many hours writing amendments for Dr. Heap based on conversations and him not meeting the Order and then he refuses to sign any amendment.

**Ms. Taxin stated Mr. Lau is very direct, has spent a lot of time on Dr. Heap's issues and has treated Dr. Heap very fairly but has held to the requirements in Dr. Heap's Stipulation and Order.**

**9:45 am to 10:30 am**

Dr. David J. Morris, Probationary Interview

Dr. Morris met for his probationary interview.

Board members, Division staff and the AG were introduced.

Dr. Babitz conducted the interview.

**Dr. Babitz asked what happened to Dr. Kuo as nothing has been received from him recently.**

Dr. Morris responded Dr. Kuo is his internist who manages his diabetes. He stated he has already contact Dr. Kuo to submit an update.

**Dr. Babitz asked who Dr. Schmidt is.**

Dr. Morris responded he is not sure as Dr. Schmidt is not someone he is currently seeing.

**Ms. Taxin stated Dr. Morris had mentioned he might be having some surgery with Dr. Schmidt. She asked if he is still considering.**

Dr. Morris responded he will tolerate his pain as long as possible and then consider surgery. He stated he did have sinus surgery about 6 months ago and is doing fine now. Dr. Morris stated Dr. Crookston is an anesthesiologist who manages his controlled substances for any pain issues. He stated Dr. Crookston is his friend and knows the most about him.

**Dr. Babitz asked Dr. Morris to list the controlled substance medications he currently taking.**

Dr. Morris listed the medications.

**Dr. Babitz asked if he is still taking testosterone injections monthly.**

Dr. Morris responded he is and gives himself the testosterone injections weekly.

**Dr. Babitz stated the Board understands Dr. Morris has had problems starting to work with Dr. Webster due to his not having a controlled substance (CS) license. He asked if Dr. Morris is stilling looking for employment.**

Dr. Morris responded Dr. Babitz is correct and, yes, he is still looking for employment. He stated everyone has gifts and his gift is knowing how to examine, talk with, diagnose, be nice and spend time with patients at the expense of his own income. He stated he believes he is still an extremely competent physician but does not know yet where he fits. He stated in 2003 the Board had approved for him to have Dr. Webster or another Physician sign any CS prescriptions after he would write the prescription. He stated he has a letter that alludes to Dr. Webster signing CS prescriptions for him as Dr. Webster is still interested in having Dr. Morris work for him. He stated Dr. Webster would review each patient anyway. Dr. Morris stated the Board approved the process in 2003 and should approve it again.

**Ms. Taxin responded Dr. Morris could evaluate patients but if another practitioner is signing the CS prescription they also must evaluate the patient and document their own diagnosis and need for the prescription. She gave the following example: Dr. Morris could not request the other provider to write a prescription for a patient by just saying the patient needs Loritab. Ms. Taxin stated it would be a violation of prescribing Statute.**

Dr. Morris stated he informed the Board Dr. Webster is willing to review the records of each patient he sees.

**Ms. Taxin asked if each patient needs pain medication. She stated Dr. Morris could evaluate**

**those patients who do not need pain medication.**

Dr. Morris responded he will discuss the issues with Dr. Webster. He stated if there is a chronic pain patient who is not taking a CS that would be appropriate but if the status of patient changed then he would have to involve another Physician. He stated that process would be redundant.

**Ms. Taxin stated she believes there are patients who do not need or use CS's or are getting off CS's and Dr. Morris might be able to help those patients.**

**Dr. Babitz commented the Physician who writes the CS prescription is the responsible person. He stated there have been other Physicians who have had other practitioners write the prescriptions for the patient and they did not have CS privileges. Dr. Babitz stated the easiest way for Dr. Morris to be working would be not to see any patients who have CS needs.**

Dr. Morris responded he is trying to do what was suggested in 2003.

Dr. Morris again stated he will talk with Dr. Webster. He stated he has had other offers but they have not been what he wants to do. He stated one offer was to evaluate patients for insurance companies but he would not be interested in being employed with the insurance companies.

**Ms. Taxin asked Dr. Morris if he is pursuing a position with the VA as he mentioned at one time.**

Dr. Morris responded he is active in pursuing a position with the VA.

**Dr. Byrd asked if Dr. Morris is interested in research.**

Dr. Morris responded he would need a CS license as all drugs in research are CS's.

**Dr. Howell commented Dr. Morris would only be**

**monitoring the research drugs and would not be prescribing any.**

Dr. Morris again responded he would have to administer either the active drug or a placebo and could not administer without the CS license.

**Ms. Taxin recommend Dr. Morris contact the DEA and ask specifically if working in research administering an active drug would be a violation.**

Dr. Morris responded he previously discussed nerve blocks and implants for pain control. He stated he could do the procedures and the assistant Physician could write the post op orders as they would be with him through the entire surgery. He stated the procedure could be done at the clinic.

**The Board did not respond to Dr. Morris.**

**Ms. Taxin stated Dr. Morris has met a few times with the Board but has not been employed. She stated she may not request him to meet again until he is employed.**

Dr. Morris responded he wants to meet regularly with the Board.

**Dr. Babitz asked if Dr. Morris would like to share any stresses he may have.**

Dr. Morris responded he wants to work. He stated if he is in a work environment he believes he is safer as there would be others around for support regarding his appearance and/or health.

**Dr. Bennion asked how long it has been since Dr. Morris had an incident and if he knows what brings them on.**

Dr. Morris responded it has been about 6 months since he has had an incident. He stated he knows what brings on the incidents.

**Ms. Taxin stated she believed he had an incident last month with Dr. Crookston.**

Dr. Morris responded he did not have one last month with Dr. Crookston and it has been awhile. He stated he has found grapefruit juice and too much corn bring on incidents. He stated he did have an incident one time while visiting with Dr. Crookston.

**Dr. Lamb stated it has been emphasized the position of the Board is to ensure the safety of the public. He stated irrespective of problems with the DEA, Dr. Morris has shared some things with the Board that bring up concerns regarding his ability to care for patients. Dr. Lamb stated when a practice plan has been submitted for the Board review he would like to be sure it contains safeguards which will protect the patients.**

Dr. Morris responded the first practice plan was quite detailed and the next one will also be detailed. He stated he will do everything he can to allay Dr. Lamb's and the Board's concerns. He stated once he has done everything he would especially appreciate Dr. Lamb's input.

**Dr. Babitz stated Dr. Morris is required to be supervised. He stated since Dr. Morris is not currently working he would recommend he meet again in 6 months, however, if Dr. Morris becomes employed he should contact Ms. Taxin to set up an appointment.**

**Ms. Harry reminded Dr. Morris to submit his reports by February 28, 2010, and to document on the reports that he is not working. She stated he should also request Dr. Kuo to submit a report as soon as possible.**

**The Board determined Dr. Morris is currently in compliance with his Stipulation and Order without being employed.**

**Dr. Morris will meet again July 14, 2010; unless he becomes employed then an appointment will be made sooner.**

Dr. Aaron W. Jones, Probationary Interview

Dr. Jones met for his probationary interview.

Dr. Bennion conducted the interview.

Dr. Jones stated he practices a full spectrum of family practice without any OB and has had some issues at his employment. He stated he makes sure a chaperone is always present when he is with a female patient. Dr. Jones stated he is in the process of negotiating with California to surrender his license. He stated California wanted him to be on a 7 year probation and he has not yet ever met with the Board. Dr. Jones stated California sent a certified letter to his old California address and did not receive the letter or respond so they fined him. He stated they have his current Utah address as he has received some correspondence there. Dr. Jones stated he might be able to get back on some insurance panels if he has an unencumbered license in Utah.

**Dr. Howell asked if he would be given panel privileges if he surrenders the California license.**

**Ms. Taxin recommended he contact California to find out if his action was disciplinary or non-disciplinary and then contact the insurance companies as it might make a difference.**

Dr. Jones stated he believes he is being taken advantage of by his employers and it would be nice to have more options available to him.

**Dr. Bennion stated the Utah probation will continue whether he severs the California relationship or not. He stated the Utah Board has been pleased with Dr. Jones actions since he has been in Utah and the Board senses his sincerity in completing his probation. He stated the Board wants to be supportive to Dr. Jones.**

Dr. Jones asked if there is anything he needs to know regarding Dr. Crane as he is also on probation and is over Dr. Jones at the clinic. He stated Dr. Crane has been with the clinic a month as medical director. Dr. Jones stated Dr. Crane is not his immediate supervisor but there are many areas where OB's overlap in other

areas. He explained the nurses and other staff are requesting him to review Dr. Crane's work and he is uncomfortable with that role. He stated he now has the staff return to Dr. Crane with their questions and he does not get involved.

**Ms. Taxin informed Dr. Jones that Dr. Crane is currently on probation. She stated he should read Dr. Crane's Memorandum of Understanding (MOU) and if he has any concerns he should voice them to the Board. Ms. Taxin stated there are times when relationships in the work environment are not ideal. She stated if it is personality the Board would have no concerns but if it is an ethical issue based on competency there would be cause for concern. Ms. Taxin stated Dr. Jones meets with the Board for open discussion of any issues he may have and if he is uncomfortable with the reports he is receiving at work regarding Dr. Crane and him supervising he could request someone else to supervise.**

**Dr. Babitz stated he is not sure if one probationer should be supervising another probationer but if Dr. Crane is not the immediate supervisor then it is a non-issue.**

**Ms. Taxin stated Dr. Jones does not have to stay at that clinic, he could change his employment.**

**Dr. Lamb asked if Dr. Jones is currently in counseling and if counseling is a requirement of his Order.**

Dr. Jones responded he is not and counseling is not a requirement of his Order.

**Dr. Lamb asked if Dr. Jones is finding himself in similar situations as he was in California.**

Dr. Jones responded his current position requires staff be examined by the Physicians in the clinic as a benefit. He stated it soon became a large percent of staff personnel were his patients and he has had to refer them to their own Physicians or other practitioners at the clinic to avoid any conflicts of

interest. Dr. Jones stated the medical assistants and Nurses that he works directly with know he is not comfortable seeing them as patients and they voluntarily see someone else. He stated he has also had patients and staff ask him out. Dr. Jones stated one patient asked in front of the chaperone so he referred the patient out and requested the chaperone to write a statement regarding him referring the patient elsewhere. He stated he keeps the patient and Physician relationship separate.

**Dr. Babitz asked where Dr. Jones refers patients who are unable to pay. He stated there is a free farm workers clinic in Brigham City but that is quite a distance. He stated staff of the clinic would have options of going to a Physician in their own vicinity.**

Dr. Jones thanked Dr. Babitz for the information regarding the free farm workers clinic as he was unaware of the clinic. He stated he has used other practitioners in his area for referrals. Dr. Jones explained that due to the high deductible on employee insurance, if they are seen by Physicians at the clinic it is written off.

**Dr. Howell responded Dr. Jones is before the Utah Board because of boundary issues and it is disconcerting to her to hear that the staff, who have insurance, are expected to be treated by clinic practitioners. Dr. Howell suggested Dr. Jones be firm with his statements to co-workers as it is his license on probation and it is illegal as well as being a boundary violation to treat co-workers.**

**Dr. Lamb stated Dr. Jones had boundary issues in California and he would recommend Dr. Jones stay away from anything that even appears to be inappropriate. He stated Dr. Jones could blame the Board for the strictness if he wants.**

**The Board determined Dr. Jones is in compliance with his Memorandum of Understanding.**

**An appointment was made for Dr. Jones to meet July 14, 2010.**

Dr. Jones thanked the Board for their advice and asked what is required to request early termination of his probation.

**Ms. Taxin explained Dr. Jones would need to submit a letter requesting early termination and include what he has learned from the process.**

**Dr. Howell requested Dr. Jones include what he has put in place to be sure he does not have another situation again.**

**Dr. Bennion stated if Dr. Jones submits the request soon the Board could review and discuss it at the March meeting.**

Dr. Jones responded he started his practice in Utah on November 17, 2008. He asked if he could meet in May, 2010.

**Ms. Taxin responded he could meet in May.**

**Dr. Jones appointment was changed to May 5, 2010.**

**Ms. Taxin asked Dr. Jones to be sure his supervisors write in their reports if they will support early termination of probation.**

Dr. Jones asked if co-workers could also submit letters of support.

**Ms. Taxin responded the letters should come from approved supervisors as they write the reports.**

**Dr. Babitz stated if any supervisor writes they do not support early termination of probation they should also write a justification.**

**Ms. Harry reminded Dr. Jones his reports are due April 28, 2010.**

**10:45 am**

Dr. Julie Dobell, Initial Probationary Interview

Dr. Dobell met for her initial probationary interview.

Board members and Division staff were introduced.

Dr. Howell conducted the interview.

**Dr. Howell stated today is Dr. Dobell's first probationary meeting with the Board. She stated the evaluation from Dr. Pompa was received and asked Dr. Dobell about the evaluation.**

Dr. Dobell responded Dr. Pompa asked a lot of questions.

**Dr. Howell stated Dr. Pompa and the Massachusetts therapist both recommended Dr. Dobell find a therapist here in Utah.**

Dr. Dobell responded she has been having therapy with the Massachusetts therapist by telephone on an as need basis and did not see a reason to change therapists.

**Dr. Howell explained she does not believe a therapist can do the kind of work Dr. Dobell is in need of by telephone.**

**Ms. Taxin stated Dr. Dobell can find a therapist in Utah and the therapist will recommend the frequency for them to meet. She stated the therapist will also be required to submit reports to the Board/Division. She stated Dr. Dobell should let her know who she selects.**

**Dr. Howell stated Dr. Dobell does not appear to be ok with the recommendation. She asked her to explain.**

Dr. Dobell explained she does not believe there is anything more for her to talk about with a therapist.

**Dr. Howell stated the reason to have a therapist would be for on-going support. She stated it is common to require therapy for probationers. Dr. Howell asked Dr. Dobell to explain her understanding of the document she signed.**

Dr. Dobell responded she understands she is to

complete all the conditions.

**Dr. Howell asked Dr. Dobell what she wants to do regarding employment.**

Dr. Dobell responded finding employment is difficult. She stated she does not know where to look as she is on probation and potential employers want someone who does not have probationary requirements.

**Dr. Babitz asked Dr. Dobell what she specialized in.**

Dr. Dobell responded she specialized in anesthesia.

**Dr. Howell asked if Dr. Dobell has any other stressor in her life.**

Dr. Dobell responded she is only worrying about finding employment.

**Dr. Lamb commented there are underserved areas in Utah. He stated if Dr. Dobell is willing to step out of this area she might find something in those areas.**

**Ms. Taxin reminded Dr. Dobell that she gave her some names to contact in anesthesia in Utah. She asked if Dr. Dobell has made those contacts.**

Dr. Dobell responded she has not made any contacts as she wanted to meet with the Board first.

**Dr. Byrd suggested she make the contacts and report back at her next appointment.**

Dr. Dobell responded most of the contacts are out of Utah.

**Dr. Byrd asked if she has contacted the Veterans Administration (VA) hospital.**

Dr. Dobell responded she has not made contact with the VA.

**Dr. Byrd suggested she contact the VA hospital.**

**Ms. Taxin stated if Dr. Dobell found employment in another State such as Colorado she could work off her Utah probation in that State.**

**Dr. Howell asked Dr. Dobell where she has looked for employment.**

Dr. Dobell responded she has been looking on the internet.

**Ms. Taxin stated she is aware the rural areas are in need of practitioners. She reminded the Board Mountain West had committed to make sure rural areas have anesthesia services and maybe they are hiring. She suggested Dr. Dobell contact Mountain West. Ms. Taxin suggested she also contact Dr. Lu as she believes he is the president of the Anesthesiologists Association.**

Dr. Dobell responded she contacted Dr. Lu and he said he had no referrals for her.

**Dr. Howell stated she will have to start actively looking for employment now that she is licensed. She asked if Dr. Dobell has completed the required CE course and stated there are no employer or therapist reports that have been submitted.**

**Ms. Taxin reminded Dr. Dobell the CE course needs to be in prescribing. She suggested Dr. Dobell call her to get a list of approved courses.**

**Dr. Howell asked if Dr. Dobell is still doing drug and alcohol testing.**

**Ms. Taxin stated she is still testing through the Massachusetts program. She stated she contacted Massachusetts and when their testing terminates Dr. Dobell will be switching over to the Division UA tests.**

Dr. Dobell responded the Massachusetts testing will terminate in May.

**Ms. Taxin reminded her to be sure to send all the Utah information to Massachusetts in order to**

**complete her agreement with that State.**

**Dr. Howell asked Dr. Dobell what her sobriety date is and has she had any thoughts of doing drugs or alcohol again.**

Dr. Dobell responded July 2004 and she has had no desire to do drugs or drink alcohol.

**Dr. Howell asked if she tests in Park City.**

Dr. Dobell responded she does test in Park City as it more convenient for her.

**Dr. Howell asked if she is attending PIR meetings.**

Dr. Dobell responded she is attending PIR meetings on Monday evenings.

**Dr. Howell asked if she has a sponsor and, if so, how often she in contact with her sponsor.**

Dr. Dobell responded she has a sponsor and they meet once a month or so.

**Dr. Howell asked if the sponsor is in Utah.**

Dr. Dobell responded the sponsor is in Massachusetts.

**Dr. Howell asked what issues Dr. Dobell is working on in her recovery.**

Dr. Dobell responded she not working on anything in particular.

**Dr. Howell asked if Dr. Dobell believes she had a problem with addiction.**

Dr. Dobell responded she knew she had a problem when she had the problem. She stated when she goes to the meetings she does not believe she has the same problems as the people who are in attendance and she does not know what to say in the meetings. Dr. Dobell stated it is like she was in another world and now that is over. She stated she has friends that live the type of life she likes to live and does not like to continue to

listen to others problems or go to the meeting and talk about their issues. She stated she does not relate well to that environment. Dr. Dobell stated her issues deal with her children.

**Dr. Howell asked who her support system is in Utah.**

Dr. Dobell responded her support system is her friends in Park City.

**Dr. Howell asked if Dr. Dobell has any personal stressors as she is a single parent.**

Dr. Dobell responded she has no personal stressors. She stated she was a single parent when her girl's father passed away. She stated she is concerned about her probation and telling an employer she has a probationary license. She stated she believes they will run the other direction when she discloses it. Dr. Dobell asked at what part in an interview she discloses to a potential employer she has a probationary license. She stated she believes it is better to find out if there is an opportunity for employment before disclosing the information.

**Ms. Harry stated Dr. Dobell could put a positive spin on the disclosure by stating she has had a problem and the Board is monitoring her.**

Dr. Dobell responded she does not mind drug testing as the medications she was taking made her feel awful all the time. She stated it is not something she would ever want to do again.

**Dr. George Pingree asked how Dr. Dobell is living since she is not working and if she is confident enough with her skills that she can jump right back into working as an anesthesiologist.**

Dr. Dobell responded she is living off her savings and a small settlement from her disability. She stated she would like to work in a group setting for awhile where she can refresh her skills.

**Dr. James Pingree asked what brought Dr. Dobell**

**to Utah to live.**

Dr. Dobell responded she skied in Utah while in high school and when she started working in medicine she brought her family to their condo in Park City. She stated she did not want to continue running back and forth and wanted a better place for her girls to grow up so she moved to Park City. She stated her girls are progressing well in Park City as the school is helping the one who has ADD more than the other school helped.

**Dr. Howell stated Dr. Dobell's main focus is now on her job search and to get her reports submitted on time.**

**Ms. Taxin reminded Dr. Dobell to send the reports with a written comment that she is not working until she is employed. She stated Dr. Dobell will need to find a therapist in Utah and the therapist will need to complete and submit reports.**

Dr. Dobell asked if Dr. Pompa could be approved as her therapist as she has already talked with Dr. Pompa and she is in a good location.

**Ms. Taxin responded Dr. Dobell could ask Dr. Pompa if she is comfortable being her evaluator and her therapist and if Dr. Pompa is not comfortable being Dr. Dobell's therapist she might make some recommendations of others Dr. Dobell could contact.**

**The Board determined Dr. Dobell is currently in compliance with her Stipulation and Order without being employed.**

**An appointment was made for Dr. Dobell to meet April 14, 2010.**

**Ms. Taxin reminded Dr. Dobell to call her if she obtains employment prior to the April 14, 2010 Board meeting date and an earlier appointment will be made.**

**11:10 am**

**BREAK**

**11:20 am**

Dr. Randal N. Ellsworth, Probationary  
Interview

Dr. Ellsworth and Mrs. Ellsworth met for his  
probationary interview.

Dr. Parker conducted the interview.

**Dr. Parker asked if Dr. Ellsworth had any issues or  
anything he would like to discuss today.**

Dr. Ellsworth responded he has been on probation for  
4 years with no problems. He asked if the Board  
would consider terminating his probation. He stated  
he has been working a limited amount of hours at Zion  
Eye in St. George, he has had some problems with his  
hands and is no longer doing any surgery including no  
Lasik surgery. He stated he sees patients referred by  
other practitioners; sees post operative patients and  
patients coming for consults and medical  
ophthalmology. He stated when an Optometrist wants  
a patient evaluated for cataracts he has been the  
evaluator and he consults with family Doctors and for  
eye examinations. Dr. Ellsworth stated he has had  
surgery on his rotator cuff and also carpel tunnel  
surgery.

**Dr. Howell clarified Dr. Ellsworth is consulting and  
doing non-surgical ophthalmological duties.**

Dr. Ellsworth responded Dr. Howell is correct.

**Dr. Lamb commented it was good of Dr. Ellsworth  
to bring his wife today. He stated he will recuse  
himself from any voting as Mrs. Ellsworth was a  
friend of his in their college days. He asked if Dr.  
Ellsworth will make any changes to his practice or  
continue as he has been.**

Dr. Ellsworth responded he will not be making any  
changes to his practice as he is still trying to obtain  
disability benefits. He stated he would like to retire  
with his license active and not on probation. He stated  
he plans to continue living in the Orem area and  
working in St. George for now. Dr. Ellsworth stated  
the clinic wants him to stay with them, however, 2  
Physicians are taking over the clinic and he will need

to see what their plans are. He stated he no longer has the physical strength to work 8 hour days but he may increase his schedule by a few hours. He stated he will not be doing any surgery as it is not in the patient's best interest or his.

**Dr. Lamb stated when Dr. Ellsworth first met with the Board he had some anger over the situation and some denial over his culpability and what happened. Dr. Lamb stated he is no longer seeing excuses and believes Dr. Ellsworth has come to terms with what happened.**

**Dr. Parker asked Ms. Taxin to explain the process for early termination of probation.**

**Ms. Taxin responded Dr. Ellsworth will need to submit a letter requesting early termination of his probation and to include what he has learned from the process, how he is safe to practice and his plan for practice.**

**Dr. Howell asked Dr. Ellsworth to include in the letter that he will no longer be doing any surgery.**

**Dr. Parker made a motion for Ms. Taxin to process Dr. Ellsworth's request for early termination of his probation upon receiving his letter with all the requested information in the letter.**

**Dr. Ries seconded the motion.**

**Dr. Bennion, Dr. George Pingree, Dr. James Pingree, Dr. Howell, Dr. Fowler, Dr. Parker, Dr. Babitz, Dr. Byrd and Dr. Ries voted in favor of the motion. Dr. Lamb abstained from voting. The motion passed with a majority vote.**

**Ms. Taxin stated she will contact Dr. Ellsworth after she receives his letter regarding acceptability and, if all is in order, she will do the paperwork for termination of his probation.**

**Ms. Harry reminded Dr. Ellsworth to continue calling CVI for drug and alcohol testing until he receives his new license.**

**11:40 am to 12:30 pm**

Dr. Alan F. Heap, Probationary Interview

Dr. Heap met for his probationary interview.

Dr. Babitz conducted the interview.

Dr. Heap stated there will be 2 men, Kristy Newingham and some others coming for his appointment.

**Ms. Taxin responded Dr. Heap's guest are welcome to attend the meeting but would not be called upon to speak.**

Dr. Heap stated his practice is going great. He stated he likes his patients and they like him as he is a good practitioner. He stated he has talked with Ms. Taxin regarding his thoughts of going to the Monastery, signing the amended Order and then resuming his practice in 2012 after the probation period has ended.

**Dr. Babitz responded he heard Dr. Heap say he would relinquish his license but plans to return to practice after 2012. He stated Dr. Heap should remember the probation and all the issues are still considered when someone asks for their license to be reinstated.**

Dr. Heap stated he understands but does not believe it is fair. He stated he has had the insurance companies shut him down due to DOPL having him on probation. He stated he is the one who protects his patients, not DOPL. He stated he received calls from people in Philadelphia and California who he has not had contact with for 30 or 40 years and they informed him his name was on the internet disciplinary list. He stated he should not be on probation.

**Dr. Babitz voiced disagreement with Dr. Heap's comment. He stated DOPL did not stop the insurance coverage as the decision is made by the insurance companies based on Dr. Heap's actions. Dr. Babitz stated he does not believe DOPL should not take appropriate disciplinary action so a practitioner can keep their insurance. He stated the Division has received copies of many letters of**

**support for Dr. Heap and the letters have been reviewed.**

Dr. Heap stated he has contacted the Russian Embassy as some of his patients have been persecuted by Ms. Thorell, a DOPL investigator.

**Ms. Taxin interrupted Dr. Heap and stated he is disclosing information about an open investigation which the Board has no knowledge of the circumstances and cannot talk about.**

**Dr. Babitz stated it appears Dr. Heap has seen 10 to 30 patients a day lately but he did not see high doses of prescriptions. He stated the report from Dr. Spector has not been received which makes Dr. Heap out of compliance.**

Dr. Heap stated Dr. Spector said he sent the report on Friday.

**Ms. Harry stated she has not received the report as of yet.**

**Dr. Lamb and Dr. Howell commented Dr. Heap's positive drug test also makes him out of compliance with his Stipulation and Order.**

**Dr. Babitz responded Dr. Heap was given permission to have sacramental wine.**

**Ms. Taxin asked if Dr. Heap has been drinking beyond the approved sacramental wine.**

Dr. Heap responded he has not taken any drink beyond the daily chalice of sacramental wine as he is at the Monastery every day now. He stated he has not been drinking, does not drink often and does not drink at all anymore.

**Dr. Babitz commented he is seeing Dr. Heap be sarcastic and angry today.**

**Dr. Howell commented she is seeing some paranoia in Dr. Heap.**

Dr. Heap responded he is Board Certified as a Psychiatrist, he is very intelligent and not paranoid.

**Dr. Howell stated some of Dr. Heap's letters are very bizarre.**

Dr. Heap responded that is Dr. Howell's opinion and she should keep her opinions to herself. He stated if she was the one on probation and he was the interviewer he might say she is very paranoid.

**Dr. Howell responded he might tell her she is paranoid. She stated his letter appears to be a little disorganized and seems to ramble.**

Dr. Heap responded his letters are very organized and they do not ramble.

**Dr. Babitz read the dual relationship concern noted in the last therapist report and asked if Dr. Heap understood what a dual relationship is.**

Dr. Heap responded he does understand. He stated he was going to hire his nephew but that would be a dual relationship as the nephew is a blood relative.

**Dr. Babitz asked what he thought about patients or prior patients working for him.**

Dr. Heap responded he did have patients or prior patients employed but now has Holly.

**Dr. Babitz stated Dr. Heap's psychological evaluation had the recommendation for therapy at least weekly. He asked if Dr. Heap does go to therapy weekly.**

Dr. Heap responded he does have therapy weekly.

**Dr. Babitz asked if the VA hospital therapist was talking about his physiological and psychological state when he was hospitalized.**

Dr. Heap responded when he became dehydrated he was disoriented.

**Dr. Babitz stated the report recommended Dr. Heap have a support system in place and be on random drug testing.**

Dr. Heap responded the Monastery is his support system and his testing is not random.

**Dr. Babitz clarified Dr. Heap requested the drug testing be on Tuesdays and Thursday instead of random and that was the concession he was given.**

**Dr. Bennion asked Dr. Heap to clarify his earlier comment regarding being in the last stages of pondering surrendering his license.**

Dr. Heap responded his patients are poor and he will have to do some additional research on a financial level to see if he can keep his practice open. He stated he has the Monastery to go to.

**Dr. Bennion asked how long Dr. Heap plans to ponder.**

Dr. Heap responded he has to ponder the financial aspect, the living aspect and his patients as if he is not there his patients will still need help.

**Dr. Howell stated there is a letter in his file, written by him to Ms. Harry stating he has decided to take a leave of absence. She asked Dr. Heap to clarify the letter.**

Dr. Heap responded his secretary recommended he leave his practice before DOPL takes his license away from him.

**Dr. Babitz asked if Dr. Heap is currently taking any medications.**

Dr. Heap responded he is and listed the medications.

**Dr. Babitz stated it appears Dr. Heap's practice is doing better and he appears to be seeing more patients.**

Dr. Heap responded his original secretary used to

schedule patients every 15 minutes to get more money coming in. He stated he now sees patients for about a half hour and has time to get to know them better.

**Dr. Babitz asked if Dr. Heap is making enough to make his overhead.**

Dr. Heap responded no, he is not.

**Ms. Taxin stated Dr. Heap has said he does not have a home, a car, etc.**

**Dr. Bennion asked if Dr. Heap goes from Tooele to the Monastery every day.**

Dr. Heap responded yes, he goes to the Monastery to shower, clean up and to take his medications.

**Dr. Lamb stated the Board is seeing a different Dr. Heap today. He stated the Board has had numerous concerns about Dr. Heap and for him. Dr. Lamb stated there was one meeting when he appeared beaten down and confused and he identified himself as an easy pushover for patients and people who needed controlled substances. He asked Dr. Heap if he would consider himself safe to practice.**

Dr. Heap responded he doing ok today and has been much better since March 2009. He stated yes, he is safe to practice.

**Dr. Lamb asked if Dr. Heap still considered himself an each pushover.**

Dr. Heap responded no, he would not. Dr. Heap asked if there is any way to get back on insurance panels.

**Ms. Taxin responded the insurance is a separate entity from the Division.**

Dr. Heap then asked if there is any way to get off probation.

**Dr. Babitz responded the Board would need to see at least a year of Dr. Heap being fully in**

**compliance with his Stipulation and Order as amended. He stated the reports are a very important part.**

**Ms. Harry stated she will need the name of his therapist at the VA hospital in order to get them set up to submit reports regularly and the therapist will need to submit a letter acknowledging having read Dr. Heap's Stipulation and Order and agreeing to submit the reports.**

**Ms. Taxin asked if Dr. Heap's current therapist could submit a letter documenting termination of therapy due to a transfer to the VA therapist.**

Dr. Heap commented he completed the training and is now specialized in prescribing opioids.

**Ms. Harry asked Dr. Heap to submit the certificate to document for his file.**

**Dr. Babitz voiced appreciation for Dr. Heap meeting and said he was in compliance.**

**An appointment was made for Dr. Heap to meet April 14, 2010.**

**Dr. Heap left the meeting.**

**Dr. Howell voiced concern regarding all the monitoring required for Dr. Heap and his being irritable, grandiose and paranoid today. She stated it is more than being angry at an AG and an investigator. Dr. Howell stated she would like to have Dr. Heap evaluated at an out of state facility as she believes he needs a more comprehensive evaluation and there is not one in Utah. She also stated practitioners in Utah may know him.**

**Dr. Fowler, Dr. Howell and Dr. Byrd asked about the safety of the Board when Dr. Heap meets and voiced concern about him practicing.**

**Ms. Taxin responded she did not believe the Board is at risk but their concern is noted.**

**Ms. Taxin voiced concern to the entire Board that they did not voice their concerns directly to Dr. Heap and in the future they need to speak to the probationer as to their concerns of safety to practice.**

Mr. Lau, AG, stated the Board has 2 choices regarding Dr. Heap's license:

1. Recommend an Order to Show Cause and he will schedule a hearing.
2. Or, if a majority of the Board deems it to be a situation for a medical or physical evaluation and Dr. Heap does not agree, the board may request the license be suspended until the medical or physical evaluation has been completed.

**Dr. Babitz asked for guidance regarding what the Board should recommend as Dr. Heap may not have the funds to go to an out of state facility.**

**Ms. Taxin stated Dr. Heap reported he was in a delirium when he was at the VA hospital but the hospital documents alcohol and benzodiazepine in his system.**

Mr. Lau stated the new amended Stipulation requires Dr. Heap to notify DOPL if he ever goes into a hospital. He stated if the Board reviews Dr. Pompa's evaluation it states Dr. Heap should be drug testing. Mr. Lau stated he and Ms. Taxin suggested Dr. Heap do random drug tests but he insisted he test twice a week so that concession was made for him to test Tuesdays and Thursdays. He stated the concession for Dr. Heap to have sacramental wine once a week was also made and today Dr. Heap disclosed he is taking sacramental wine daily.

**Dr. Babitz stated Dr. Heap has already had one psychological evaluation and he is following the recommendations. He stated Dr. Heap has also submitted many letters that say he is a good practitioner.**

**Dr. Howell disagreed with Dr. Babitz. She stated Dr. Heap has asked patients to write the letters**

**which is a boundary issue. She stated the many letters Dr. Heap has written become more bizarre over time and, if he was a patient she would be quite concerned. She stated she did not diagnose him today but his irritability, grandiose posturing and paranoia are symptoms of something going on. Dr. Howell stated if he was in an evaluation facility for 4 days they would watch him, evaluate him and submit a more detailed evaluation.**

**Dr. Ries voiced concern regarding being approved to take sacramental wine once a week and today he admitted to taking a challis of wine daily.**

**Ms. Taxin stated Dr. Heap has also had some confusion on dates, etc. She stated her understanding was he currently has no staff working for him but today he mentioned Holly.**

**Ms. Harry stated she had talked with Holly who said she only goes in sometimes to help Dr. Heap as he cannot afford to pay her.**

**Dr. Ries stated Ms. Taxin mentioned another complaint. She asked if he made a complaint or if someone else made a complaint against Dr. Heap.**

**Ms. Taxin responded someone else complained against Dr. Heap. Ms. Taxin stated she brought the amended Stipulation for surrender today and after all the time to write it Dr. Heap said he did not want to sign it. She explained that a person can't just say they want to surrender, they have to sign a legal surrender document and there are usually some conditions that have to be met before they can reapply for their license.**

**Dr. James Pingree asked if the Board believes Dr. Heap is a danger to his patients.**

**Dr. Howell responded he could be a danger to his patients as his judgment seems impaired based on the letters he has written.**

**Mr. Lau stated he and Ms. Taxin tried twice to get Dr. Heap to agree to random drug testing but he would not**

agree to anything but Tuesday and Thursday testing. He stated Dr. Heap took a medication prescribed to his office manager who has had legal problems related to drugs, he treated his brother, he has hired patients to work for him and he has been arrested 3 times for DUI's.

**Dr. Ries asked how soon an Order to Show Cause hearing could be scheduled.**

Mr. Lau responded if he writes and sends the Order tomorrow it would give Dr. Heap a time period to respond and the hearing could be scheduled 6 to 8 weeks out. He stated he is aware the Board was trying to be nice to Dr. Heap today but they let him leave with the comment he was doing ok and to continue. He stated if the Board believes Dr. Heap is imminent danger to the public they should request an emergency hearing to suspend his license until an Order to Show Cause hearing is scheduled.

**Dr. Babitz commented Dr. Heap has met with the Board for many years and the Board has never requested an Order to Show Cause.**

**Ms. Taxin reviewed the February and March schedules regarding the Board meeting dates. She stated she could contact Dr. Heap and give him his options regarding the Board believes he could do harm to his patients and ask him to sign the surrender document. She stated if he does not agree then Mr. Lau could schedule an Order to Show Cause hearing.**

Mr. Lau stated March or April would be the realistic dates.

**Dr. Lamb made a motion regarding there being enough concerns that the Board believes Dr. Heap's license should be revoked. He stated Dr. Heap should be given 2 weeks to take the option of voluntarily surrendering his license under the conditions of the surrender Order or Mr. Lau should schedule the Order to Show Cause Hearing. He concluded the motion be stating if Dr. Heap surrenders he cannot reapply for a period of 5**

**years with additional conditions that must be met.**

**Dr. Byrd seconded the motion**

**The Board vote was unanimous.**

**Ms. Taxin stated she will offer the surrender for a 5 year period.**

Mr. Lau asked the Board to address the reasons why they did not voice their concerns while Dr. Heap was in the meeting.

**Dr. Lamb responded he did not believe all the information was discussed during Dr. Heap's appointment.**

**Dr. Byrd stated he was concerned about the safety of the Board based on the letters Dr. Heap submitted and Dr. Heap's comments.**

**12:30 pm to 1:00 pm**

**LUNCH BREAK**

**1:00 pm to 1:30 pm**

Dr. Clark Newhall, Clarification of Internet Services

Dr. Newhall met to discuss internet services.

Board members, Division Staff and AG were introduced.

Dr. Newhall explained his internet services will be generated by referrals only for initial evaluations and then a follow-up appointment. He stated when the company refers a patient they also provide the medical information on the patient. He stated his services do not require patients to fill prescriptions on-line or through the company's pharmacy. Dr. Newhall stated the patient is given a written prescription to fill at a pharmacy of their choice. He stated patients are screened to find out if they are seeking schedule 2 prescriptions and are informed in advance that the service is not for prescription services. He stated he has seen 2 patients and has followed the outline for them. Dr. Newhall stated he explain to the 2 patients he is seeing them only for chronic pain and if they need additional care they should contact their primary care Physician as he will not prescribe schedule 2

medications unless he is seeing them monthly and the medications are appropriate. He stated there is one patient that he knows he will need to be more careful with as she appears to be more on the addictive side. He stated he requested to meet with the Board so there would be no confusion.

**Dr. Howell asked for clarification regarding Dr. Newhall seeing the patient in person and not prescribing over the internet.**

Dr. Newhall clarified he does see the patient in person and does the follow-up appointment with a phone call regarding how they are doing and if the patient is satisfied, etc. He stated if the company wants him to see the patients monthly he will. He stated some patients are seen once a year but he is to call them monthly or quarterly.

**Dr. Ries commented it is like the chronic pain practice where she is employed.**

Dr. Newhall responded she is correct.

**Dr. Ries ask why he does not open a traditional chronic pain practice since he is doing it anyway.**

Dr. Newhall responded he does not want a full practice and has no interest in billing insurance for payments.

**Dr. Ries asked if most patients are insured.**

Dr. Newhall responded he does not ask the patients as they pay cash for the visit. He stated he did inquire with the company and was informed a lot of the people have jobs but don't want their employer to know they are having chronic pain issues.

**Dr. Byrd asked what type of practice Dr. Newhall had when he was in full practice.**

Dr. Newhall responded he had a private practice in an assisted living facility.

**Dr. Byrd stated the practice appears to be legal but Dr. Newhall should coordinate with the patient's**

**primary Physicians and pain clinic specialists. He stated Utah has a large problem with overdose of medications. He asked why Dr. Newhall wants to work at this type of practice.**

Dr. Newhall responded he is being paid for providing the service and it is helping people. He stated a lot of practitioners are frightened of prescribing narcotics and people want the narcotics for diversion purposes. He stated he has also found there are a lot of practitioners who do not prescribe adequate amounts of narcotics to their patients.

**Dr. Byrd stated he believes Dr. Newhall does a huge disservice to the patients.**

**Ms. Taxin stated if the practice is legal practice it is acceptable in Utah. She stated Dr. Newhall brought up good issues but the program does not fall in the internet prescribing category and agreements.**

**Dr. Fowler asked if Dr. Newhall is the one who makes the initial decision of what medications to prescribe or have the patients already been to Physicians and now Dr. Newhall is needed to check on them to be sure they are doing ok on their medications. He stated treating chronic pain is not what ER doctors usually do because they don't want to see the same patients for 10 years. He asked what coverage Dr. Newhall has provided for the patients.**

Dr. Newhall responded he is available to his patients. He stated ER doctors see more chronic pain patients than the Board thinks as patients go to the ER because they don't think their Physician is treating them as they need. He stated from what he has seen these patients have had a thorough workup and bring their records with them to their appointments. He stated he wanted to be up front with the Board and let them know what he is doing in case the Board had concerns.

**Dr. Lamb asked if Dr. Newhall has a way to work with the primary care provider so they are aware of what he is doing and he is aware of what the**

**primary care provider is doing.**

Dr. Newhall responded he sends the entire patient file to the primary care provider after the appointment.

**Dr. Lamb asked if Dr. Newhall is prepared to use modern narcotic modalities in dealing with the pain of his patients. He stated a Physician could fall into the trap of giving the same medications without considering different options.**

Dr. Newhall responded he is prepared. He stated if the patient does not believe they need a narcotic then he will suggest they go to their primary care provider. He stated if a patient is obtaining a narcotic from him they will get it only from him. Dr. Newhall stated most patients who have chronic pain have probably already tried other modalities or don't have the funds to try other modalities. He stated if he documents he has discussed other issues with a patient then it should not be an issue.

**Dr. Howell commented his practice is unusual as he receives his referrals through the internet but he examines the patients. She stated if there was a complaint the investigator would ask to review his records.**

**Dr. Ries asked what type of staff Dr. Newhall has.**

Dr. Newhall responded there are himself and 2 secretaries.

**Dr. Ries reminded Dr. Newhall there are services who do surgeries for free for some uninsured patients.**

**Dr. Howell stated Dr. Newhall has said many patients do not have insurance yet they go through his type of service that will skim off a profit and they pay more for the service. She asked if that means they are coming for the drugs.**

Dr. Newhall responded yes, they are coming for the drugs. He stated he does check the database to be sure his patients are not prescription shopping.

**Dr. Parker stated it is Dr. Newhall's right to practice medicine as he has a license and as long as he obeys the Laws the Board has nothing to do with his practice or the process.**

**Dr. Byrd asked how the patients find the on-line program and would Dr. Newhall take patients off narcotics if appropriate.**

Dr. Newhall responded he does not know how patients find the internet referral and yes, he would take patients off narcotics if he can.

**Dr. James Pingree cautioned Dr. Newhall to be sure to practice good medicine.**

**Ms. Taxin stated if someone files a complaint that they believe Dr. Newhall is doing wrong and investigator will contact him to discuss the complaint. She stated he should also have a very clear business plan and documentation so he can speak to it and then do the practice as it should be done.**

Dr. Newhall thanked the Board for their comments.

**1:30 pm**

Dr. Itoro Elijah, USMLE Examination Discussion

Dr. Elijah met to discuss passing part III of the USMLE examination.

Board members and Division staff were introduced.

Dr. Lamb conducted the interview.

**Dr. Lamb explained Dr. Elijah is meeting as the Rules require anyone who has failed the USMLE 3 times must meet with the Board for guidance. He asked Dr. Elijah to explain her position.**

Dr. Elijah responded she obtained a position in Utah as a 3<sup>rd</sup> year resident. She stated she is currently on a leave of absence from the program due to failing the USMLE and will return to the program after she passes the examination. She stated she will have 3 years of residency to complete. Dr. Elijah stated she

failed Part I of the USMLE twice and had no problems with Part II.

**Dr. Lamb stated Dr. Elijah was close to passing each time she sat for the examination. He asked Dr. Elijah to explain her plan regarding passing the USMLE.**

Dr. Elijah responded her strengths and weaknesses varied each time she took the examination. She stated she has seen 2 people for testing to determine if she has test anxiety and it was determined she did not. Dr. Elijah stated Dr. Pompa had her do a series of tests to find out how she was processing information and found she does not have trouble processing. She stated Dr. Pompa gave her some recommendations on how to improve as her memory was the biggest issue. Dr. Elijah stated she needs repetition to be able to process and retain information.

**Dr. Lamb suggested individual tutoring.**

Dr. Elijah responded there is a prep course next week at Kaplan Center in Chicago which she is planning to attend.

**Dr. Howell stated Dr. Pompa also suggested taking the examination again to see how she does.**

**Ms. Taxin stated Dr. Elijah needs Board approval to retake the examination after 3 failed examinations. She stated she would like the Board to make a recommendation prior to her approving Dr. Elijah to take it again. Ms. Taxin stated Dr. Elijah should also have another plan in place in case she does not pass again.**

**Dr. Babitz made a motion to approve Dr. Elijah to sit for the USMLE Part 3 examination over the next year.**

**Dr. Ries seconded the motion.**

**The Board vote was unanimous.**

**Ms. Taxin asked the Board if they had any further**

**suggestions for Dr. Elijah.**

**Dr. Babitz responded the Board has not given any suggestions Dr. Elijah does not already have.**

**Dr. Ries asked if Dr. Elijah has ever taken the Kaplan course.**

Dr. Elijah responded she has not.

**Dr. Ries stated she has assisted in writing test questions and believes in the course and taking practice questions will help Dr. Elijah.**

**Ms. Taxin requested Dr. Elijah contact the Division after she takes the course so she can be approved to sit for the examination.**

Dr. Elijah thanked the Board for their comments and for meeting with her.

## **DISCUSSION ITEMS:**

FSMB Annual Meeting

Ms. Taxin stated she requested approval for herself and one other person to attend the FSMB Annual Meeting. She stated the paperwork for registration is due February 1, 2010.

**Dr. Babiz recommended the chairperson attend.**

**Dr. Bennion voiced desire to attend.**

Ms. Taxin gave him the dates and stated she will contact him regarding approval.

Prescribing Practices

Ms. Taxin explained Dr. Howell had concerns regarding Physicians prescribing to family members. She stated prescribing to family members is not best practice and if Physicians are prescribing to family members they should document well and have a complete patient chart. Ms. Taxin requested Dr. Howell to write up information for discussion at the next scheduled Board meeting.

**Dr. Howell voiced her concern about practitioners who know they should not prescribe to family**

**members but prescribe controlled substances.**

**Dr. Lamb commented the concern is if a Physician prescribes a controlled substance to a daughter, mother, etc and then it becomes a problem if the family member wants something more. He stated many practitioners do not know or understand the pitfalls.**

**Dr. Ries stated there are also concerns regarding prescribing outside the specialty.**

**Dr. Babitz stated he would prescribe for acute care issues but not for chronic care.**

**Dr. James Pingree stated it is not illegal to treat family members.**

**Dr. Howell responded it is illegal in some ways.**

Ms. Taxin stated if a prescription for a controlled substance is given to a family member the DEA could get involved and then the practitioner could have several problems.

Further discussion will take place at the next scheduled Board meeting.

Update on Dr. F. Michael Crane

Ms. Taxin stated Dr. Crane was to meet today but he left a message to inform her that he did not get his CE requirement completed and was attending a course. Ms. Taxin stated the reports from Dr. Crane's employer have been positive. Ms. Taxin stated the Board will need to review his compliance and meet with him in March.

**Dr. James Pingree requested Ms. Taxin to briefly remind the Board of Dr. Crane's issues in Colorado.**

Ms. Taxin stated Dr. Crane believed people at the clinic in Colorado where he worked were not offering proper care.

**The Board then recalled his situation.**

**Dr. James Pingree commented it is interesting that Dr. Jones mentioned staff at the clinic have similar concerns about Dr. Crane.**

**Dr. Babitz informed the Board Dr. Crane is working at the State clinic in Ogden. He stated he has reviewed Dr. Crane's charts and there were some little things to be corrected but nothing serious.**

Ms. Taxin asked Dr. Babitz if he was Dr. Crane's supervisor and he responded no.

Ms. Taxin stated she believes Dr. Crane talked with Ms. Harry regarding early termination of his probation when he meets with the Board. She stated Dr. Crane's probation period will soon be completed. Ms. Taxin stated the Division will contact Dr. Crane to meet in March and notify him the Board will consider termination at that time.

FYI

The Board noted the passing of Dr. Darrell Anderson on December 11, 2009.

FYI

The Board noted February 10, 2010, will be a hearing for Dr. Max Cannon.

FYI

The Board noted March 10, 2010, will be a Board meeting in the morning from 9:00 am to 12:00 pm and a hearing for Dr. Michael Goates from 1:00 pm to 6:00 pm.

FYI

The Board noted the Limited On-Line Prescribing Rule Hearing, scheduled for February 11, 2010, has been postponed. Board members will be notified when the Hearing has been rescheduled.

2010 Board Meeting Schedule

The Board noted the following dates for the 2010 Board meeting schedule: Wednesdays, March 10, April 14, May 4, June 9, July 14, August 11, September 8, October 13, November 10 and December 8, 2010.

**CORRESPONDENCE:**

CPEP – Elizabeth J. Korinek, M.P.H., Letter and Article regarding “Do Physicians Referred for Competency Evaluations Have Underlying Cognitive Problems?”

Due to the time, Dr. Fowler took the article for review.

**No Board action was taken.**

ABIPP – Mark V. Boswell, MD, PhD, Letter and Information Requesting Recognition for Board Certification

The Board reviewed the letter.

Ms. Taxin stated, based on the Law and Rule, the Board/Division do not approve for Board Certification.

**Dr. Lamb responded the American Board of Medical Services, ABMS, is the entity that recognizes and reviews for Board Certification.**

CAC Membership Information

Due to the time, Dr. Lamb took the information for review.

**No Board action was taken.**

**NEXT MEETING SCHEDULED FOR:**

March 10, 2010

**ADJOURN:**

The time is 2:17 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.*

March 10, 2010  
Date Approved

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

February 16, 2010  
Date Approved

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