

**MINUTES**

**UTAH  
PHYSICIANS  
LICENSING BOARD  
MEETING**

**December 8, 2010**

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

**CONVENED:** 9:08 A.M.

**ADJOURNED:** 2:34 P.M.

**Bureau Manager:**

Noel Taxin

**Board Secretary:**

Karen McCall

**Compliance Specialist:**

Debbie Harry

**Board Members Present:**

Elizabeth F. Howell, MD, Chairperson

Lori G. Buhler

James H. Pingree, MD

Daniel J. Parker, MD

Marc E. Babitz, MD

John W. Bennion, Ph.D.

Kristen Ries, MD

Richard W. Chapa, MD

**Board Members Absent:**

David D. Byrd, MD

James R. Fowler, MD

Kenneth L. Schaecher, MD

**Guests:**

Mark Brinton, UMA

Maria C. Currier

Michelle McOmber, UMA

Casey Hill, UMA

**DOPL Staff Present:**

Mark B. Steinagel, Division Director

**TOPICS FOR DISCUSSION**

**DECISIONS AND RECOMMENDATIONS**

**ADMINISTRATIVE BUSINESS:**

**MINUTES:**

The minutes from the November 10, 2010 Board meeting were read.

Dr. Ries made a motion to approve the minutes with minor corrections. Dr. Chapa seconded the motion. **The Board vote was unanimous.**

#### **BUSINESS FROM PREVIOUS MEETING:**

Further Discussion Regarding Incompetent Practitioners and Gathering Information

Dr. Bennion asked if Ms. Taxin had contacted the Federation (FSMB) to obtain Laws from other States in regard to hospital information on incompetent practitioners.

**Ms. Taxin responded she did contact FSMB and they responded with information on controlled substances (CS) and which States have CS Laws. She stated FSMB did not really respond to her question.**

Dr. Bennion requested Ms. Taxin to ask FSMB again and report back to the Board at the next scheduled meeting. He stated he has heard of a few States that require hospitals to report incompetency and he could contact those States if necessary.

#### **APPOINTMENTS:**

**9:15 am**

Debbie Harry, Compliance Update

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

Ms. Harry reported **Dr. Nathan R. Currier** is currently in compliance with his Stipulation and Order as all paperwork was submitted on time. She stated his supervisor, Dr. Davis, has praised Dr. Currier for doing such a good job.

**Dr. Pingree asked if the Board has approved for Dr. Currier to again treat chronic pain management as his Order requires Board approval.**

Ms. Harry, Ms. Taxin and Dr. Babitz responded the requirement was in the original Order which has been amended. They stated Dr. Currier is not doing any chronic pain management.

Ms. Harry reported **Dr. Kittya N. Paigne** is currently in compliance with his Memorandum of Understanding. She stated it appears Dr. Paigne has written two prescriptions for a family member and the Board should question him regarding the prescriptions.

**Dr. Babitz stated Dr. Paigne must have a chart on the family member if he is prescribing.**

**Ms. Taxin stated he should have a chart but it is not recommended that Physicians treat family members especially prescribing CS's. She stated she noted the prescription was written for Utah but Dr. Paigne's address is California. Ms. Taxin requested the Board also clarify his address.**

Ms. Harry reported **Dr. Stephan Kitson** is currently in compliance with his Memorandum of Understanding. She stated Dr. Kitson's employer has recommended termination of probation. She stated the Board should clarify where Dr. Kitson is in his Colorado probation.

**Ms. Taxin reminded the Board that Colorado has refused to provide any paperwork to Utah.**

**Dr. Babitz stated he believes it is conflict of interest for an employer to recommend termination of probation. He stated the letter does not indicate they met together and discussed Dr. Kitson's issues. He stated he would like to see a stronger, more informative letter/report.**

**Ms. Taxin responded the Division receives recommendations all the time from employers. She stated the employer knows if the probationer is following the Order and should make recommendations based on their knowledge. She stated she believes Dr. Kitson will have the Colorado probation completed soon.**

Ms. Harry reported **Dr. Donald N. Harline** is currently in compliance with his Stipulation and Order as much as he can be for his first appointment. She stated Dr. Harline's license is currently on suspension.

She stated Dr. Harline had a romantic relationship with a patient and admitted it started by viewing pornographic material on the internet.

**Ms. Taxin explained the license was suspended until Dr. Harline completed comprehensive psychological, psychosexual and neuropsychological evaluations. She stated he has completed a program through Pinegrove in Hattiesburg, Mississippi and received a letter of clearance from his treating Physician/counselor stating he is fit for duty. She stated Dr. Harline has requested the suspension be lifted but she believed he should meet with the Board prior to lifting the suspension.**

**Dr. Babitz asked what Dr. Harline's specialty is.**

**Ms. Taxin responded family practice. Ms. Taxin then reviewed the Order facts and conditions with the Board. She also reviewed the evaluation and stated Pinegrove wrote the letter stating Dr. Harline is fit for duty but recommended he be monitored, have a supervisor and a chaperone for all female patient examinations and that he return to Pinegrove in six months for follow up evaluations. She stated individual therapy and marriage therapy were also recommended and she understands the Harline's are attending therapy. Ms. Taxin stated the Board may want to close the meeting for discussion of the evaluation. She stated Dr. Harline will be on probation for some time and the Board may want amend his Order to include the recommendations from Pinegrove.**

**Dr. Howell asked if there was a recommendation for medication.**

**Ms. Taxin responded no.**

**Ms. Buhler asked the length of time for the suspension.**

**Ms. Taxin responded the suspension is until Dr. Harline completed the Pinegrove evaluation program, which he has done but the Board could**

**recommend he attend more therapy sessions prior to lifting the suspension. She stated the probation is for three years based on him admitting to one incident during the investigation but during a polygraph test at Pinegrove it was revealed there were multiple patients.**

**Dr. Chapa asked what is required of a chaperone.**

**Ms. Taxin responded a chaperone would be an employee of Dr. Harline's and would be required to be present when he examines any female patients. She stated since Dr. Harline is the employer the Board would need to interview the chaperone to be sure they understand the expectations and that a report is required.**

Ms. Harry stated Dr. Harline is also required to meet weekly with a supervisor to review charts, medication/prescriptions written, etc.

**Ms. Taxin stated the Board could require the supervisor to meet with the Board and require the supervisor to speak with Dr. Harline's staff. She explained another probationers supervisor drops in at the office randomly to talk with staff and to review things at the office.**

**Dr. Chapa asked if the chaperone is required to be present for a female patient if the parent is present.**

**Ms. Taxin responded it might be safer for the chaperone to be present but the Board could advise Dr. Harline that the chaperone would not be necessary if the parent is present. She stated Dr. Harline appears to be committed to the process and wants to work on the conditions to be a better practitioner.**

**Dr. Ries asked if it is common for the evaluation programs to require polygraph tests.**

**Dr. Howell responded she is not familiar enough with the programs to know if it is common but these programs do a lot of work with sexual addiction and they will conduct tests to determine**

**if the patient/client is being honest.**

**Ms. Taxin stated she requested Pinegrove to send her information regarding the programs they offer.**

Ms. Harry reported **Dr. Gregory Hoffman** is currently in compliance with his Stipulation and Order. She stated Dr. Hoffman had a sexual relationship with an adult female with whom he provided health services and Oregon took disciplinary action. Ms. Harry stated Dr. Hoffman came to Utah to work but has lost his position with IHC due to losing Medicaid insurance privileges and now wants to return to Oregon to work. She stated Dr. Hoffman completed the PACE boundaries course.

**Ms. Taxin disclosed she was one of Dr. Hoffman's trainers at the U of U and will disclose the information on record to Dr. Hoffman and re-ask if he wants her to step out during his interview.**

**Dr. Parker disclosed he attended medical school with Dr. Hoffman and will also ask.**

**Dr. Howell noted Dr. Hoffman was required to complete a boundaries course but is not required to go to therapy.**

**Ms. Taxin responded the Utah Order is modeled after the Oregon Order which does not require therapy but she believes he is going to therapy.**

**Ms. Buhler asked if a Physician has a boundary violation which affects his Physician license does it also affect the DEA registration.**

**Ms. Taxin responded if the license was revoked or was drug related then it would affect the DEA registration.**

**Dr. Chapa noted the Oregon Order indicates probation for a period of five years but the Utah Order has probation for two years.**

**Ms. Taxin stated the Utah Order could be a typo**

**but the Board should ask Dr. Hoffman how long he is on probation for Oregon.**

**9:30 am**

Dr. Nathan R. Currier, Probationary Interview.

Dr. Nathan R. Currier met for his probationary interview. Mrs. Currier met with Dr. Currier.

Dr. Chapa was introduced.

Dr. Babitz conducted the interview.

**Dr. Babitz commented it appears Dr. Currier is doing well based on the reports received, however, there is no report regarding the supervisor reviewing the required 20% of Dr. Currier's charts. He asked how many hours Dr. Currier is working at the Marion Center.**

Dr. Currier responded he is working 12 to 15 hours a week. He stated he does rounds and then goes to his office to review charts. Dr. Currier explained his supervisor's father has been ill and passed away on Thanksgiving Day and this last report was late and brief.

**Dr. Babitz stated it is important for the report to be complete and asked Dr. Currier to discuss the issue with his supervisor to be sure it is included in the next report. Dr. Babitz stated he noticed Dr. Currier has written several prescriptions for Adderall and one patient has had a prescription for Diazepam 3 times a day which is somewhat of a large dose.**

**Ms. Taxin stated she also noticed Dr. Currier had written a lot of prescriptions for Adderall. She explained these comments are given to Dr. Currier to make him aware but he is the Physician treating the patient and needs to be treating based on his medical opinion and review of the patient.**

Dr. Currier thanked Dr. Babitz and Ms. Taxin and stated he picked up the one patient from a psychiatrist who left the area and has kept the patient on the same medications.

**Dr. Babitz stated Dr. Currier should have a medication contract with the patient and review it regularly. He stated Dr. Currier should also be checking with the database and Pharmacy to be sure the patient is not also obtaining medications elsewhere. Dr. Babitz suggested Dr. Currier do random drug checks to be sure the patient is taking the medication. He stated when picking up a patient it is important not to take medications away immediately as the patient could go into withdrawal and that is not good.**

**Ms. Taxin asked if Dr. Currier is documenting in the patient chart.**

Dr. Currier responded yes. He stated he believes this patient is moving to another State and he may not be seeing the patient again.

**Ms. Taxin stated Dr. Currier does not have to continue to follow what another practitioner has done and could suggest medications be reduced if appropriate.**

**Dr. Babitz referred Dr. Currier to another patient and asked him to explain the high number of 180 tablets given at one time.**

Dr. Currier responded the patient's insurance is an online company and will only pay for a 90 day supply so that is what he has prescribed.

**Dr. Howell commented she believes the DEA will not allow prescriptions for large amounts of schedule II medications.**

**Ms. Taxin stated Dr. Currier must follow the DEA guidelines and should not write a prescription for over 30 days if that is their requirement but he should be sure he writes clear notes in the patient chart. She suggested Dr. Currier call the DEA for clarification. She stated if Dr. Currier is audited then he is covered.**

**Dr. Howell stated if she is writing a three month prescription she will write the prescription and**

**write a note in the chart regarding the reason for a three month prescription so anyone reviewing the chart is aware.**

Dr. Currier thanked Ms. Taxin and the Board for their suggestions.

**Dr. Babitz asked if Dr. Currier has had any changes in his own medications or any additional medical issues. He asked if Dr. Currier is looking for more work.**

Dr. Currier responded no. He stated his home life is going well, but this is a busy time for Physicians as patients are in crisis which makes it stressful for Physicians as well. He stated he likes what he does and is not looking for more work.

**Ms. Taxin voiced appreciation for Dr. Currier's compliance with his Stipulation and Order.**

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

**An appointment was made for Dr. Currier to meet again March 9, 2011.**

**9:50 am**

Michelle McOmber, UMA, Update on Proposed Law changes

Mark Brinton, UMA Attorney, met with the Board until Ms. McOmber arrived.

Mr. Brinton informed the Board that Casey Hill will be the lead person on the Legislative process. He then distributed two documents of rough drafts of the Medical Practice Act changes and stated Ms. McOmber and Ms. Taxin have not yet reviewed the information.

Mr. Brinton stated the first document consisted of possible changes to licensure requirements for Physicians and Osteopathic Physicians as they are planning to make the Practice Acts parallel.

Ms. McOmber arrived at the meeting.

Ms. McOmber explained she and Mr. Brinton have had discussions with the U of U regarding endorsement requirements for licensure. She stated the Association goal is to define requirements clearly with fairness to licensed practicing Physicians.

Mr. Brinton reviewed the proposed endorsement requirements with the Board.

Ms. McOmber stated the Association has also considered foreign trained individuals and are considering some requirements for them to become licensed.

Mr. Brinton reviewed residency requirements and possible examination timeline requirements. He questioned if there is a timeline for someone who does not obtain licensure right away, takes a hiatus for several years, such as 10 years, and does not meet other pathways.

**Ms. Taxin responded the requirement would be to take and pass the SPEX examination.**

**Dr. Babitz stated there is no correlation on practice for Parts I and II of the USMLE but Part III is practice oriented.**

**Ms. Taxin stated if the Association proposes in Statute that the SPEX examination is required on all applicants who have not taken their examination within the last five years or are Board certified it will make licensure more difficult for applicants. She stated that is currently what the Osteopathic Physicians require.**

**Dr. Parker asked about requiring Board Certification.**

**Ms. Taxin responded any experience out of the United States cannot be verified. She asked if the requirements should say after a specific number of years you must take the SPEX or apply by pathway x.**

Mr. Brinton clarified residencies and fellowships

would be excluded from licensure. He stated these individuals could see and treat patients but could not prescribe. He suggested setting out a limitation of time if the person has not practiced anywhere.

**Ms. Taxin stated there are quite a few applicants who have not practiced for a number of years and there is nothing in the current Law or Rule that addresses how to document their competency beyond taking the SPEX examination.**

**Dr. Chapa commented if a Physician is out of practice for some reason there should be some type of proof that they have kept abreast of the changes in the profession through CE documentation or some other means.**

Mr. Brinton stated they are proposing the endorsement requirements include a person has to have a current license which is unrestricted, be engaged in the legal practice of medicine for not less than 6000 hours immediately preceding submitting an application, have no investigation or action pending, not have a suspended or revoked licensure unless it has been reinstated to full unrestricted licensure, not have surrendered a license in lieu of having disciplinary action and also include full disclosure of any action or surrender and conduct corrected or resolved.

**Ms. Taxin responded at this time she could issue a conditional license or a disciplinary license if an investigation is pending.**

Mr. Brinton stated the current examinations would be included in the Law and further defined by Rule. He stated the not currently licensed area is all new and it would exclude those who are not ABMS Certified and those who were grandfathered in.

Ms. McOmber stated the information being presented is the general direction the Association wants to go but that these are brainstorm ideas and they would like some feedback from the Board and Division as they want to be sure the Board/Division are comfortable with the changes.

**Dr. Howell responded she believes the draft addresses concerns that have consistently come up and it also cleans up some areas of concern.**

Mr. Brinton asked about advertising language, i.e.: using the acronym MD. He stated he and McOmber can research language in other states to see what they are doing.

**Dr. Pingree commented using doctor can be misleading as you could be a Chiropractor, a Dentist or a Physician.**

Ms. McOmber stated the Association wants the information to be clear to the public that the licensee has specific full education and training. She stated a concern is if someone is in a health care facility what designation should be used so patients and family know who they are.

Mr. Brinton concluded his presentation with the exemption from licensure in regard to bringing in outside practitioners where there is a need. He also covered additional provisions regarding exemptions and stated the Association is considering narrowing the exemption provision down.

**The Board thanked Mr. Brinton and Ms. McOmber for the presentation.**

**11:00 am**

Dr. Kittya N. Paigne, Telephonic Probationary Interview

Dr. Paigne met telephonically for his probationary interview.

Dr. Parker conducted the interview.

**Dr. Parker asked if Dr. Paigne is applying for early termination of his California probation.**

Dr. Paigne responded yes. He stated he has submitted the request and California will take up to 90 days to review and schedule a hearing. He stated the whole process may take from four months up to a year to complete. He stated he is still practicing in California.

**Dr. Parker asked if Dr. Paigne is using any**

**Physician extenders, i.e.: Physician Assistants.**

Dr. Paigne responded no.

**Dr. Parker requested Dr. Paigne to explain the two schedule IV prescriptions he wrote in Utah for Phentermine and Codeine. He stated it appears the patient is a family member.**

Dr. Paigne responded the person's Physician was out of town and he was asked to give refills. He stated the person is an ex-family member.

**Dr. Parker asked if Dr. Paigne kept a chart on the patient.**

Dr. Paigne responded no as the person was not a patient.

**Ms. Taxin explained Dr. Paigne is required by Law to chart and document when he writes prescriptions. She stated there is also the issue that Fentermine has Law requirements when prescribing and since it was a refill Dr. Paigne probably did not meet those Law requirements.**

Dr. Paigne responded it was just a refill and he won't be writing any more prescriptions for this person.

**Ms. Taxin stated Dr. Paigne can tell family and friends it is an ethical issue for him to prescribe to them and he cannot do it. She stated if he does prescribe to family and friends he needs to have a chart and documentation on the person.**

Dr. Paigne stated his supervisor asked how long he should continue to submit monthly reports.

**Ms. Taxin responded if Dr. Paigne's supervisor will submit one more report and address some of Dr. Paigne's skills, issues they have discussed, additional information then he may start submitting reports on a quarterly basis. She stated Dr. Paigne's supervisor is welcome to contact Ms. Harry if he is unclear on supervision requirements and report requirements.**

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

**An appointment was made for Dr. Paigne to meet again April 13, 2011. If that meeting is cancelled, Dr. Paigne will meet March 9, 2011.**

**Ms. Harry reminded Dr. Paigne his reports are still due quarterly and the next one is due in March.**

**11:10 am**

Dr. Stephan Kitson, Telephonic Probationary Interview

Dr. Kitson met telephonically for his probationary interview.

Dr. Ries conducted the interview.

Dr. Kitson reported he is still working 32 hours a week.

**Dr. Ries asked if his Colorado probation continues for two more years.**

Dr. Kitson responded yes. He stated he has not requested early termination but would like to bring his probation to a close.

**Dr. Ries responded if Colorado terminates their probation early to notify Utah.**

Dr. Kitson asked for an explanation regarding the new Controlled Substance requirements.

**Ms. Taxin responded there is a new Law that requires anyone who is prescribing CS's to register with the DOPL database. She stated in the near future there will be database online tutorial offered and an online examination to pass to renew the CS license. She stated information will be coming out to the licensees early in the new year. Ms. Taxin gave Dr. Kitson the telephone number to call to register for the CS database.**

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

**An appointment was made for Dr. Kitson to meet**

**again July 13, 2011.**

**11:20 am**

Dr. Donald N. Harline, Initial Probationary  
Interview

Dr. Harline met for his initial probationary interview.

Board members and Division staff were introduced.

Dr. Howell conducted the interview.

**Dr. Howell requested Dr. Harline to briefly explain what brought him before the Board and explained the meeting may be closed for discussion of any mental health or evaluation information.**

Dr. Harline explained Ms. Woodford and Mr. Lau, investigators for DOPL, contacted him in following up on a complaint. He stated he had an inappropriate relationship with a female patient and the relationship ended in 2008. Dr. Harline explained a lawsuit was filed and he attended a prelitigation hearing prior to a formal lawsuit being filed. He stated there was discussion regarding the status of his license such as suspension and treatment options. Dr. Harline stated he entered into an outpatient program called Pine Grove in Mississippi where his personality issues were addressed and it was determined he has a sexual addiction, has narcissistic traits and has obsessive/compulsive traits. He stated he completed the program.

**Dr. Howell asked Dr. Harline to explain his understanding of the recommendations from the program.**

Dr. Harline responded that it was recommended he attend four 12 step meetings a week, get a therapist and meet frequently with the therapist, return to Pine Grove in six months for re-evaluation and have quarterly polygraph tests. He stated he will be going back in six months and will have another polygraph test at that time. He stated Pine Grove reviewed his Utah Stipulation and Order and agreed with the conditions. Dr. Harline stated he has attended the addiction recovery program at the LDS Church and has attended the pornography support groups. He explained there are not four meetings a week so he

attends the all addict's group meetings. Dr. Harline stated he understanding of his Stipulation and Order is he must have a chaperone for all female patients from 0 to 64 and the chaperone will fill out a form on each patient. He stated he understands he is to have 20% of all his charts review by an approved supervisor and they are to meet weekly. Dr. Harline stated he has asked Dr. Robin Ockey to be his supervisor as Ms. Woodford and Mr. Lau recommended him.

**Ms. Taxin asked what specialty Dr. Ockey practices.**

Dr. Harline responded Dr. Ockey is in pain management and works at a clinic about ½ mile away from Dr. Harline's clinic. He stated he also received the recommendation to get a partner and have that person be his supervisor so the supervisor is right there with him at all times. He stated he is a solo family practitioner with a nurse practitioner. Dr. Harline stated he understands there are various reports due monthly for six months then they will be due quarterly and not submitting the reports will be a violation of the agreement.

**Dr. Howell stated the meeting could be closed for detailed discussion regarding the mental health evaluations.**

**Ms. Taxin asked if Dr. Harline would be comfortable with Ms. Woodford staying for the closed session.**

Dr. Harline responded yes.

**11:50 am**

**Dr. Parker made a motion to close the meeting for discussion of the evaluations.**

**Dr. Pingree seconded the motion.**

**The Board vote was unanimous.**

**12:29 pm**

**Dr. Ries made a motion to reopen the meeting.**

**Dr. Babitz seconded the motion.**

**The Board vote was unanimous.**

**Dr. Parker asked Ms. Taxin to explain the current status of Dr. Harline's license.**

**Ms. Taxin responded the licenses are currently on suspension as she was not comfortable lifting the suspension for Dr. Harline to return to practice until he had met with the Board, the Board reviewed the Pine Grove recommendations regarding Dr. Harline being safe to practice and a chaperone being required. She stated she can amend the Order to include the recommendations from Pine Grove and to lift the suspension. Ms. Taxin stated she will need a letter from Dr. Harline's therapist documenting the recommended frequency for them to meet.**

**Dr. Howell asked if Dr. Harline has met with a therapist.**

Dr. Harline responded yes, he has met three times with Peter Byrne, a Psychologist.

**Ms. Taxin stated Dr. Byrne may call her if he has any questions regarding the requirements of the Stipulation and Order.**

**Dr. Howell asked if Dr. Harline attends group therapy with Dr. Byrne.**

Dr. Harline responded Dr. Byrne offered group therapy to him and he will look into it but has not attended any yet.

**Dr. Howell asked if Dr. Harline attends couples therapy.**

Dr. Harline responded yes, he has couples therapy with Mark Butler, a Marriage and Family Therapist in Provo.

**Dr. Babitz made a motion to lift the suspension on Dr. Harline's Physician license and CS license, to**

**place the licenses active on probation, amend the Stipulation and Order to include the recommendations of Pine Grove. His motion included requiring Dr. Ockey to meet with the Board at the next scheduled appointment with Dr. Harline to review the expectations and requirements of him as a supervisor, his ability to review patient charts for other types of problems, have oversight over Dr. Harline's prescribing and to approve the nurse practitioner as Dr. Harline's chaperone.**

**Dr. Pingree seconded the motion.**

**The Board vote was unanimous.**

**Ms. Taxin suggested Dr. Harline write up a coping plan of how he intends to handle the same type of situation if it ever comes up again and have Dr. Byrne address the plan.**

**Dr. Howell suggested Dr. Harline talked with his therapist regarding the plan prior to his writing the plan.**

**Dr. Pingree asked how frequent Dr. Harline is to meet with the Board.**

**Ms. Taxin responded he would meet quarterly unless the Board believes he should meet more frequently, such as monthly, to be sure he is on track.**

**Dr. Bennion suggested Dr. Harline meet again in February for the Board to check on him.**

Dr. Harline stated Dr. Ockey is currently supervising him. He stated he will meet with Ms. Harry regarding supervision and his Nurse Practitioner will be the chaperone.

**Dr. Howell asked how much his Nurse Practitioner understands regarding what is required to be a chaperone.**

Dr. Harline responded his nurse practitioner has read

the Order and he has also discussed the Order and conditions with all the staff in his office.

**Dr. Bennion asked if Dr. Harline has had any temptations in respect to his Nurse Practitioner.**

Dr. Harline responded no.

**Ms. Taxin reminded Dr. Harline to give her and Ms. Harry the name of the Nurse Practitioner so she can contact her to discuss the requirements of being the chaperone. Ms. Taxin then explained the process of lifting the suspension.**

**Dr. Babitz complimented Dr. Harline for taking notes during the meeting. He stated probation is a serious matter and Dr. Harline's career and life are now in his own hands and it is up to him to decide what he wants to do. Dr. Babitz stated he is pleased to see Dr. Harline has made a great start.**

**Dr. Pingree complimented Dr. Harline for being open and desirous to make changes in his life.**

**The Board determined Dr. Harline is in compliance with his Stipulation and Order as much as he can be for his first appointment.**

**An appointment was made for Dr. Harline to meet again February 9, 2011.**

**12:30 pm to 1:30 am**

**WORKING LUNCH**

**1:30 pm**

Dr. Gregory R. Hoffman, Initial Probationary Interview

Dr. Hoffman met for his initial probationary interview.

**Dr. Ries disclosed she knows Dr. Hoffman. She asked him if he is comfortable with her conducting his interview.**

Dr. Hoffman responded it is ok with him if Dr. Ries conducts his interview. He then disclosed there are two other Board members he knows, Ms. Taxin and Dr. Parker, and he is also ok with them being part of his appointment.

Board members and Division staff were introduced.

**Dr. Ries requested Dr. Hoffman to briefly explain what brought him before the Board.**

Dr. Hoffman explained he had an affair with a nurse in Oregon. He stated prior to the affair they discussed the relationship of patient/doctor but there was a lack of judgment on his part before he came to his senses. He stated the nurse would approach him between colonoscopies regarding her complaints and he asked her to see him in the clinic, which she never did. He stated the nurse then brought him her EKG and was complaining of chest pains. Dr. Hoffman stated he was so busy as a rural county Physician that when she complained of chest pains he took her more seriously but knows he should have referred her to someone else. He stated he did make chart notes but thought she was just anxious. Dr. Hoffman stated he made a referral but the nurse did not keep the appointment and then finally she did see a Nurse Practitioner. He stated he recognized she was interested in him as a sexual partner but he was not interested in the relationship at that time. He stated he thought she was not taking the prescriptions he had prescribed and then found out from the Pharmacy records that she filled all the prescriptions.

**Dr. Ries asked if the nurse was a nurse in his office.**

Dr. Hoffman responded no, it was a nurse at the hospital who had a lot of control over his day when he was at the hospital. He stated in 2007 the nurse filled out a prescription for herself and wanted him to sign it and when he refused she had said she could ruin his marriage with one phone call. He stated if Physicians did not do what they could to make the nurses day go smoother they could make the Physicians day much longer so he signed the prescription. He stated this nurse would use whichever doctor was there at the time for what she wanted so she did not have to make an appointment to officially see a doctor. Dr. Hoffman stated they were again intimate in 2008 when he was having difficulties with his marriage and was ignoring his own issues. He stated in December 2008 his wife received an anonymous telephone call and

said the caller sounded like this nurse. Dr. Hoffman stated he loves his wife and family and did not want to leave them but did leave the home for a time. Dr. Hoffman stated the husband of the nurse then found out about the affair and he decided it would be best for him to have minimum contact with this nurse so he changed his hospital days, offered to provide her husband with his hospital call schedule, apologized and thought everything was resolved. He stated the husband wrote a letter to his clinic. Dr. Hoffman stated he then self reported the affair to the Oregon Board in June 2009 and an agreement in October 2010. He stated he then signed the Utah Order which caused him to loose his contract with IHC and his privileges with Medicaid. Dr. Hoffman stated most of their family is in the Salt Lake area so they want to stay here. He stated his legal counsel in Oregon does not anticipate any effects in Oregon. He stated he has been out of work now for three weeks. Dr. Hoffman stated he completed the required PACE course and learned what he does not know about himself can hurt him. He stated he filled out the questionnaires and scored high on the subjugation sections which means he has a hard time saying “no” to people which would put him at risk. He stated knowing this means he will have to be more aware and know he can do a disservice to patients by prescribing. Dr. Hoffman stated the Utah Order requires him to have a supervising Physician to meet with weekly and the supervisor must review 10% of all his charts. He stated he asked permission for a Physician at IHC to be his supervisor and also asked if he could inform his PA of the situation. He stated IHC was very quiet and then let him go.

Dr. Hoffman stated he is comfortable with Dr. David Jack and asked if he could be approved as his supervisor. He then stated Dr. Jack’s clinic was taken over by St. Mark’s and he is a little cautious about signing on with a large organization but will consider it. Dr. Hoffman stated he could return to the Oregon clinic as Oregon did a thorough investigation of him and his practice but he would be required to meet with the Oregon Board if he went there.

**Dr. Pingree asked if the nurse is still at the Oregon**

**clinic.**

Dr. Hoffman responded his attorney heard the nurse left the clinic and moved to the Medford area.

**Dr. Ries asked Ms. Taxin to explain why Dr. Hoffman's probation is only for two years.**

**Ms. Taxin responded Utah mirrored the Oregon Stipulation but she is not sure why Utah's Stipulation and Order is only for two years. She asked Ms. Woodford if she could explain.**

**Ms. Woodford responded after some discussion the decision was to make the probation requirement for two years.**

**Dr. Parker asked what Dr. Hoffman would need to do to be back on the Medicaid Insurance panel.**

Dr. Hoffman responded his attorney is still talking with the Medicaid Insurance attorney so he is not sure.

**Dr. Ries asked if the PACE course was helpful to Dr. Hoffman so nothing of this nature occurs with him again and if he believes he has control of himself now.**

Dr. Hoffman responded yes. He stated he learned it is ok for him to say no if he is uncomfortable with a situation.

**Dr. Ries stated she believes it is standard across the country that a Physician does not prescribe to anyone except patients.**

**Ms. Harry reminded Dr. Hoffman to submit his reports by the 28<sup>th</sup> of December and all others by the 28<sup>th</sup> of the month. She stated whether he is working or not an employer report, supervisor report and chart review are required. Ms. Harry instructed Dr. Hoffman to write "not currently employed" on the reports if he is not working.**

Dr. Hoffman stated Dr. Paul Dalryple is his psychologist and Ms. Harry might get a letter from

him. He stated he always knew he had ADHD and ended up seeing a psychologist for it. Dr. Hoffman stated the psychologist has helped him and put him on medication for ADHD. He stated Dr. Doug White is his Physician for the medication.

**Dr. Ries asked what type of patients he was seeing.**

Dr. Hoffman responded he saw an older population in Oregon but has been seeing a much younger population in Utah. He stated he sees two or three patients a week he believes should be referred out to a psychiatrist.

**Dr. Ries recommended Dr. Hoffman document all charts well.**

**The Board determined Dr. Hoffman is in compliance with his Stipulation and Order as much as possible for his first interview.**

**An appointment was made for Dr. Hoffman to meet again February 9, 2011.**

#### **DISCUSSION ITEMS:**

Dr. Robert Weitzel Application for Discussion

Ms. Taxin explained a new application was received from Dr. Weitzel. She stated Dr. Weitzel was licensed years ago and let his license expire due to some disciplinary issues. She stated she requested Dr. Howell and Dr. Ries to review the application and additional information Dr. Weitzel submitted and give their recommendations regarding the possibility of re-issuing a license.

**Dr. Howell stated Dr. Weitzel had problems in several different domains. She stated he surrendered his licenses in Texas and California. Dr. Howell stated she believes objective evaluations from an out of State program would be appropriate with the understanding that upon completion of the evaluation there is no guarantee Utah will issue a license.**

**Dr. Ries stated it was a difficult case to review. She stated Dr. Weitzel's problems were over many**

**years with lack of good clinical judgment, boundary issues and diversion programs for the use of Cocaine. She stated he is still a young person who could practice psychiatry for many years. She stated she also believes objective comprehensive evaluations from an out of State program would be appropriate with a very clear understanding that there is no guarantee he will get a Utah license.**

**Dr. Pingree asked if Dr. Weitzel still has a drug addiction or if he is clean.**

**Dr. Howell responded Dr. Weitzel has stated he does not have a drug problem. She asked, given all the history, two States making Dr. Weitzel surrender his licenses and will not relicense him, does the Board want to request him to get evaluated.**

**Dr. Ries stated the problem might be poor personal judgment but nowhere does it say he cannot do psychiatry.**

**Dr. Pingree asked if Dr. Weitzel would be required to complete a competency examination.**

Ms. Taxin responded Dr. Weitzel has taken and passed the SPEX examination.

**Dr. Ries stated Dr. Weitzel refused an evaluation before but now he is willing to have one.**

**Dr. Howell stated he is willing to have an evaluation now, he talks about how he has changed and has many letters from people supporting him.**

Ms. Taxin stated she informed Dr. Weitzel that he would be scheduled to meet with the Board in February. Ms. Taxin stated he gave her permission to copy and release his information to Dr. Ries and Dr. Howell to review.

**Dr. Pingree asked why Dr. Weitzel wants licensure in Utah.**

Ms. Taxin responded she believes his wife wants to

come to Utah. She stated Dr. Weitzel is amenable to having a probationary license and a supervisor. She stated he has been cooperative and has provided information when she has requested it. She stated maybe Dr. Weitzel should get the evaluations prior to meeting with the Board, then have the Board review the application and evaluations in February and meet with him in March.

**Dr. Pingree asked how long Dr. Weitzel was in practice.**

Ms. Taxin and Dr. Ries responded about 20 years.

**Dr. Howell suggested Ms. Taxin ask Dr. Weitzel to get the evaluations prior to meeting with the Board and schedule him to meet after the Board has reviewed the application and evaluations.**

#### Online Prescribing Drug Approval Criteria

Ms. Taxin presented the Online Prescribing drug approval criteria to the Physicians Board for review. She stated there is currently a rule with the list of approved drugs and there are additional drugs that have been added. Ms. Taxin stated the Online Prescribing Board requested the Physicians Board review the criteria to approve any additional drugs and give them some input. She read the Rule to the Board. Ms. Taxin stated the license consists of the prescriber who is a licensed Physician or Osteopathic Physician, the Dispenser who is a Pharmacy and the Facilitator who is the business person. She stated the drugs on the consent agreement are ED drugs and smoking cessation drugs. Ms. Taxin reminded the Board of the 2009 combined Physicians, Osteopathic Physicians and Pharmacy Boards was where the information was discussed. She stated Chantix was discussed and the Boards were not comfortable with that on the list as it had a FDA Black Box Warning. She stated the Law passed, the Rules were written with Chantix left off the list. Ms. Taxin explained KwikMed the Online company was originally given permission to sell Chantix so Mr. Steinagel reviewed the Legislative information and determined Chantix should be included. She stated the Board also approved Ella, a hormonal based drug. She stated the Online Prescribing Board determined the following criteria

for consideration in adding drugs:

1. If the drug does not require lab tests or close monitoring;
2. The drug must be used for the intended purpose only;
3. The drug should not have an addictive quality;
4. If there is an FDA black box warning on the drug there must be an attestation box documenting the patient has read the warning; and
5. There cannot be any compound drugs.

Ms. Taxin stated the Online Prescribing Board has been requested to approve Hydroquinone, a skin lightener, and Retinoid, a cosmetic fine line softener and at times used for acne. She stated the Physician requesting these two drugs will be speaking with the Board at the January 10, 2011 meeting.

**Following discussion Dr. Pingree stated any drug that should be seen and monitored by a Physician should not be offered online, such as Antibiotics.**

Ms. Taxin asked the Board to e-mail her any additional criteria items if they believe something else should be included.

FYI

As per the Board's request, the following Order's were given to the Board:

**Cher Struck, Cease and Desist Order**

Ms. Taxin stated Ms. Struck was practice medicine in Utah but was never licensed as a Physician in Utah.

**Dr. Robert E. Morrow, Surrender Stipulation and Order**

Ms. Taxin stated Dr. Morrow was licensed in 1959 and prescribed controlled substances (CS's) without ever having the DEA registration and did conduct any patient medical examinations, had no patient interviews or patient charts. She stated he was prescribing online without an online license.

**Dr. Michael G. Goates, Order of Dismissal**

Ms. Taxin explained Dr. Goates believed he did not have a fair hearing with the Board and contested the outcome. She stated he was given deadlines to submit information for the Department to review and did not submit the information.

**Ms. Buhler asked if Dr. Goates could reapply for licensure at some point.**

Ms. Taxin responded Dr. Goates could reapply after five years.

**Dr. Karl Nicholes, Surrender of licenses**

Ms. Taxin stated California revoked Dr. Nicholes as they requested a psychological evaluation and he refused. She stated he is an older gentleman who has been supervising PA's in Utah and he should not be practicing due to health issues. She stated Utah took disciplinary action with a surrender.

2011 Board Meeting Schedule

The Board noted the following dates for the 2011 Board meeting schedule:

**January 12, 2011, All Day Hearing**

February 9, March 9,

**April 13,**

May 18, June 8,

**July 13,**

August 10, September 14,

**October 12,**

November 9 and December 14, 2011

As per the request of the Board the meeting dates were scheduled for each month of 2011 with quarterly dates listed in board for quarterly meetings. The Board requested the other dates be cancelled if there is no Board business to conduct.

Ms. Taxin stated there are new probationers and we may have to meet more frequently.

**NEXT MEETING SCHEDULED FOR:**

January 12, 2011

**ADJOURN:**

The time is 2:34 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.*

February 9, 2011  
Date Approved

(ss) Elizabeth F. Howell, MD  
Chairperson, Utah Physicians Licensing Board

January 3, 2011  
Date Approved

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