

MINUTES

**UTAH
PHYSICIANS LICENSING
BOARD MEETING**

February 9, 2011

**Room 474 – 4th Floor – 9:15 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:50 A.M.

ADJOURNED: 1:07 P.M.

Bureau Manager:

Noel Taxin

Board Secretary:

Karen McCall

Compliance Specialist:

Debbie Harry

Board Members Present:

Elizabeth F. Howell, MD, Chairperson

James H. Pingree, MD

Lori G. Buhler

Kenneth L. Schaecher, MD

Marc E. Babitz, MD

John W. Bennion, Ph.D.

Kristen Ries, MD

David D. Byrd, MD

Board Members Absent:

Daniel J. Parker, MD

Richard W. Chapa, MD

James R. Fowler, MD

Guests:

Josh Smith, Medical Student

DOPL Staff Present:

Irene Woodford, Investigator

Lynn Hooper, Investigator

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the December 8, 2010 Board meeting were read.

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

BUSINESS FROM PREVIOUS MEETING:

Incompetent Practitioners and Gathering Information

This item was deferred to the April 13, 2011 meeting.

APPOINTMENTS:

9:35 am

Debbie Harry, Compliance Update

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

Ms. Harry reported **Dr. Donald Harline** is currently in compliance with his Stipulation and Order.

Ms. Harry reported **Dr. Gregory R. Hoffman** is currently in compliance with his Stipulation and Order.

Ms. Taxin stated Dr. Hoffman is working at the Malilheh Free Clinic and has been rehired at IHC so he will need two chaperone logs and two supervisor reports. She stated Dr. Hoffman may request the record review requirement be terminated as Oregon did not make that requirement but that is one way Utah monitors performance.

Ms. Harry reported **Dr. Robert Finnegan** is currently in compliance with his Stipulation and Order as much as possible for his first meeting with the Board.

Ms. Taxin explained Dr. Finnegan did not disclose at renewal time that he had been arrested for a DUI and through a complaint it was found he was also over prescribing. She stated she talked with Dr. Finnegan and gave him the assignment of reading "Responsible Opioid Prescribing", to write an essay on what he learned and write a practice plan. Ms. Taxin stated the assignment was to be completed and submitted to her by a specific date. She stated the practice plan came in and Dr. Finnegan admitted he had not read the book or written an essay as requested. She stated she

requested Dr. Finnegan to rewrite the practice plan as he wrote it identifying deficiencies in the agency where he works vs. about what he needed to improve on. She voiced concern with his lack of understanding of prescribing standards.

Ms. Harry reported **Dr. Lisa Ann Morgan** is currently in compliance with her Stipulation and Order as much as possible for her first meeting with the Board. Ms. Harry explained Dr. Morgan was unsuccessful in the diversion program. She stated Dr. Morgan has to complete some conditions and she is not currently working in the field.

Ms. Taxin explained Dr. Morgan used several patient and other individuals names to prescribe for herself, she went to Oregon to a treatment center last year and will be on drug testing here in Utah.

9:45 am

Dr. Donald Harline, Probationary Interview

Dr. Harline met for his probationary interview.

Dr. Howell conducted the interview.

Dr. Harline stated Dr. Oakey is reviewing about 20% of his charts and they meet weekly for about 45 minutes to an hour at which time Dr. Oakey reviews ethics, treatment strategies and other things. Dr. Harline stated he has learned many things from Dr. Oakey. He stated he has a medical assistant present during all female patient appointments has kept chaperone logs and has sent in his reports as required. Dr. Harline stated there was a mediation hearing on Monday and that is all settled now. He stated he is still trying to get back on the medical insurance panels and is on about 35% again. Dr. Harline stated he is redoing his practice right now as he had to let the Nurse Practitioner go due to not having enough patients in the office.

Ms. Taxin asked if any female patients have been a little flirty and, if so, how did he handle the situation.

Dr. Harline responded Ms. Taxin had asked that question at his last appointment. He stated he has discussed the issue with his therapist and has a plan. He explained he needs to respect the physician/patient dynamics, keep all appointments on a professional level and not cross any boundary no matter what the patient may say, always have the chaperone present during female appointments, listen to his patients but do not become involved in any small talk and if anything comes up he should be open and talk honestly with the patient by voicing he is uncomfortable, the topic is inappropriate and as their physician he needs to talk about their health and medical issues. He stated if the patient continues he would then have to be more forceful and let the patient know if it does not stop he will have to ask them to leave. He stated he and his therapist talked about how he can still be respectful to the patient but does not have to become emotionally involved.

Ms. Taxin thanked Dr. Harline for thinking through the issues and coming up with a plan. She stated she believes once he cuts off inappropriate comments they will stop. She voiced appreciation in Dr. Harline being in compliance and taking his probation seriously.

Dr. Howell commented it is good to plan ahead of time to discourage such actions. She asked him how large a practice he has right now.

Dr. Harline responded he is seeing about 60 patients at this time and is in the office five days a week. He stated his practice is located in Orem and he is in general family practice.

Dr. Bennion commented in the vast majority of cases the Physician sets the tone. He stated if Dr. Harline avoids anything that comes across as flirty most patients will follow.

Dr. Harline responded he was in the Oregon treatment facility for 10 weeks and he is now trying to model himself after what he saw and learned there.

Dr. Howell stated she noticed it appears Dr.

Harline has a lot of patients on CS medications.

Dr. Harline responded he worked in a pain management clinic for a time and many of those patients followed him down to Orem. He stated Dr. Oakey is aware of the pain management patients and has been a help to him.

Dr. Howell cautioned Dr. Harline to monitor those patients on high doses carefully as there is a risk of overdose. She stated, as a general rule, she tries to avoid mixing some medications.

Dr. Harline responded Dr. Oakey reviewed each case in depth and has suggested tapering off for some patients and changing medications for other patients. He stated he has several patients who were referred to him and he has kept them on the same medication and doses they had been taking.

Dr. Harline stated he has been trying to get back on with Medicare. He stated he was at the Oregon treatment facility for 10 weeks and Medicare requires notification within three week if a license has been suspended.

Ms. Taxin volunteered to write a letter for Dr. Harline. She suggested he appeal their decision as other practitioners have appealed and been placed back on their panel.

Dr. Harline thanked Ms. Taxin.

Dr. Pingree noted the minutes from the last meeting indicate Dr. Oakey was to also meet today to review supervision expectations.

Ms. Taxin and Ms. McCall voiced having overlooked inviting Dr. Oakey. Ms. Taxin stated she does not believe it is necessary to invite Dr. Oakey at this time as his reports have been submitted and were appropriate. She stated if the Board has concerns they may request Dr. Oakey to meet at a later date and if he has any concerns he may call her.

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

An appointment was made for Dr. Harline to meet again April 13, 2011.

10:15 am

Dr. Eric Sanzenbacher

Dr. Sanzenbacher was unable to meet today and requested he meet in March or April to review his situation and discuss the possibility for him to again obtain licensure.

10:30 am

Dr. Gregory R. Hoffman, Probationary Interview

Dr. Hoffman met for his probationary interview.

Dr. Ries conducted the interview.

Dr. Hoffman reported he resubmitted an application to IHC and was rehired. He stated he started at the South Sandy Clinic this week. Dr. Hoffman stated Dr. Morris has conducted a record review of 10% of his charts but Dr. Morris probably sees more than 10% of his charts as Dr. Morris is at the clinic today seeing Dr. Hoffman's patients while he is here for his appointment. Dr. Hoffman voiced feeling like a burden on his partners for the last three months due to the chart review and he is not sure the required paperwork is that useful or necessary. He stated he does not have the same requirement for Oregon and he is trying to cut down on the extra paperwork for his supervisor. Dr. Hoffman stated he will continue working at the Malilheh Free Clinic as time permits.

Dr. Ries asked if he is still having difficulty with the insurance panels.

Dr. Hoffman responded he appealed to Medicaid and retroactively they reversed their decision. He stated he can do locum tenens work in Oregon but not in Utah as the requirement of 10% chart review prohibits him from obtaining malpractice insurance in Utah.

Dr. Ries responded the chart review is a condition in Dr. Hoffman's Stipulation and Order that he agreed to.

Ms. Taxin responded the Board may recommend a requirement be reduced but the Board needs the documentation at this time to be sure Dr. Hoffman is addressing the concerns in the Stipulation and is documenting appropriately. She stated Dr. Hoffman may again request the requirement be reduced after the Board has received several months of consistent in compliance reports. Ms. Taxin stated the Board had asked why Dr. Hoffman was not required to have a chaperone for female patients as his issue was a boundary violation. She stated Oregon did not require a chaperone and it was decided to model after their Order with this condition. She stated his supervisor should monitor and supervise Dr. Hoffman for boundary violations. She stated Dr. Mark Morris's supervision report should cover Dr. Hoffman's performance overall, address he is assessing properly, charting properly, had talked with the chaperone supervisor, Stephanie, and note they have not seen any patient/employee violations. Ms. Taxin stated if Dr. Hoffman works at the Melilheh Free Clinic he needs that supervisor to also fill out a supervision report.

Dr. Ries commented it is important to have chart reviews at this time and Dr. Hoffman's supervisor should be very specific in his reports. She stated the Board would discourage locum tenums work for now.

Dr. Hoffman thanked Dr. Ries and Ms. Taxin for their comments.

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

An appointment was made for Dr. Hoffman to meet again April 13, 2011.

Dr. Hoffman left the meeting.

Dr. Schaecher voiced concerns regarding Dr. Hoffman interacting with Ms. Taxin and Ms. Harry with e-mails. He stated it appears Dr. Hoffman is going through the motions because it is

required in his Order and he believes Dr. Hoffman is dismissing his affair with the woman who turned him in. He stated at Dr. Hoffman's next appointment the Board should make him aware of their concerns regarding his being blasé about his part in the issue and completing the Order conditions. He stated he does not believe Dr. Hoffman is in compliance as he is not on track with the requirement of the reports.

Dr. Ries responded for compliance purposes the reports have been received.

Ms. Taxin suggested the Board and Dr. Schaecher give Dr. Hoffman the feedback next meeting if he does not appear to take responsibility at that time.

10:50 am

Dr. Robert Finnegan, Initial Probationary Interview

Dr. Finnegan met for his initial probationary interview.

Board members and Division staff were introduced.

Dr. Babitz disclosed he is over Dr. Finnegan's supervisor. He stated he may participate in comments but will not take part in any voting decisions.

Dr. Pingree disclosed he also knows Dr. Finnegan and will not take part in any voting decisions.

Ms. Taxin explained if Dr. Finnegan is uncomfortable with Dr. Babitz and Dr. Pingree being part of the discussion he may ask them to leave the room.

Dr. Finnegan responded he is comfortable with Dr. Babitz and Dr. Pingree staying and being part of the discussion and any decision making if necessary.

Dr. Byrd conducted the interview.

Dr. Howell requested Dr. Finnegan to briefly explain what brought him before the Board.

Dr. Finnegan responded the large amounts of medications he prescribes, his clinic not being up to

snuff, spotty documentation and prescribing to employees. He stated he got kind of stale in his ways.

Ms. Taxin requested Dr. Finnegan to also explain his DUI situation.

Dr. Finnegan explained he was going thru a divorce and it was a very abusive relationship, he was visiting friends in San Diego for New Year's Eve 2008, his anxieties were high based on the divorce, he got carried away while drinking and was picked up for a DUI. He stated it was a one time incident and his probation will be completed in March. Dr. Finnegan stated he is required to attend Prime for Life meetings. He stated since that time he has been remarried and become involved in a spiritual situation where there would be huge consequences of he were to drink alcohol so he has not had an alcoholic drink since January 2009.

Dr. Byrd requested Dr. Finnegan to explain what he meant by spotty documentation.

Dr. Finnegan responded his chart documentation would contain a brief comment of how patients were doing, their assessment of effectiveness of their medications and duplicate prescriptions would just have a note of medications continued. He stated he is now on an electronic system which prints the prescriptions and notes it on the patient chart that day. He stated he also now has some professional coding people working with his office on how to improve his documentation and medical reasoning for continuing medications.

Dr. Byrd requested Dr. Finnegan to review the CS database report and explain his reasoning for the high doses of medications for a couple of patients.

Dr. Finnegan reviewed the names and explained the one patient was a referral and had been stable with the medications and doses prescribed and he has continued them. He stated the other patient and spouse were also referred and he has decreased the dose of medication remarkably and shifted the patient's treatment to a different direction.

Dr. Byrd asked if Dr. Finnegan's philosophy has changed.

Dr. Finnegan responded yes. He stated patients like these two would never have been given such high doses if he had always treated them.

Dr. Byrd asked what method of screening for substance abuse, selling medications to others, etc. Dr. Finnegan uses.

Dr. Finnegan responded he does some random drug testing. He stated if the drug test shows positive for something he has not prescribed he informs the patient they will not receive any more CS's from him and he terminates the relationship. Dr. Finnegan stated for patients on high doses of medications he is now giving them less and offers patches instead.

Dr. Byrd asked what Dr. Finnegan's specialty is.

Dr. Finnegan responded his specialty is anesthesiology but he has received training in pain medicine and management.

Dr. Byrd reminded Dr. Finnegan he was assigned to read the Opioid book and write an essay on what he learned. He asked if Dr. Finnegan completed that assignment.

Ms. Taxin responded she requested Dr. Finnegan to read the book on Responsible Opioid Prescribing and write an essay on what he learned and was going to change in his practice and Dr. Finnegan did not do the assignment. She stated she also requested he write and submit a practice plan but she believed the plan he submitted addressed issues of the agency and not his specific practice so she requested another practice plan.

Dr. Finnegan responded he did read the book. He stated he liked the recommendation of documentation and now uses it in his practice. He stated he also will be implementing periodic reassessments of his

patients.

Dr. Byrd asked if Dr. Finnegan received a copy of his Stipulation and Order, if he has taken the required PACE course in San Diego, California and if he has the name of a supervisor to be approved.

Dr. Finnegan responded yes, he does have a copy of his Stipulation and Order. He stated he is looking forward to attending the PACE course and Dr. Babitz has requested he conduct an in-service on the course when he returns. He stated he and Dr. John Nelson, an OBGYN, work in the same practice and has been acting as his supervisor. Dr. Finnegan stated Dr. Nelson mentioned he was uncomfortable with some of the high doses of medications and he had agreed to reduce dosages if Dr. Nelson is uncomfortable. He asked if the Board would accept an alternative method of prescriptions written instead of the consecutive numbered triplicate hand written prescriptions. He explained the electronic print out will have no sequential number but will have the date and can be printed when he prints one for the patient.

Ms. Taxin responded the Board accepted electronic printed prescriptions from another probationer who also kept a log of prescriptions written. She suggested Dr. Finnegan do the same. She asked what type of paper Dr. Finnegan uses.

Dr. Finnegan responded he uses tamper proof paper which has the name of the clinic in a header with the individual prescriber on the prescription.

Dr. Bennion commented Dr. Nelson is an OBGYN and not a pain specialist. He asked how Dr. Finnegan could take direction from Dr. Nelson on judgment of dosages if he is not a pain management Physician and how can Dr. Nelson make recommendations.

Dr. Finnegan responded Dr. Nelson is knowledgeable in the area of pain management and covers for him when necessary.

Dr. Ries asked how long Dr. Finnegan has been with the clinic.

Dr. Finnegan responded he has been a salaried employee at the clinic since 2008.

Ms. Taxin asked if there is another pain management specialist to consult with if Dr. Finnegan had a difficult case.

Dr. Finnegan responded he could consult with Dr. Lynn Webster or he could contact Dr. Andy Talbot or Dr. John Nelson.

Dr. Bennion asked Dr. Finnegan if he is more inclined to cut back on his prescribing after reading “Responsible Opioid Prescribing”.

Dr. Finnegan responded yes.

Ms. Taxin stated within the investigation it was found one patient who came back within less than 30 days and Dr. Finnegan again prescribed for the patient. She asked Dr. Finnegan to explain.

Dr. Finnegan responded Ms. Taxin is correct.

Ms. Woodford commented Dr. Finnegan did prescribe for patients more frequently than he should have.

Dr. Ries asked how the over prescribing came to the attention of investigations.

Dr. Finnegan responded his colleague had requested a prescription for Schedule IV medications, for which he wrote the prescriptions.

Ms. Woodford responded the complaint came from a Pharmacy.

Dr. Scheacher commented it appears the issue is Dr. Finnegan’s lack of attentiveness to his prescribing practice in highly addictive substances. He asked if Dr. Finnegan has conducted any DOPL database checks on his patients.

Dr. Finnegan did not respond.

Dr. Schaecher again asked if Dr. Finnegan has conducted any DOPL database checks on his patients.

Dr. Finnegan then responded he was doing checks but not regularly. He stated the office is now checking the DOPL database more regularly and he checks more regularly. He stated he has not yet reached every patient for the urine screening he is now doing but plans to have each patient screened. He stated if he has any concerns he sends the urine sample for additional testing. Dr. Finnegan stated this year he now has every patient who receives a CS sign a CS contract. He stated if the patient is uncomfortable reading the agreement a staff member reads it with them but if they are comfortable they may take the agreement to review and sign and their next visit he does the urine screen to establish a base line on the patient.

Dr. Byrd voiced concern with Dr. Finnegan prescribing both Loritab and Methadone to several patients.

Dr. Finnegan responded he is trying to encourage patients to stay within 50 milligrams of Methadone per day.

Dr. Howell responded Dr. Finnegan should refer patients out if he is treating addiction with Methadone.

Dr. Byrd asked what other methods Dr. Finnegan uses for his pain patients.

Dr. Finnegan responded he does some Physical Therapy but does not use any nerve blocks.

Dr. Ries asked if Dr. Finnegan is at his clinic every day.

Dr. Finnegan responded he works four days a week for 14 hours. He stated he will not give refills unless the

patient comes in to see him and usually sees each patient at least monthly. He stated he discharged about 50 patients in December based on their drug tests.

Dr. Byrd asked what those patients are doing when they are discharged.

Dr. Finnegan responded he is not sure but they might be detoxing themselves.

Dr. Howell comments there were a lot of typographical errors in Dr. Finnegan's practice plan.

Dr. Finnegan responded he corrected the errors on the second plan. He stated he tries to treat the whole patient and not just give pain medications to patients and has started referring patients out if they don't want to be treated in that manner.

Dr. Howell voiced concern when she notices patients from other States coming to Dr. Finnegan in Utah for treatment. She asked if these patients are coming to him as they cannot get their pain medications in the other States.

Dr. Finnegan responded he is not sure. He stated it sounds like the Board is suggesting he do drug testing on the first visit for new patients.

Dr. Howell responded yes. She stated Physicians will always be several steps behind drug abusers. She asked Dr. Finnegan what he believes he should do different.

Dr. Finnegan responded he has not been diligent in researching new or alternative methods of treatment.

Dr. Byrd pointed out on some patients high doses of medication sometimes increases their pain. He suggested Dr. Finnegan try cutting patients back on the higher doses.

Ms. Taxin explained Dr. Finnegan had one DUI but based on the information received he is not

required to have drug tests or attend any support groups.

Ms. Harry reminded Dr. Finnegan that his paperwork is due by the 28th of each month to be in compliance.

Ms. Taxin requested Dr. Finnegan to be sure his supervisor's report thoroughly covers his prescribing practices and his performance.

The Board determined Dr. Finnegan is in compliance with his Stipulation and Order as much as possible for his first appointment.

An appointment was made for Dr. Finnegan to meet again April 13, 2011.

11:40 am

Dr. Lisa Ann Morgan, Initial Probationary Interview

Dr. Morgan met for her initial probationary interview.

Board members and Division Staff were introduced.

Dr. Howell conducted interview.

Dr. Howell requested Dr. Morgan to briefly explain why she is meeting with the Board.

Dr. Morgan responded she has had DUI charges which are now resolved, was in the diversion program for less than a year when she violated her contract and was given the option of a probationary license. She stated the violation of her contract was that she prescribed Ambien for herself by using alias names. She explained she uses her maiden name professionally and wrote prescriptions in her married name, she also wrote prescriptions using a patient's name without the consent of the patient and picked it up by saying she was the patient's sister.

Dr. Ries asked where Dr. Morgan worked and what specialty she worked in.

Dr. Morgan responded she is an OBGYN and worked at St. Marks Hospital.

Dr. Howell asked how many prescriptions were written for others that Dr. Morgan used.

Mr. Hooper responded in the interview Dr. Morgan disclosed she forged about 10 prescriptions but only one was identified. He stated she provided two additional names she had used but could not remember any others.

Dr. Howell asked Dr. Morgan if she has forged prescriptions before this period of time.

Dr. Morgan responded no. She explained she suffers with anxiety and her addiction escalated from 5 milligram tablets to 10 milligram tablets a day for her to escape her anxiety issues. She stated she had been drinking and when she stopped drinking the Ambien use got worse as she needed more and more to put her to sleep. Dr. Morgan stated she would take up to 10 tablets a day when she was not working. She stated she did not have seizures but felt withdrawals when she entered Spring Brook rehabilitation program in Oregon. Dr. Morgan stated she has not practiced since she entered rehab in May 2010.

Dr. Howell asked Dr. Morgan what she gained from her time in the rehabilitation program.

Dr. Morgan responded she had to borrow the money for the program and she had to leave her four year old son. She stated she discovered she was taking care of everyone but herself and lost herself in the process. She stated in the rehab program she learned how to manage her anxiety and how to manage her life and to admit she was going through the motions but made changes when she was in rehab and faced the problems 24 hours a day, seven days a week. Dr. Morgan stated a patient whose name she had used called the office and said she did not have a prescription for Ambien. She stated her partner confronted her about the prescriptions and she lied to him and then called the patient because she wanted to be honest with the patient.

Ms. Taxin asked if Dr. Morgan is aware of the effect her behavior had on the patient who

coincidentally is a DOPL employee. She stated the patient contacted her regarding the issue and indicated she had become somewhat friends with Dr. Morgan. She stated it was her understanding Dr. Morgan denied using the patients name and prescribing Ambien at first and then admitted to the forgery. She stated the patient highly respects Dr. Morgan and was very disappointed with her actions. Ms. Taxin stated she believes it is important for Dr. Morgan to know and understand the impact on the patient as the patient reported, Dr. Morgan was a very competent Physician and had helped this patient medically.

Dr. Morgan again stated she called this patient herself and was informed the patient wanted to change Physicians. She voiced understanding the patient's reasons. She then stated she made some big mistakes and is dealing with fixing what she can as best she can.

Dr. Pingree clarified Dr. Morgan was an alcoholic for several years, stopped drinking cold turkey and then became addicted to Ambien. He asked how long Dr. Morgan was an alcoholic.

Dr. Morgan responded Dr. Pingree is correct. She stated she was an alcoholic 15 or 20 years. She stated she was put on Ambien when she was expecting her baby and when she returned to work she was working long days with having the responsibility of the baby at night. Dr. Morgan stated she had to get sleep when the baby slept and the Ambien helped. She stated when she was picked up for the DUI she was on a court ordered probation.

Mr. Hooper explained the diversion program drug test did not include Ambien and Dr. Morgan traded the drinking for the drug.

Dr. Bennion asked what triggered being dropped from the diversion program.

Dr. Morgan responded forging prescriptions was a violation of her diversion contract.

Dr. Howell asked if Dr. Morgan has been working.

Dr. Morgan responded no. She stated she has not worked since May 2010.

Dr. Howell asked if Dr. Morgan understands the required conditions of the Stipulation and Order while she is on probation.

Dr. Morgan responded she believes she understands the conditions. She stated she has only been attending PIR meetings on Mondays and has not attended AA or 12 step meetings. She stated she attended a couple of 12 step meetings but left feeling more depressed than before the meetings and is now having anxiety about leaving her home.

Dr. Howell asked if Dr. Morgan understands attendance at 12 step meetings is a requirement of her Order. She asked if Dr. Morgan has sought treatment without drugs for her anxiety.

Dr. Morgan responded she knows attendance at 12 step meetings is requirement. She stated she has sought non drug treatment for her anxiety by seeing her therapist more frequently but her anxiety and depression have started coming back the last few months.

Ms. Taxin clarified since Dr. Morgan was released from the rehabilitation program she has not followed their recommendations. She asked if Dr. Morgan is now attending PIR as it is a requirement.

Dr. Morgan responded Ms. Taxin is correct in that she has only attended one PIR meeting a week since she completed the rehabilitation program in August 2010. She stated she is trying to meet the requirements of the Stipulation and Order.

Dr. Babitz asked if exercise is part of her therapy program.

Dr. Morgan responded yes but she is not doing exercise right now.

Dr. Pingree asked if Dr. Morgan plans to return to her practice.

Dr. Morgan responded she is not sure if she will return to her medical practice. She stated she is not yet sure what she will do but she did like her medical practice.

Dr. Babitz suggested Dr. Morgan expand her thoughts on her medical practice as there is not just one pathway to practice.

Dr. Morgan responded she has given that suggestion some thought but will continue to consider her options.

Dr. Schaecher stated Dr. Morgan's comments have been provocative, she went to the rehabilitation program but has not followed through with their recommendations and has not done the things she was taught in the program. He stated Dr. Morgan signed the Stipulation and Order knowing the requirements and if she does not complete the conditions her license could be revoked. He stated he is hearing Dr. Morgan voice a lot of not wanting to follow the rules and seems to want to do what she wants to do. He stated he is not sure Dr. Morgan really wants her license. He asked how important is it to her right now to have her Physicians license.

Dr. Morgan responded she has always wanted to be doctor and was a good one. She stated she is struggling right now to find out who she is and does not want to shut the door on being a doctor.

Dr. Schaecher asked Dr. Morgan what she is doing to solve the problem of struggling.

Dr. Morgan responded she has done a lot of research on her options, a lot of soul searching and talking with her therapist. She stated practicing medicine is in her blood and she wishes she did not have to worry about someone suing her, her billing, etc. She stated she loves medicine but is right now is focusing on staying sober and taking one day at a time.

Dr. Howell asked if Dr. Morgan is at a point where she is ready to go back to work.

Dr. Morgan responded no, she is not ready to return to work. She stated she is aware she needs to do some thing she does not want to but believes she needs to find AA and 12 step meetings that fit her needs.

Ms. Harry gave Dr. Morgan the address of a church where 12 step meetings are held for women only on Thursdays.

Dr. Morgan thanked Ms. Harry for the information.

Dr. Schaecher asked if Dr. Morgan is currently on any medications.

Dr. Morgan responded Dr. Crookston has prescribed Zoloft and that is the only medication she takes.

Dr. Babitz commented by doing the things required in the Order it is a pathway back into practice for Dr. Morgan. He stated she has taken the first step.

Dr. Schaecher commented there have been other Physicians who have met with the Board that have had serious issues and have taken probation as an opportunity to find what they like about medicine. He stated family medicine is difficult but Dr. Morgan has skills beyond being an OBGYN and she may need to use those skills in other ways. Dr. Schaecher suggested Dr. Morgan get out of the box as it will empower her to move forward.

Dr. Howell commented by not following the conditions of her Order it is a way to sabotage going back into the practice of medicine. She suggested Dr. Morgan focus on her desire to practice again. She stated the Board and Division do not want her to practice if she is not ready. She voiced concern that Dr. Morgan has not really signed on to meeting the conditions of her Order as she has not moved forward with the treatment recommendations. Dr. Howell voiced concern that other probationers get immersed in their recovery after they complete a treatment program and Dr.

Morgan has not done that. She stated that would be an important topic to talk about with her therapist along with if she is healthy enough to practice.

Ms. Taxin stated Dr. Morgan could request a suspension which would put the license on hold until she is ready to practice. She stated the Order can be amended but Dr. Morgan will need to contact her.

Dr. Babitz suggested Dr. Morgan ease back into practice through volunteer work where she would not have the worry of scheduling, billing, etc.

Dr. Morgan thanked the Board and Ms. Taxin for their comments. She voiced feeling badly about the patient whose name she had used to fill a prescription.

Dr. Howell responded it is difficult to hear feedback when it is obvious that Dr. Morgan is hard on herself with expectations. She stated the position of the Board is to make sure the public is safe and those who practice are safe to practice. She stated the Board does not see their position as one where they beat up on probationers but they want to know if and when Dr. Morgan decides to go back into practice that she is healthy enough to do so.

Dr. Babitz commented the Board understands how difficult it is to meet, answer difficult questions and hear difficult things about oneself but every time Dr. Morgan meets with the Board, he hopes she will see she has taken a big step.

Dr. Bennion requested Dr. Morgan meet monthly for a few months.

Ms. Taxin responded the Board is not scheduled to meet until March and Dr. Morgan is welcome to call her or Ms. Harry if she has any questions or wants to meet and she or Ms. Harry will meet with her prior to the March meeting.

Dr. Morgan asked if the Board would accept the

Hazelden evaluations. She stated the evaluations were sent to Dr. Walton.

Dr. Howell responded the Board would need to review the evaluations before accepting and if anything should be included they will notify Dr. Morgan at her next appointment.

Ms. Taxin reminded Dr. Morgan to call in daily for her drug and alcohol testing and to meet with the Board when she is scheduled to meet.

Ms. Harry stated she is in the process of transferring Dr. Morgan over to the CVI drug and alcohol testing. She requested Dr. Morgan to fill out the employer forms as not working in the field and send them in by the 28th of each month until she does go back to work.

Ms. Taxin stated Dr. Morgan's probationary time will count for up to six months as long as she is committed and working on her conditions but if she is still not working on the conditions and not working as a Physician after six months the time will not count. She stated Dr. Morgan will need to decide what she wants to do about her license and practicing as a Physician.

Dr. Howell requested Dr. Morgan to review and respond to the CS database list regarding six prescriptions that are listed.

Dr. Morgan reviewed the list and responded one patient should not be on there as that patient changed practitioners. She stated she is not sure why the other five are on the list as she has not written any prescriptions or given an ok for anything since May 2010.

The Board determined Dr. Morgan is in compliance with her Stipulation and Order as much as possible for her first interview.

An appointment was made for Dr. Morgan to meet again April 13, 2011.

DISCUSSION ITEMS:

Dr. Robert Weitzel – Evaluation Review

Ms. Taxin informed the Board that Dr. Weitzel has submitted an application to be relicensed in Utah. She stated Dr. Weitzel took the SPEX examination and passed and went to Pine Grove for an evaluation which is available for Board review.

Dr. Schaecher recused himself from the discussion and voting based on his being acquainted with Dr. Weitzel from prior employment.

10:14 am, Closure of Meeting

Dr. Schaecher made a motion to close the meeting to discuss the character, professional competence, physical and mental health of Dr. Weitzel.

Dr. Ries seconded the motion.

The Board vote was unanimous.

All public guests left the meeting.

10:35 am, Open Meeting

Dr. Bennion made a motion to reopen the meeting to continue with probationary interviews.

Dr. Ries seconded the motion.

The Board vote was unanimous

12:47 pm, Closure of Meeting

Dr. Schaecher made a motion to close the meeting to further discuss the character, professional competence, physical and mental health of Dr. Weitzel

Dr. Ries seconded the motion.

The Board vote was unanimous.

1:02 pm, Open Meeting

Dr. Schaecher made a motion to reopen the meeting.

Dr. Bennion seconded the motion.

The Board vote was unanimous.

Dr. Babitz made a motion to deny Dr. Weitzel's application for relicensure. The justification for denial was based Dr. Weitzel's lack of insight into his violations, his disciplinary and substance use history, the current evaluations and information stating he has not addressed issues noted in prior Stipulation and Orders, employment records, residency experiences and does not understand how he engaged in boundary violations.

Dr. Pingree seconded the motion.

Dr. Howell, Ms. Buhler, Dr. Byrd, Dr. Bennion, Dr. Pingree and Dr. Babitz voted in favor of the motion. Dr. Schaecher abstained from voting as he had recused himself. The vote passed with a simple majority.

The Board recommended Ms. Taxin deny Dr. Weitzel's application request for relicensure.

Ms. Taxin stated she believed Dr. Weitzel may want to meet with the Board.

The Board stated if Dr. Weitzel desires to meet with the Board to make an appointment for the April meeting, otherwise to deny his request.

Statute Update

Ms. Taxin stated she has received no confirmed language of the Statute changes from the UMA. She stated the University of Utah has drafted a Bill regarding the licensure by endorsement issue but they did not coordinate with her or the Division regarding the language and she stated she did not have a copy of the draft language.

CORRESPONDENCE:

CAC, News and Reviews

This item was deferred to the next schedule Board

meeting.

JMR Article Regarding Telemedicine
Questions/Survey

This item was deferred to the next schedule Board meeting.

Pine Grove Facility Information

This item was deferred to the next schedule Board meeting.

April 2011, FSMB Annual Meeting

Ms. Taxin informed the Board that FSMB will fund attendance at their annual meeting for one Administrator and one Physicians Board member and one Osteopathic Physician Board member. She stated she, Dr. Howell and Dr. Hermansen will attend the meeting.

Dr. Bennion Comment

Dr. Bennion reminded the Board that Charles Dalquist will be meeting in April to discuss IHC's policies and practices regarding suspensions of hospital privileges. He requested Board members to plan their schedules for a full day meeting.

Dr. Pingree Question

Dr. Pingree asked Ms. Taxin and Dr. Howell how many practitioners are currently in the diversion program.

Ms. Taxin and Dr. Howell responded they were not sure as the diversion program information is private.

NEXT MEETING SCHEDULED FOR:

April 13, 2011

Dr. Schaecher stated he has a conflict on April 13, but will try to rearrange his schedule.

Dr. Babitz stated he is serving on a national committee which meets monthly until spring and will be unable to attend the Board meeting on April 13.

ADJOURN:

The time is 1:07 pm and the Board meeting is adjourned.

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

April 13, 2011
Date Approved

(ss) James H. Pingree, MD, Acting Chair
Chairperson, Utah Physician & Surgeon Licensing
Board

March 6, 2011
Date Approved

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