

**MINUTES**

**UTAH  
PHYSICIANS  
LICENSING BOARD MEETING**

**October 12, 2011**

**Room 210 – 2<sup>nd</sup> Floor – 9:00 A.M.  
Heber Wells Building  
Salt Lake City, UT 84111**

**CONVENED:** 9:10 A.M.

**ADJOURNED:** 1:40 P.M.

**Bureau Manager:**

Noël Taxin

**Board Secretary:**

Karen McCall

**Compliance Specialist:**

Debbie Harry

**Board Members Present:**

Elizabeth F. Howell, MD, Chairperson

Marc E. Babitz, MD

Kristen Ries, MD

Lori Buhler

Paul J. Affleck, MD

David D. Byrd, MD

John Bennion, PhD

Daniel J. Parker, MD

Kenneth L. Schaecher, MD

**Board Members Absent:**

James R. Fowler, MD

Richard W. Chapa, MD

**Guests:**

Katie Carlson, MD

Michelle Bauer, MD

Richard A. Ferguson, MD

**DOPL Staff Present:**

Steve Dumcombe

**TOPICS FOR DISCUSSION**

**DECISIONS AND RECOMMENDATIONS**

**ADMINISTRATIVE BUSINESS:**

Board Chairperson

Dr. Schaecher made a motion to retain Dr. Howell as Board chairperson. Dr. Bennion seconded the motion.  
**The Board vote was unanimous.**

Swearing in of Dr. Paul J. Affleck as a Board Member

Ms. Taxin conducted the swearing in of Dr. Affleck. **Board members welcomed Dr. Affleck.**

**MINUTES:**

The minutes from the July 13, 2011 Board meeting were read.

Dr. Schaecher made a motion to approve the minutes as read. Dr. Ries 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. Nathan R. Currier** is currently in compliance with his Stipulation and Order. She requested Dr. Babitz to review the prescriptions carefully as there may or may not be concerns.

Ms. Harry reported **Dr. Robert F. Finnegan** is currently out of compliance with his Stipulation and order. She reported there is paperwork missing and his Order requires him to notify the Division within 10 working days if he changes his employment. She stated the Division has been notified that by mutual agreement he resigned from his employment and Dr. Finnegan has not yet notified the Division.

**Ms. Taxin stated Dr. Nelson submitted a letter reporting Dr. Finnegan had poor documentation, no justification for the large amounts of medications he was prescribing, he cut and pasted notes from patient files into other patient files, concerns regarding Dr. Finnegan's mental health, him being curt with patients and concern with those interactions. Ms. Taxin stated Dr. Finnegan's Order does not require an evaluation but the Board could ask him if he is willing to obtain a comprehensive evaluation and if he does not want to volunteer then the Board could recommend the information be sent to investigations. She stated Dr. Finnegan has been**

**out of compliance since his probation started.**

**Dr. Byrd stated he reviewed a box of prescriptions and it appears Dr. Finnegan sees about 15 to 16 patients a day and he is writing a high number of prescriptions. He stated there were several stimulants written which is not in the scope of pain medication, a lot of narcotics, opioids and sleeping pills. He stated he noticed controlled substance prescriptions that Dr. Finnegan should be moving away from as they are old school pain medications regimens. He stated it is not wrong to prescribe these medications but it is not best practice. Dr. Byrd stated Dr. Finnegan sees the indigent and needy population and it appears he is not conducting a complete workup of physical examinations, etc. to justify prescribing. He stated Dr. Finnegan's practice is dangerous in the sense that he is not correlating the medications with patient benefit. Dr. Byrd asked if Dr. Finnegan is conducting toxicology screening.**

**Ms. Taxin responded she believes Dr. Finnegan informed the Board he is doing toxicology screening.**

**Dr. Schaecher commented high doses of opioids puts patients at risk as many will overdose if they are put on another medication that reacts.**

**Dr. Ries questioned what is happening to all the patients Dr. Finnegan is treating as most practitioners are not taking patients who are on Medicaid or are uninsured.**

**Ms. Taxin stated the Board should listen and question what Dr. Finnegan has to say regarding the issues that have been brought up. She stated she would recommend the Board discuss with Dr. Finnegan his not working until he has obtained employment in a medical facility/environment, a new approved supervisor and meets again with the Board.**

**Dr. Babitz recused himself from any decision making as he was working with Dr. Finnegan but**

**he did comment that the Health Department had concerns regarding Dr. Finnegan's charting and patient evaluations. He stated he was not aware of the stimulant prescribing. Dr. Babitz stated Dr. Finnegan was counseled not to cut and paste patient comments into charts that he should write each chart separately. He stated Dr. Finnegan was informed he had to perform to the Health Department standards.**

Ms. Harry reported **Dr. Donald Harline** is currently in compliance with his Stipulation and Order. She stated a new re-evaluation was received from Pine Grove for the Board to review. She stated the evaluation recommended ongoing work on the issues, increasing therapy, attending his meetings regularly and returning to Pine Grove in six months.

**Ms. Taxin reminded the Board that Dr. Harline was not required to return to Pine Grove for re-evaluation but they requested him to return and he agreed. She also reminded the Board that they approved for Dr. Harline to attend the LDS support group which has had some challenges as there are people in the group that he knows so he is not as open as he should be as reported by Pine Grove. She stated the Board needs to be sure Dr. Harline is addressing his issues. She stated his supervisor, Dr. Oaky, has submitted positive reports.**

Ms. Harry reported **Dr. Michael S. Roundy** is currently in compliance with his Stipulation and Order. She reminded the Board that the Pace program was due September 16 and the essay is due October 16. She stated Dr. Roundy has a new supervisor who is giving more details on the report.

**Ms. Taxin stated she spoke with the supervisor and explained the boundary issues and the supervisor is reviewing Dr. Roundy's files for quality and completeness and discussing boundaries with Dr. Roundy plus receiving feedback from staff. Ms. Taxin stated Dr. Roundy's wife continually calls**

**voicing concerns about Dr. Roundy and she might attend his appointment. She stated she has directed Mrs. Roundy to investigations if she has additional information regarding Dr. Roundy.**

Ms. Harry reported **James E. Pickens** is currently in compliance with his Stipulation and Order. She voiced concern that Dr. Youngblood included on his report that he is a friend. She stated Dr. Youngblood reported Dr. Pickens is struggling with having enough patients.

**9:35 am**

Dr. Nathan R. Currier, Telephonic  
Probationary Interview

Dr. Currier met telephonically for his probationary interview.

Dr. Affleck was introduced.

Dr. Babitz conducted the interview.

Dr. Currier reported his practice is going well and there have been no changes on his medications.

**Dr. Babitz requested clarification on a few patients and their medications.**

Dr. Currier responded one patient was given a prescription then she came back saying she had lost the medication, then she said she had to take more than recommended. He stated he informed the patient he would stop prescribing more medication and would only give her a specified number per month.

**Dr. Babitz asked if Dr. Currier is using contracts with patients and if they request early refills then terminate them as patients.**

Dr. Currier responded he writes notes in the patient file and has the patient sign the note as he has electronic records and is not sure how a written contract would work.

**Dr. Babitz again encouraged Dr. Currier to consider a written contract which could be used for multiple patients.**

**Dr. Schaecher stated the contracts could be scanned into the patient file.**

**Dr. Babitz asked if Dr. Currier is doing weight loss management as there are a couple of medications on the list which are used for weight loss.**

Dr. Currier responded the medication is also used for ADHD and he has a few ADHD patients.

**Ms. Taxin stated if Dr. Currier needs an example of a CS contract she can get him one. She requested he provide an example of a CS contract at this next appointment for the Board to review.**

Dr. Currier responded he will send in a copy of the form he is now using.

**Dr. Schaecher asked if Dr. Currier is in private practice.**

Dr. Currier responded no. He explained he is a private contractor practitioner in a group practice.

**Dr. Schaecher voiced concern to Dr. Currier regarding patients wanting specific medications and fooling him into prescribing for them.**

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

**Dr. Currier will be notified of his next appointment after the Board determines the 2012 Board meeting dates.**

**9:45 am**

Dr. Robert F. Finnegan, Probationary Interview

Dr. Finnegan met for his probationary interview.

Dr. Affleck was introduced.

Dr. Byrd conducted the interview.

Dr. Finnegan stated he resigned from the health clinic due to his health issues which caused low performance. He stated he is now in private practice

as he has a few patients he has been seeing that he was not seeing through the health clinic. He stated colleagues have suggested he open a clinic in his home but he has not yet done that. Dr. Finnegan stated he needs to give the Board his new address.

**Dr. Byrd informed Dr. Finnegan that his Order requires him to notify the Division of any changes in his employment within 10 working days which he did not do. He requested an explanation.**

Dr. Finnegan responded he left a message with the Board secretary.

**Ms. McCall explained that she sent his appointment notification to the P.O. Box and it was returned with no forwarding address. She stated she then called and left a message on Dr. Finnegan's voicemail regarding his appointment and for him to contact her with a current address. She stated Dr. Finnegan called back with his new P.O. Box address only and did not inform her that he had resigned his position.**

**Dr. Schaecher asked what Dr. Finnegan has been doing between his resignation, contacting Ms. McCall and meeting with the Board.**

Dr. Finnegan again responded he left a message with Ms. McCall regarding his correct address.

**Ms. Taxin stated she contact the health clinic and was informed Dr. Finnegan had resigned.**

**Dr. Byrd clarified that Dr. Finnegan was not conducting adequate examinations or documenting sufficiently to justify the large quantities of pain medications, he seldom documented a plan regarding weaning patients and was cutting and pasting patient information into other patient files. He asked if this summary was correct.**

Dr. Finnegan agreed his documentation was poor. He again stated his health issues contributed. He stated dictation is not available at the clinic and he did not have the energy to do some things the way the clinic

wanted it done. Dr. Finnegan stated he had been reducing quantities of medications and was using some fast acting medications with some long acting medication but did not document it.

**Dr. Byrd asked for Dr. Finnegan's reason in prescribing dangerous medications to certain diagnosed patients.**

Dr. Finnegan responded he believed Dr. Byrd was referring to a Lyme disease patient. He stated the patient workup is in the patient chart but he did not get the note carried forward to the electronic file. He stated it is difficult to get approval from Medicaid for medications and the symptoms do not change so it does not warrant ordering another MRI to justify the continued prescriptions.

**Dr. Byrd stated he reviewed the box of written prescriptions. He voiced concerns regarding the large quantities and varied medications when Dr. Finnegan is a pain specialist. He stated he did notice some attempts to reduce but there are still high quantities of pain medications. Dr. Byrd asked for an explanation regarding a patient.**

Dr. Finnegan responded he prescribed a medication for the patient but the patient could not tolerate the medication and the patient brought the prescription back to Dr. Finnegan for disposal. Dr. Finnegan stated he directed the patient to take the medication to the pharmacy for disposal.

**Ms. Taxin stated the Pharmacy cannot take medications back once the patient has picked it up and they do not dispose of medications. She stated the local police department will dispose of medications.**

**Dr. Byrd asked why Dr. Finnegan is prescribing a lot of stimulants.**

Dr. Finnegan responded the stimulants are for ADHD and ADD as he often treats as the primary care Physician. He stated he has 30 to 40 patients who are ADHD or ADD and which is about 10% of his total

patient load.

**Dr. Byrd asked what percent of his patients received pain medications.**

Dr. Finnegan responded about half of his patient load.

**Dr. Byrd asked if Dr. Finnegan inherited his patient load.**

Dr. Finnegan yes, many of his patients were inherited.

**Dr. Byrd stated he noticed a lot of Soma and Oxycontin prescriptions.**

Dr. Finnegan responded he believes he has discontinued prescribing Soma and he was working on changing the Oxycontin over to a different prescription.

**Dr. Byrd reminded Dr. Finnegan that he was working with a population with a high number of issues. He voiced concern for patients if Dr. Finnegan is having health problems and low energy as these patients need to be followed carefully.**

Dr. Finnegan responded he resigned from the clinic.

**Dr. Byrd commented it is presumed that Dr. Finnegan will find employment where he will have similar issues.**

Dr. Finnegan responded he is working on going into a pain management program but there is nothing yet to report.

**Dr. Howell commented when Dr. Finnegan meets with the Board it sounds like he is always providing reasons for the deficiencies. She stated he has shared he has health problems with not enough energy to get through the day and she wondered how it will be different with him in another position of employment. Dr. Howell voiced concern regarding Dr. Finnegan and the patients he may serve. She stated she is not sure the Board would be comfortable with him practicing anywhere**

**unless he has had a complete comprehensive evaluation to determine he is safe to practice. She stated the Board cannot make Dr. Finnegan get an evaluation but it would be to his advantage as he must have a Board approved practice plan in order to continue to practice.**

**Ms. Taxin stated Dr. Finnegan's Stipulation and Order did not include the requirement for a comprehensive evaluation. She stated the Board would be more comfortable approving a practice plan for him to be employed if he did obtain the evaluation which would give him and the Board feedback and recommendations to be sure he is safe to practice so no patient is harmed. Ms. Taxin stated she will give Dr. Finnegan the information to contact Pine Grove in Mississippi. She stated if he is not willing to obtain the comprehensive evaluation from Pine Grove then the Board will need to discuss what steps they want taken.**

Dr. Finnegan responded he would be willing to complete the comprehensive evaluation.

**Dr. Schaecher asked where the mail goes for the new address Dr. Finnegan provided.**

Dr. Finnegan responded it is his home address.

**Dr. Schaecher asked again if Dr. Finnegan has an office in his home.**

Dr. Finnegan responded no.

**Dr. Schaecher asked if Dr. Finnegan is seeing patients as he indicated he was at the beginning of this meeting.**

Dr. Finnegan responded yes. He stated he sees some friends who he has treated for years and some neighbors.

**Dr. Schaecher asked where he is practicing to see and treat these patients.**

Dr. Finnegan did not respond.

**Ms. Taxin stated Dr. Finnegan cannot see any patients right now and cannot write any prescriptions as he does not have a Board approved practice plan, a Board approved supervisor or an appropriate office.**

**Dr. Byrd asked if Dr. Finnegan saw patients outside the clinic setting and if so, where did he see those patients.**

Dr. Finnegan responded yes. He stated these were not patients from the clinic but those he has treated for many years and he went to their homes. He stated he has talked with Dr. Jeppson regarding acting as his supervisor.

**Dr. Howell responded Dr. Jeppson would probably not be an appropriate supervisor as he is in the process of retiring and pain management is not his specialty.**

**Ms. Taxin again reminded Dr. Finnegan that he cannot treat any patients without Board approval. She stated as a Physician he took the Hippocratic Oath and has a duty to say he needs a break if he has medical issues. She stated the evaluation will look at all the issues to be sure he is safe to practice.**

Dr. Finnegan responded he will stop writing prescriptions and get the evaluation.

**Ms. Buhler asked what changes Dr. Finnegan has made since February 2010 when his probation started.**

Dr. Finnegan responded he started working eight hour days, he believes his documentation improved and he reduced the prescriptions. He stated after he resigned he spent most of his time sleeping and catching up on some things.

**Ms. Taxin summarized the meeting for Dr. Finnegan as follows:**

**1. Call her for the information for a comprehensive evaluation at Pine Grove, Mississippi;**

- 2. Do not practice or see any patients unless he receives approval from her or the Board;**
- 3. Do not write any prescriptions;**
- 4. Prior to approval to practice from her or the Board Dr. Finnegan must have an approved practice plan; and**
- 5. Dr. Finnegan needs to communicate with her and the Board on his status.**

Dr. Finnegan voiced understanding and agreed to the conditions as outlined.

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

**Dr. Finnegan will be notified of his next appointment after the Board determines the remaining 2011 meeting dates and the 2012 Board meeting dates.**

**10:15 am**

Dr. Donald N. Harline, Probationary Interview

Dr. Harline met for his probationary interview.

Dr. Affleck was introduced.

Dr. Howell conducted the interview.

**For Dr. Affleck's benefit, Dr. Howell requested Dr. Harline to briefly explain why he is before the Board.**

Dr. Harline responded he had an inappropriate relationship with a female patient.

**Dr. Howell stated Dr. Harline went back to Pine Grove for a follow up evaluation. She asked him to discuss the evaluation.**

**Dr. Parker made a motion to close the meeting to discuss Dr. Harline's evaluation from Pine Grove and his mental health/competency.**

**Ms. Buhler seconded the motion.**

**The Board vote was unanimous.**

**10:39 am – The meeting was closed.**

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

**Dr. Parker seconded the motion.**

**The Board vote was unanimous.**

**10:55 am – The meeting was reopened.**

**The Board reviewed the evaluation and recommended Dr. Harline continue following his treatment goals.**

Dr. Harline informed the Board he has applied for the Suboxone certification.

**Dr. Howell commented it is common to have someone assigned to assist with the prescribing of Suboxone. She requested he not be assigned to her as it would be a conflict for her.**

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

**Dr. Harline will be notified of his next appointment after the Board determines the 2012 Board meeting dates.**

**10:35 am**

Dr. Michael S. Roundy, Probationary  
Interview

Dr. Roundy met for his probationary interview.

Dr. Affleck was introduced.

Dr. Babitz conducted the interview.

**Dr. Babitz asked if Dr. Roundy completed the required Pace courses as there is no documentation in his file.**

Dr. Roundy responded he completed the courses in 2010.

**Ms. Taxin requested Dr. Roundy submit a copy of the completion certificate for his file. She stated**

**the he will also need to submit documentation of completing the prescribing course. She requested he share what he learned from the courses.**

Dr. Roundy responded he learned about appropriate and inappropriate boundaries. He stated the prescribing course was about being more conservative with controlled substance prescribing.

**Ms. Taxin asked if he is still prescribing to family and friends.**

Dr. Roundy responded he now tells family and friends no if they ask for a prescription. He stated he meets with Dr. McPherson on a regular basis and they discuss boundary and ethical issues. He stated recently he performed a competency evaluation, the patient had a living will and then the patient passed away. He stated he discussed the ethical dilemma with his supervisor. He stated the evaluation indicated the situation was handled appropriately. Dr. Roundy stated he has had a tendency to be too friendly and familiar with his staff and he now has a sign on his door which says “business” to remind him to stay on track and be professional in the work place.

**Dr. Babitz commented he has noticed Dr. Roundy is a more conservative prescriber.**

Dr. Roundy responded his policy is while a patient is in the hospital he will continue the medications as prescribed by the pain management Physician but there will be no medications sent home with the patient and they will have to go back to the pain management Physician for any medications needed.

**Ms. Taxin stated if Dr. Roundy does start prescribing CS's he should consider using a contract for his safety and the safety of his patients.**

**Dr. Babitz asked if Dr. Roundy submitted the required essay.**

Dr. Roundy responded yes.

**Ms. Taxin stated the essay is not in his file but Ms.**

**Harry will research and contact Dr. Roundy to confirm if it has been received. She stated Dr. Roundy may need to submit another copy. Ms. Taxin stated Dr. Roundy should continue meeting with Dr. McPherson, continue discussing good practice, boundaries/ethics and take any feedback regarding the chart review.**

**Dr. Babitz stated Dr. Roundy is in compliance with his Stipulation and Order and based on the compliance he made a motion for the chart review to be reduced to 10%.**

**Dr. Schaecher seconded the motion.**

**The Board vote was unanimous.**

**Dr. Roundy will be notified of his next appointment after the Board determines the 2012 Board meeting dates.**

**10:50 am**

Dr. James E. Pickens, Probationary Interview

Dr. Pickens met for his probationary interview.

Dr. Affleck and Dr. Howell were introduced.

Dr. Ries conducted the interview.

**Dr. Ries requested Dr. Pickens to briefly explain for Dr. Affleck and Dr. Howell why he is on probation.**

Dr. Pickens responded he was criminally convicted in Florida for illegal distribution of controlled substances as he was selling prescriptions online without the correct authorization.

**Ms. Taxin stated Utah does allow online prescribing but a license is required and Dr. Pickens is not licensed for online prescribing. She stated, based on Dr. Pickens conviction, the Division believed probation was appropriate.**

Dr. Pickens stated his work has slowed down considerably but he is doing fillers and botox. He stated he does the small cases in his office and is doing

mostly non-invasive procedures. Dr. Pickens stated his wife is licensed as an Esthetician and they are doing chemical peels and microderms in the office.

**Dr. Ries asked if Dr. Youngblood is reviewing charts as his report was not specific. She also requested Dr. Pickens clarify his relationship with Dr. Youngblood regarding personal friendship or professional acquaintance.**

Dr. Pickens responded Dr. Youngblood does review his patient charts. He stated their relationship is mostly professional as they see each other for supervision and at professional meetings.

**Dr. Ries asked if Dr. Pickens is writing CS prescriptions.**

Dr. Pickens responded no, as he does not have the CS license.

**Dr. Ries asked Dr. Pickens to explain the CE courses he has completed or is registered to complete.**

Dr. Pickens responded he was going to take the PRIME course in New Jersey but the one he wanted was already full. He stated has submitted the paperwork for the course in December but he has not yet submitted the fee and there is a long waiting list. He stated he wants to complete the course in 2011 so it will count toward his required CE for renewal in 2012.

**Ms. Taxin responded she has not heard of a waiting list and Dr. Pickens should contact her if he has a problem getting into the course. She stated when Dr. Youngblood completes the report he should sign as supervisor and not friend unless he believes he is more of a friend and then the Board would need to discuss requiring a different supervisor.**

**Dr. Schaecher asked why Dr. Pickens sent his paperwork in for the course but did not submit the fee.**

Dr. Pickens responded it is \$300.00 to \$400.00 for the

registration fee and he cannot submit the fee until he gets his finances in order.

**Ms. Taxin stated she believes the full fee for the course is approximately \$2000.00.**

**Dr. Bennion asked what type of course it is and how long the course is.**

Dr. Pickens responded it is a three or four day course. He stated you are not accepted for the course if you do not disclose/admit why you want to attend the course.

**Ms. Taxin clarified the course is in New Jersey. She stated it is ethical based and they cover a variety of ethical and boundary issues. She stated the students are held accountable for their choices so they understand why it was a dilemma or issue. She stated if Dr. Pickens cannot afford to take the course then he should discuss it with the Board.**

**Dr. Schaecher reminded Dr. Pickens that the course is required to be completed before June 2012. He suggested Dr. Pickens not let finances prohibit him from taking the course and not procrastinate as there will be no exception and he needs to be in compliance with his Order.**

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

**Dr. Pickens will be notified of his next appointment after the Board determines the 2012 Board meeting dates.**

**2:00 pm**

Dr. John Gambee Hearing

For information regarding the hearing please contact Lenore Epstein, Assistant Attorney General.

**APPLICATIONS:**

Dr. Niven Tai Tien, Physician Application

Ms. Taxin explained Dr. Tien attended the University of Maryland Dental School for his dental degree and then the New York School of Medicine for his medical degree. She stated Dr. Tien completed one year (12 months) of an ACGME accredited medical residency

then he completed a residency in oral and maxillofacial surgery at the New York Medical Center residency which was not ACGME accredited for surgery as per clarification from the New York program. She stated the Law requires 24 months of an ACGME accredited residency for the Physician license.

**Dr. Affleck asked if Dr. Tien meets the requirements for a Utah Dentist license.**

Ms. Taxin responded yes and she issued the Dental license.

**Dr. Howell commented if the training is not ACGME then it should at least be medical.**

**Dr. Ries agreed and stated when the Physician and Surgeon license is issued it is for everything a Physician and Surgeon does not just oral and maxillofacial surgery.**

**Dr. Babitz agreed and stated the residency needs to be 24 months of an ACGME progressive residency.**

**The Board recommended the application be denied based on the lack of 24 months of an ACGME progressive residency in medicine.**

Dr. Michael Wilkinson, Physician Application

Ms. Taxin explained Dr. Wilkinson attended Utah State University and then received a Doctorate of Medicine from Oregon Health and Science University of Medicine. She stated Dr. Wilkinson also attended dental school at the Oregon Health and Science University. She stated Dr. Wilkinson has had no ACGME residency but did have a one year ACGME progressive internship in oral maxillofacial surgery which was part of an integrated six year program.

**The Board recommended the application be denied as Dr. Wilkinson has not met the requirement of a 24 month progressive ACGME medical residency.**

**Dr. Babitz stated Dr. Wilkinson could complete a 12 month progressive medical residency in Utah to obtain the 24 month required and then reapply for**

FYI

**licensure.**

Ms. Taxin stated she received a letter from Dr. Perry Ng, Department Head of Radiology at the University of Utah (U of U), requesting clarification of Utah requirements for foreign educated Physicians trying to obtain residencies/fellowships at the U of U in a non-ACGME accredited program. She stated he asked about exemptions and licensure requirements. Ms. Taxin stated she explained the exemption statute does not apply but that the Physician Educator provision may. She stated it is becoming very common for the Division to receive questions and calls on foreign educated doctors to participate in non-ACGME accredited programs and receive licensure without meeting all requirements.

It appears the U of U as a whole does not understand the requirements in the Statute they created and there is disagreement within departments regarding the Statute's concept.

Dr. Ignacio Garrido-Laguna, Physician Educator Application

Ms. Taxin summarized and discussed the application of Dr. Garrido-Laguna. She passed the file around for all Board members to review.

Ms. Taxin reviewed the requirements in the Law, 58-67-302.7, (3)(a), (b) and (c) which states:  
67-302.7 Notwithstanding any provision of law to the contrary, an individual may receive a type II foreign teaching license if the individual:  
(a) satisfies the requirements of Subsections (2)(a) through (e) and (g) through (j).

Ms. Taxin stated the initial application was deficient information and the Division requested the deficient information, which was received, to prepare the file for the Board's review today.

**Following discussion the Board recommended the following:**

- 1. Ms. Taxin request the U of U Dean and Department Head resubmit letters addressing specifically Dr. Garrido-Laguna's medical knowledge, competency and skills which make him a candidate for**

- consideration for licensure to provide services to Utah residents and be employed at the U of U;**
- 2. Clarify Dr. Garrido-Laguna's employment status and supervision, i.e., fellow, faculty, and/or both as the letters received contradicted each other; and**
  - 3. Ms. Taxin, Dr. Ries and Dr. Howell meet with Dr. Lee to establish an understanding of the process with expectations for both the U of U and the Division to follow in licensing Physician Educators.**

### **DISCUSSION ITEMS:**

#### Update on Opioid Prescribing and Controlled Substance Database Tutorial and Examination

Ms. Taxin explained in order for all Physicians who have the controlled substance (CS) license to renew they will be required to complete a DOPL online tutorial and examination which will cover areas of the CS database, opioid prescribing, medication disposal and the Laws and Rules. She stated the tutorial is designed to make the practitioner think and hopefully learn new information regarding appropriate prescribing. She stated she is hoping it will be ready tomorrow for testing. Ms. Taxin asked if any Board members would be willing to volunteer for testing the program.

**All licensed Board members volunteered to test the program.**

Ms. Taxin thanked them for volunteering and stated she will contact them.

#### Board Member Training Questions

Ms. Taxin explained every year she is required by Law to present a Board member training on the Law and Rules and the responsibilities of Board members. She stated some have given feedback that it might be better for an attorney to do the training and they will not pare down the presentation as she has done. She asked the Board for comments.

**Dr. Schaecher asked if it is possible for the outline to be on the website for Board members to refer to when they have time.**

Ms. Taxin responded the online training would not be available this year but it is a good idea as new Board members would be able to review prior to attending a meeting. She stated she will consider an online program for the future. She suggested she do her shortened version at the November meeting.

**Board member concurred.**

Cultural/Community Information Regarding Foreign Educated Applicants

This information was given to the Board. **No Board action was taken.**

Addiction Now Defined as Brain Disorder, Not Behavior Issue Article

This information was given to the Board. **No Board action was taken.**

Board Meeting Schedule

Ms. Taxin stated the Board will need to meet in November as there were several probationers bumped due to the hearing today. She asked what frequency schedule the Board would like for 2012.

Dr. Howell explained the Board was meeting monthly and due to the lack of probationers they had requested meeting quarterly for their convenience. She stated now that there are more probationers she would prefer meeting more frequently.

**Dr. Schaecher recommended the schedule be monthly with meetings planned for every other month and if that does not meet the needs of completing business then consider monthly meetings.**

**Board members concurred.**

**The secretary was requested to send out the 12 month schedule for 2012 with every other month dates in bold as follows:**

**January 11**, February 8, **March 14**, April 11, **May 16**, June 13, **July 11**, August 15, **September 12**, October 10, **November 14** and December 12, 2012.

Representative Evan Vickers Information Regarding Medical Specialty Practice Act Legislation

Ms. Taxin explained she received a letter from Representative Evan Vickers regarding proposing legislation requiring anyone who wants to make legislative changes to the Medical Practice Act to meet with a committee first in order to minimize last minute

changes that may not be appropriate, needed or wanted. She read the letter to the Board and asked if anyone was opposed.

**Board members voiced no opposition.**

Fine Authority Rule Update

Ms. Taxin explained that a law change in 2011 addressed fine authority for unprofessional and unlawful conduct. She stated the Rule has not been filed to date as she has been coordinating with the UMA in figuring out language and fines that were fair to establish. She stated she and the UMA have come to an agreement and she is providing the final draft to the Board. She explained the main change from the version the Board had approved was a difference in fine amounts. Ms. Taxin stated some amounts were decreased.

**After discussion and review the Board concurred with filing the Rule.**

FYI

Ms. Taxin updated the Board regarding public disciplinary actions taken by the Division.

**Dr. Bennion asked about cases he has heard in the news and how Board members should respond.**

Ms. Taxin recommended Board members be selective regarding their reading or listening to information regarding someone who might be investigated. Ms. Taxin questioned the Board's request for comprehensive evaluations and recommending Pine Grove treatment first as they are thorough with different types of Physicians evaluating different areas.

**The Board concurred.**

Ms. Taxin then stated there are a variety of cases pending right now and some of the more challenging ones may come before the Board. She also stated in the future an investigator will be attending the Board meetings to update the Board on the number of open investigations, the number closed, etc.

**Board members voiced believing they should hear**

**some of the cases.**

FYI – Renewal Reminder

Board members noted the January 31, 2012, renewal date.

FYI – November Board Meeting Information

Ms. Taxin explained due to the hearing today there were some appointments postponed and will need to meet in November. She reviewed the following information for the November 9, 2011 Board meeting with the Board:

**Appointments:**

Dr. Edmund Chein  
Dr. Kittya N. Paigne  
Dr. Carl Wurster  
Dr. Gregory R. Hoffman  
Dr. Robert A. Weitzel

Ms. Taxin stated Dr. Weitzel signed a Stipulation and Order and will need to meet in November.

She then reviewed the following discussion items for the November meeting.

**Discussion Items:**

- Telemedicine Assignment
- Ms. Taxin reminded the Board of their assignment to look into what they can find on telemedicine for discussion in November. She stated she also gave them additional information from FSMB.
- Board Member Training

Dr. Bennion Question

Dr. Bennion reminded the Board of Charles Dalquist meeting a few months ago to give a presentation about egregious hospital issues being reported. He asked if anything has come out of that presentation/discussion.

**Ms. Taxin responded after that meeting an article came out regarding hospitals not reporting to DOPL. She stated all malpractice reports that she receives are now given to investigations to review and logged in and if they determine unlawful or unprofessional conduct occurred a case is opened and assigned to an investigator.**

**Dr. Schaecher commented there are many Physicians who are given a choice to resign hospital**

**privileges or be reported. He stated they usually choose to resign.**

Dr. Bennion asked if hospitals are required to report when hospital privileges are suspended.

**Ms. Taxin responded yes.**

Dr. Bennion asked if the length of suspension is disclosed.

**Ms. Taxin responded it is sometimes disclosed on the information received. She stated if a patient complains then DOPL investigates.**

**NEXT MEETING SCHEDULED FOR:** November 9, 2011

**ADJOURN:** The time is 1:40 pm and the Board meeting is adjourned for Dr. Gambee's hearing.

*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.*

November 9, 2011  
Date Approved

(ss) Elizabeth F. Howell, MD  
Chairperson, Utah Physician & Surgeon Licensing Board

October 20, 2011  
Date Approved

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