

MINUTES

**UTAH
PHYSICIANS LICENSING
BOARD MEETING**

March 7, 2012

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

CONVENED: 9:00 A.M.

ADJOURNED: 3:40 P.M.

Bureau Manager:
Board Secretary:
Compliance Assistants:

Noël Taxin
Karen McCall
Debbie Harry
Debra Troxel

Board Members Present:

Elizabeth F. Howell, MD, Chairperson
Gary A. Hale, R.Ph.
James R. Fowler, MD
Marc E. Babitz, MD
John W. Bennion, Ph.D.
Kristen Ries, MD
David D. Byrd, MD
Kenneth L. Schaecher, MD
Paul J. Affleck, MD

Board Members Absent:

Daniel J. Parker, MD
Richard W. Chapa, MD

Guests:

Elizabeth Pacheco, MSB
Katie Carlson, Addiction Fellow
Marina Chowdhury
Michelle Bauer, MD

DOPL Staff Present:

Jake Dinsdale, State Auditor
Pam Bennett, Investigator

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the February 1, 2012 Board meeting were read.

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

BUSINESS FROM PREVIOUS MEETING:

Follow up on Dr. Earley's Presentation of
Addiction among Physicians

Ms. Taxin reported Dr. Earley sent her different articles from different practitioners to review and it appears the focus is more for diversion than probationary, but that the information is useful. She stated Dr. Earley had said he would assist in training potential evaluators but has not gotten back to her regarding his fees. Ms. Taxin stated she is in the process of contacting Utah Psychiatrists and Psychologists regarding their interest in working with DOPL, their qualifications and interest to treat and evaluate psychological, neuropsychological, sexual and/or addiction issues with probation. Ms. Taxin suggested this be an item for further discussion at another meeting.

Dr. Bennion commented he believes the bigger picture should be considered, i.e. hospitals and various other entities within Utah and address where DOPL and the State are in regarding to treating addicted practitioners. He stated Dr. Earley appeared interested in helping people.

Dr. Howell commented when she first came to the University of Utah and filled out their forms she noticed they were asking inappropriate questions. She stated she has talked with people at the U of U regarding the application process and has tried to increase the awareness. She stated she has been impressed with Primary Children's where Ed Clark sees the larger picture, understands people have problems. She stated he understands there is no guarantee people will not relapse but is willing to work with people and give support.

Ms. Taxin stated in other States the wellness programs require money, time and commitment to put together and she questioned if this is something the Board should take on or the hospitals, clinics and the Medical Association.

Dr. Howell suggested looking at inviting Dr. Earley back to conduct some training with several different Boards and maybe include IHC, Hospital Systems, etc. as this would allow other providers to also be involved. She suggested Ms. Taxin approach the UMA to take the lead and partner with DOPL for training.

Dr. Affleck asked what diversion is and who it is for.

Dr. Howell responded diversion is a program for addicts to obtain help recovering. She explained Dr. Walton oversees the program and if you believe you or someone else has an addiction problem you would contact Dr. Walton to determine if you meet requirements to be in the diversion program. She stated it is a private program with a contract which includes drug testing and monitoring.

Ms. Taxin stated she believes the number one reason to go into the diversion program is for substance use but people who have graduated in the program and still have problems cannot go through the program again. She stated the diversion monitoring program is a gift to get into a with specific conditions to follow without the public being informed of the issues.

Dr. Ries commented she believes it is a good program and many practitioners go through the program and do well.

APPOINTMENTS:

9:20 am

Debbie Harry and Debra Troxel, Compliance Update

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

Ms. Harry reported **Dr. Robert Simpson** is going to request lifting the suspension. She stated he has a place to work if the suspension is lifted.

Ms. Taxin stated Dr. Simpson completed the conditions of the Stipulation to lift the suspension including treatment with the Betty Ford program

and then voluntarily returned for aftercare counseling with his family. She stated he appears to be taking responsibility for his actions/behaviors and has remained sober.

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

Ms. Harry reported **Dr. Carl Wurster** is currently in compliance with his Stipulation and Order.

Ms. Taxin requested the Board to ask Dr. Wurster if Idaho has terminated his probation there.

Ms. Harry reported **Dr. Arif Chowdury** is currently in compliance with his Stipulation and Order as much as possible for his initial appointment.

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

9:45 am

Dr. Robert Simpson, Probationary Appointment Regarding the Possible Lifting of the Suspension on the Physician & Surgeon License

Dr. Simpson met for his probationary appointment to discuss lifting the suspension on his Physician & Surgeon license and being monitored on probation.

Board members and Division staff were introduced.

Dr. Howell conducted the interview.

Dr. Howell informed Dr. Simpson that the Board has read his Stipulation and Order and his evaluation. She explained if his personal information regarding mental health or physical health and/or competency is discussed the meeting may be closed.

Ms. Taxin suggested the meeting remain open for Dr. Simpson to briefly explain what brought him before the Board.

Dr. Simpson thanked Dr. Howell for the explanation. He stated over a three year period he falsified prescriptions for himself. He stated he realized he needed to make some changes and he called the Division. Dr. Simpson stated he then went to see his employer and requested a leave of absence in order to obtain treatment.

Ms. Taxin explained Dr. Simpson self reported his addiction issues.

Dr. Howell asked if Dr. Simpson wanted to go into the diversion program when he self reported.

Dr. Simpson responded he was unaware of what the diversion program was but he was willing to do anything to get off the drugs. He stated when he contacted the Division he was informed he was already being investigated.

Ms. Taxin explained if there are criminal charges the professional cannot go into the diversion program. She stated it was frustrating at first for Dr. Simpson and the Division as Dr. Simpson's legal counsel would not agree to terms that were offered. Ms. Taxin stated Dr. Simpson decided he no longer needed legal counsel and he and the Division resolved the issues, he agreed to the conditions offered and signed the Stipulation and Order.

Dr. Bennion requested clarification that Dr. Simpson has not practiced for a year.

Dr. Simpson responded yes.

Dr. Schaecher made a motion to close the meeting to discuss Dr. Simpson's personal health history.

Dr. Affleck seconded the motion.

The Board vote was unanimous.

9:55 am, The meeting was closed.

10:28 am
Dr. Schaecher made a motion to reopen the meeting.

Dr. Bennion seconded the motion.

The Board vote was unanimous

10:28 am, The meeting was reopened.

Dr. Howell asked what Dr. Simpson has been doing since he completed treatment.

Dr. Simpson responded he has been doing some non-clinical volunteer work with the 4th Street Clinic.

Ms. Taxin referred the Board to their packet and a letter from Dr. Christina Gallop at the 4th Street Clinic where she offers to consider employing Dr. Simpson and would give him supervision.

Dr. Howell asked Dr. Simpson what he would do at the 4th Street Clinic.

Dr. Simpson responded he would continue with writing grants he has been doing and also do some patient care. He stated there are no prescriptions for controlled substances written at the 4th Street Clinic so he would not need his CS license. Dr. Simpson stated Dr. Gallop is aware of his issues and is very sensitive to some of the challenges involved for a person in recovery and working.

Dr. Byrd asked Dr. Simpson what the working hours would be.

Dr. Simpson responded he and Dr. Gallop have discussed working part time. He stated he has informed Dr. Gallop of the obligations he has in his recovery and she is willing to work out a schedule so he will be able to work and meet those obligations.

Dr. Babitz stated Dr. Simpson will need to submit a practice plan which should include the days and times he will be working, outline what he will be doing regarding clinical practice, etc.

Dr. Howell asked Dr. Simpson how long he has been in recovery with no relapse.

Dr. Simpson responded eight and a half months.

Dr. Ries asked if all Dr. Simpson's drug tests have been negative.

Ms. Taxin and Ms. Harry responded yes.

Dr. Simpson voiced excitement about being sober and the possibility of working again. He stated he wants to be in a more calm and less stressful environment.

Dr. Bennion asked if Dr. Simpson is pressed for income.

Dr. Simpson responded not at this time and the 4th Street Clinic pays very little.

Dr. Schaecher asked if Dr. Simpson misses practicing medicine.

Dr. Simpson responded yes. He clarified he does not miss critical care practice and does not see himself returning to the critical care environment at this time. He stated it gets harder as he gets old as the hours and schedule are very difficult. He stated he also cannot afford to get entangled in the narcissism and ego again.

Dr. Schaecher stated the clientele at the 4th Street Clinic have a propensity to be involved in the same issues that brought Dr. Simpson before the Board.

Dr. Simpson voiced understanding and stated due to his early life experiences he could have easily been a client at the 4th Street Clinic.

Dr. Howell reminded Dr. Simpson he should be on the gratitude side but there is always a danger for relapse when he goes back into practice.

Dr. Bennion made a motion to lift the suspension on Dr. Simpson's Physician & Surgeon license.

Dr. Bablitz seconded the motion.

The Board vote was unanimous.

Ms. Taxin informed Dr. Simpson the recommendation of the Board to lift the suspension on his Physician & Surgeon license will need to be approved by the Division Director and she will notify Dr. Simpson when it has been approved.

Ms. Taxin stated Dr. Simpson will need to submit his practice plan and Dr. Gallop will need to submit her resume. She asked the Board if they want to review the practice plan in May or if they want her to review and if it is thorough to approve it.

Dr. Schaecher requested the practice plan be emailed to all Board members to review and if the practice plan is accepted then Ms. Taxin may approve.

Dr. Babitz requested Ms. Taxin also include her opinion when she emails the practice plan.

Ms. Taxin agreed to review and then email her comments with the practice plan to Board members to review and respond back to her. She explained the practice plan is a working document and she believes Dr. Gallop will be a good support for Dr. Simpson. Ms. Taxin voiced what a difference she sees in Dr. Simpson between now when he is working on his recovery and a year ago.

The Board determined Dr. Simpson is in compliance as much as possible for his first appointment.

An appointment was made for Dr. Simpson to meet again May 16, 2012

10:45 am
Dr. Gregory R. Hoffman, Probationary
Interview

Dr. Hoffman met for his probationary interview.

Dr. Ries conducted the interview.

Dr. Ries asked Dr. Hoffman if the Oregon Board has terminated his probation there.

Dr. Hoffman responded no, the Oregon Board decided to wait. He stated he was informed they usually wait until the second request so he will probably make another request next year.

Dr. Ries stated the Utah Board will wait to find out what Oregon will do next year before making any recommendations regarding termination of the Utah probation.

Ms. Taxin explained the process is to ensure Dr. Hoffman is making appropriate choices and it appears he has been doing that. She stated if Oregon reconsiders and terminates his Oregon probation then Utah could also consider but will discuss in October when Dr. Hoffman is scheduled to terminate probation in Utah.

Dr. Ries asked Dr. Hoffman about a patient name on the CSD. She stated prior reports indicate this patient was receiving 10 to 20 pills and now is receiving 30 pills. She stated each refill is now a week sooner than the last refill. Dr. Ries recommended Dr. Hoffman put a date on the prescription that it cannot be refilled prior to that specific date as the patient may be stock piling the medication.

Dr. Hoffman explained he is trying to transfer this patient to another practitioner. He thanked Dr. Ries for the recommendation of including a specific date for refills.

Ms. Taxin asked if Dr. Hoffman believes his probationary process has been helpful to him.

Dr. Hoffman responded yes.

Ms. Taxin stated Dr. Hoffman's supervisor has written positive reports regarding how he treats his patients.

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

An appointment was made for Dr. Hoffman to meet again May 16, 2012.

11:00 am

Dr. Carl Wurster, Telephonic Probationary Interview

Dr. Wurster met for his telephonic probationary interview.

Dr. Bennion conducted the interview.

Dr. Bennion stated the Board understands Dr. Wurster met recently with the Idaho Board. He requested Dr. Wurster to report on that meeting.

Dr. Wurster responded he called the Idaho Board and asked if he should meet with them to request termination of the Idaho probation and was instructed he should send a letter of request instead of meeting in person. He stated he sent the letter for them to consider when they met last Friday. Dr. Wurster stated Idaho then requested copies of his CME which he has submitted. He stated he was informed it takes awhile for the Idaho Board to send out their letter regarding his request.

Dr. Bennion asked Dr. Wurster about his health and what he is doing professionally.

Dr. Wurster responded his health is generally doing better and he is relatively free of pain now. He stated he is now teaching at a proprietary school in Idaho but does no clinical work which requires a license. Dr. Wurster asked if he should send a copy of the Idaho letter to Utah.

Dr. Bennion responded yes. He stated if anything else changes that would be relevant he should notify Utah.

Ms. Taxin stated if Dr. Wurster submits any information from Idaho prior to the May meeting then he may need to meet in person on May 16, 2012. She then introduced Debra Troxel by telephone to Dr. Wurster and requested all

information be sent to Ms. Troxel as she will now be the compliance specialist.

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

A tentative telephonic appointment was made for Dr. Wurster to meet May 16, 2012.

11:10 am

Dr. Arif Chowdhury, Initial Probationary Interview

Dr. Chowdhury and Marina Chowdhury, Dr. Chowdhury's wife, met for his initial probationary interview.

Board members and Division staff were introduced.

Dr. Schaecher conducted the interview.

Dr. Schaecher requested Dr. Chowdhury to briefly explain what brought him before the Board.

Dr. Chowdhury responded there was a spinal tap issue and a HIPPA violation. He explained there was a patient referred to him for a spinal tap but no records were supplied and it was determined he made too many punctures trying to complete the spinal tap. He stated the HIPPA violation was due to a mix up in patient files and the wrong file was given out. Dr. Chowdhury stated he has made some changes in his protocol for patient records to be given out and now every record must go through him first to initial prior to giving out any information. He stated he has since apologized to the patient and DOPL.

Dr. Babitz asked Dr. Chowdhury why he thinks a complaint was filed.

Dr. Chowdhury responded he believes it was because he had a disgruntled staff member.

Dr. Howell requested more information about the situation.

Ms. Taxin explained this case took quite some time to complete. She stated there were other complaints and Letters of Concern were sent out

on those complaints but the Division believed Dr. Chowdhury was not hearing the concerns in those letters. She stated the Division believed this complaint needed further action. Ms. Taxin explained an expert specialist reviewed the file and voiced concerns regarding the spinal tap on this specific patient.

Dr. Schaecher asked if the incident with the spinal tap and the patient record were on the same day with two separate patients.

Ms. Bennett responded yes. She stated there have been other cases brought before the Division but the Assistant AG who worked on this case noted no action had been taken against the license for the other complaints and they would not be able to use them to take current action. Ms. Bennett stated this case occurred over a long period of time with negotiations and the Order Dr. Chowdhury signed is what was finally negotiated.

Ms. Taxin stated letters of concern are not included on public record.

Dr. Schaecher asked when Dr. Chowdhury first started his general neurology practice.

Dr. Chowdhury responded in 1997.

Dr. Schaecher asked if that was after completing a residency.

Dr. Chowdhury responded yes.

Dr. Schaecher asked if Dr. Chowdhury is Board certified.

Dr. Chowdhury responded no. He stated he has just completed the oral exams and needs to complete the written portion.

Dr. Schaecher stated the Stipulation and Order Dr. Chowdhury signed and agreed to the facts as related require him to complete the PRIME course within a year. He asked what plans Dr.

Chowdhury has made toward completing this condition.

Dr. Chowdhury responded he had an attorney to negotiate for him as he was busy at the time with family issues. He stated his attorney had said he needed to sign the document or lose his license so he signed. He stated he has not yet read the Order but will do everything he needs to do to complete the conditions.

Board members voiced surprise that Dr. Chowdhury signed the Order without reading it.

Dr. Chowdhury stated he was informed by his attorney that the Board might approve him to go to the PRIME program in Denver, Colorado as it is closer than New Jersey program and he could drive there.

Dr. Schaecher stated the Board would need to recommend an amendment to the Order to change the requirement of attending the PRIME program in New Jersey to the program in Colorado.

Ms. Taxin responded that she is not informed of a PRIME Colorado course but that the New Jersey course addresses several areas such as boundaries and ethics and would be of benefit to Dr. Chowdhury. She stated an additional benefit for Dr. Chowdhury would be he could obtain CME for the course.

Dr. Schaecher stated the legal document Dr. Chowdhury signed specifies the PRIME course in New Jersey. He stated Dr. Chowdhury has 11 months to complete the course. He stated Dr. Chowdhury must work under a DOPL approved supervisor who is competent in doing spinal taps and the supervisor will be required to submit monthly reports. He asked if Dr. Chowdhury has identified a proposed supervisor.

Dr. Chowdhury responded he has chosen to discontinue doing spinal taps.

Dr. Schaecher stated the Board appreciates his

desire in part to discontinue doing spinal taps but he still needs an appropriate supervisor.

Dr. Chowdhury responded he will ask a Physician he knows if he will act as his supervisor.

Dr. Schaecher asked if he will have it by the May meeting.

Ms. Taxin stated the supervisor needs to be determined as soon as possible. She explained the proposed supervisor will need to submit a letter that they have read Dr. Chowdhury's Order and is willing to supervise and assist Dr. Chowdhury in being successful in his probation and a copy of the resume needs to be attached. She stated the information needs to be submitted to Ms. Troxel who will give it to her to review and approve.

Dr. Schaecher stated it is not typical for a probationer to have an Order a month and not have read the Order. He stated most probationers have already completed some conditions and usually have a proposed supervisor for the Board to review for approval. He stated he looked up the PRIME course information and there is a course in April which is already full. He stated and the next session is not until August with the registration deadline August 8, 2012 and the final course for 2012 is in October. Dr. Schaecher gave Dr. Chowdhury the physical address and the website address for information and registration and recommended Dr. Chowdhury get registered right away.

Dr. Chowdhury thanked Dr. Schaecher for the information and asked if he could register for the October session as he is involved with getting ready to take the Board certification examination in September.

Ms. Taxin suggested Dr. Chowdhury register as soon as possible for the October session if that works better for him.

Dr. Schaecher then recommended Dr. Chowdhury read his Order so he will know and understand the

conditions.

Dr. Chowdhury responded it does not matter if he reads the Order or not but he will comply with everything in the Order.

Dr. Schaecher stated it does matter and Dr. Chowdhury needs to read the Order as there is an expectation that probationers will be familiar with and understand the conditions in their Order. He asked if Dr. Chowdhury had any questions.

Dr. Chowdhury responded yes. He asked if any other Physicians have been put on probation because of spinal taps.

Ms. Taxin responded it would be a competency issue but in the time she has been the Bureau Manager there has not been any other Physician put on probation specifically for spinal taps but there have been several put on probation for competency issues.

Dr. Chowdhury explained he looked up procedures on spinal taps prior to teaching other residents how to do them. He stated he does not continue trying if he has not been successful after several tries but it is a human judgment.

Dr. Byrd responded he does spinal injections on the floor all the time but 17 tries seems excessive to him.

Ms. Taxin stated the expert who reviewed the case also voiced concern regarding the number of times Dr. Chowdhury tried.

Dr. Chowdhury asked if the number of punctures included lidocaine shots.

Dr. Ries commented she has never seen a spinal tap but she wonders if part of the issue was communication. She stated Dr. Chowdhury signed the Order and should reconsider doing spinal taps. She stated she also would encourage him to read the Order to assist him in getting as much out of his

probation as possible.

Ms. Taxin stated there are several communication break down issues that the investigation identified such as the patient's concern regarding why she went in for a specific treatment, what Dr. Chowdhury assessed and the concern of why Dr. Chowdhury discussed certain things with her that did not have anything to do with her reason for seeing him.

Dr. Chowdhury responded he does have communication issues sometimes as there are background and cultural differences.

Dr. Byrd asked if the dialogue with the patient during the spinal tap was questions regarding comfort, etc.

Dr. Chowdhury responded yes.

Dr. Schaecher voiced believing Dr. Chowdhury is trying to take responsibility at a transaction level but does not understand his responsibility at the patient level. He stated the hope is by getting an appropriate supervisor there will be discussion regarding the issues and Dr. Chowdhury will take this opportunity to become a better practitioner. He stated the Board is interested in how he treats his patients and meets their needs and to say he will never do another spinal tap does not solve the issue.

Dr. Howell stated if Dr. Chowdhury feels like a victim and is angry when he meets with the Board he will not get the benefit from his probation.

Dr. Chowdhury responded he is not angry.

Dr. Howell stated she believes Dr. Chowdhury's wife is angry.

Dr. Schaecher asked Mrs. Chowdhury if she had any questions of the Board.

Mrs. Chowdhury responded Dr. Chowdhury is a human being with rights and this is a public meeting.

She stated she will conduct a private investigation as she loves Dr. Chowdhury, she knows what is behind his being put on probation and the Board does not have that information.

Dr. Schaecher commented the Stipulation and Order is a legal document and her husband signed it without reading it. He stated the Board will not deal with any issues except those in the Order and the position of the Board is to be sure the conditions of the Order are met. Dr. Schaecher stated Mrs. Chowdhury may be dissatisfied with the outcome but the Order is the outcome and hopefully she will be behind her husband to help him complete the conditions.

Dr. Chowdhury commented he has several patients who just want him to give them medications for pain and he is not a pain management practitioner.

Ms. Taxin asked if he has noted the information in each patient chart as she believes his documentation was deficient.

Dr. Chowdhury responded yes, he did chart the information. Dr. Chowdhury stated when he was in a group practice there were things in place and people to go to for guidance but with his private practice it is just him as the direct contact person.

Ms. Taxin stated Dr. Chowdhury will need to find a balance between his patients and personal life.

Dr. Ries stated attending the PRIME course will assist him.

Dr. Byrd asked how many spinal taps Dr. Chowdhury has done since licensure.

Dr. Chowdhury responded the number is in the thousands. He stated he has several MS patients and a spinal tap is required to complete the diagnosis.

Dr. Byrd voiced not understanding why Dr. Chowdhury would be put on probation for four complaints.

Ms. Taxin responded she believes it was several more than four complaints. She suggested Dr. Byrd review the concerns in the Order and during Dr. Chowdhury's probation he can give more feedback for better understanding of the issues.

Dr. Chowdhury stated he will contact someone regarding supervision next week and get back to the Division.

An appointment was made for Dr. Chowdhury to meet again May 16, 2012.

Dr. Byrd Questions

Dr. Byrd commented it is sometimes difficult to understand why a practitioner is put on probation when the Board does not have access to all the information.

Ms. Taxin stated she will ask the AG if Dr. Byrd may read the investigative file. She stated if she, the investigator, the attorneys and the practitioner are able to negotiate, they do. However, if they are not able to negotiate then the file goes to the AG's office. She stated Dr. Chowdhury would not negotiate so she suggested it go to a hearing before the Board and then he signed the Order. She stated Mrs. Chowdhury called Ms. McCall and informed her Dr. Chowdhury would not be meeting as they were going to appeal the Order and then she called Mr. Steinagel requesting information to appeal. Ms. Taxin stated Mr. Steinagel informed Mrs. Chowdhury that there is no appeal process after the Order is signed and Dr. Chowdhury met today. Ms. Taxin stated she believed there were enough complaints to warrant probation or a hearing.

Dr. Babitz commented Dr. Chowdhury's Order is poorly written.

Dr. Ries commented the April 14, 2011, hearing case appears similar to Dr. Chowdhury's in that the Board was not presented all the facts which may have persuaded them to take a different position.

Dr. Howell suggested additional Board training on the negotiations and writing of Orders process but the Board needs to be informed regarding reasons for poorly written Orders.

Dr. Schaecher suggested scheduling hearings instead of agreeing to poorly written documents. He stated he believes a hearing would have been a better choice for Dr. Chowdhury as it might have been a bigger blow to his ego and maybe the Board would have seen a different Dr. Chowdhury than when he met today.

Ms. Taxin voiced hearing what the Board has said and stated that is the reason she requested Ms. Bennett to be present today so she could answer questions about the facts of the case. She stated she also believes more facts could have been included in the Order.

Dr. Howell asked about involving one or two Board members during the negotiations with the AG's office.

Ms. Taxin responded the negotiations are very time consuming which would be a big time commitment and if Board members were used they would not be able to be part of the hearing should the case go to a hearing.

Ms. Taxin asked Board members who would like to volunteer for the reviews understanding it would be time consuming.

No Board members volunteered.

Ms. Taxin stated she will discuss the Board concerns with Mr. Steinagel and the AG's.

12:00 pm

Dr. David M. Anderson, Probationary Interview

Dr. Anderson met for his probationary interview.

Dr. Byrd conducted the interview.

Dr. Anderson reported he has been dropped by most

insurance panels and his patients are self paying. He stated he was contacted by New York State as he is licensed there and they have requested him to meet tomorrow for a telephonic interview. Dr. Anderson stated he requested he be allowed to surrender the New York license but they have said no.

Dr. Byrd asked about how many patients Dr. Anderson is seeing.

Dr. Anderson responded he sees about four or five patients. He stated he meets with his supervisor once a week and then the supervisor will drop by the office when he is not there to talk with the staff.

Dr. Byrd asked if Dr. Anderson has had any cravings.

Dr. Anderson responded not really. He stated he is attending meetings four times a week and has found the one meeting he did not care for has turned out to be the one he likes the best now. He stated he sees Dr. Crookston once a month and was seeing Mr. Dusoe weekly but has moved into seeing him every other week now.

Ms. Taxin informed Dr. Anderson that the reports from Dr. Crookston and Mr. Dusoe were very difficult to read which makes it hard to know what they are really saying. Ms. Taxin stated the Division was to receive a letter from Mr. Dusoe regarding how Mrs. Anderson would be incorporated in Dr. Anderson's therapy and that information has not yet been received.

Dr. Anderson responded Mrs. Anderson has not been incorporated into his therapy sessions as she has her own therapist and they are not doing any couples therapy and, as a couple, they are doing well.

Ms. Taxin asked if Dr. Anderson has addressed with his staff how they must have felt with the stress of his situation.

Dr. Anderson responded he has not addressed it with his staff but they appear to be dealing well.

Dr. Byrd asked what changes have been made in the office to restrict Dr. Anderson's access to controlled substances.

Dr. Anderson responded he is no longer at the office alone. He stated if someone else is not there he does not go in. Dr. Anderson stated his partner and office manager are the only people at the office who have the combination to the safe where the medications are stored.

Dr. Howell stated Dr. Anderson's issues were serious and severe. She stated she does not want to minimize the hard work Dr. Anderson has done and is doing but when he comes in to meet with the Board he reports everything is going great. She voiced concern that he is painting a smooth picture for the Board. She stated she does not expect him to meet and be glum or depressed but she does expect him to be honest as the person who can say everything is great and they are doing fine is the same person who can pull off using Fentanyl and that is concerning.

Ms. Taxin commented at the last meeting Dr. Anderson has shared some personal struggles.

Dr. Anderson responded things in his life are hard for him right now. He stated he used to internalize and hold things inside but is not doing that as much now.

Dr. Schaecher stated he believes Dr. Howell wants to be sure Dr. Anderson is being genuine. He stated Dr. Anderson should open up and let the Board hear about his challenges and if he is suffering and how he is dealing. He stated the Board wants to see Dr. Anderson be successful for his own sake as well as for the public and his family.

Dr. Anderson responded he is trying very hard to be positive but is having a challenge with money and life style changes. He stated he has been trying to sell a vacation home which would help him financially and is trying not to stress about the future but to do the

best he can each day.

Dr. Fowler asked about what % of Dr. Anderson's patients have services paid for by insurance.

Dr. Anderson responded about 50 to 60%.

Dr. Byrd asked if Dr. Anderson surrendered his DEA registration.

Dr. Anderson responded yes, in April 2011.

Dr. Byrd stated there is a prescription for Ritalin on the CSD. He asked Dr. Anderson to explain.

Dr. Anderson responded this patient listed is not one of his patients. He stated there is another Dr. Anderson and he has noticed sometimes his name is picked up instead of the other Dr. Anderson.

Ms. Taxin responded she will have the prescription pulled to verify who signed for it.

Dr. Anderson reported he is scheduled for the PACE course in April and the PRIME course in August. He stated there are some assignments to complete prior to taking the course and he is currently working on those assignments. Dr. Anderson then submitted his essay for the Board to review.

Dr. Byrd thanked Dr. Anderson for his comments and stated the Board is here to assist Dr. Anderson in being successful in his probation.

Ms. Taxin informed the Board that Dr. Anderson will meet with the Dental Board March 22, 2012.

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

An appointment was made for Dr. Anderson to meet again May 16, 2012

**12:30 pm
LUNCH and Board Member Training**

Ms. Taxin conducted the Board member training.

Ms. Taxin reviewed the Open and Public Meetings Act guidelines with formal Board meetings for business and reminded the Board that all Board meetings are recorded with the recording being retained for a year.

Ms. Taxin reviewed the guidelines for Board meetings and explained that Board business must be conducted in the formal Board meeting with an agenda having been posted 24 hours in advance for any interested public people to be able to attend. She explained additional agenda items cannot be added after the 24 hour deadline and will be on the next scheduled Board meeting agenda. She explained a quorum of Board members is required to make decisions with motions and votes.

Ms. Taxin explained the purpose for closing a meeting and stated with the Open Public Meetings Act there are very few reasons to close a meeting for the public to leave. Ms. Taxin reviewed electronic (telephonic) participation by Board members and for interviews. She stated Board members and public visitors may be requested to leave a Board meeting if they are being disruptive.

Ms. Taxin covered the issue of requesting a probationer, an applicant or any individual to leave the meeting for Board discussion and stated meetings are open and comments should be made to the individual in order for them to understand the issues.

She stressed the importance of Board members being professional, remembering they are here to protect the public, to be fair, attentive and balanced in their comments and decisions. She stated Board members should be respectful to each other as well as any probationers, visitors or appointments. She stated they should listen and consider other view points; sometimes being creative but clear and open in communication and hold judgment until after all the facts have been presented.

Ms. Taxin recommended the Board review and be familiar with their Laws and Rules in order to make correct decisions. She stated they should be positive

role models.

Ms. Taxin covered the fire drill and her expectations for everyone to get out of the building and meet across the street in the parking lot to be accounted for. She asked the Board to let her know if they have any special needs and to be aware of any visitors who may have special needs in order for her to get assistance for Board members or visitors. Ms. Taxin reviewed the fire escape locations.

The Board thanked Ms. Taxin for the information.

1:30 pm

Judge Steve Eklund met with the Board

Judge Eklund met with the Board to clarify some questions regarding the Dr. Gary Page hearing. He stated he excluded information regarding Dr. Page's Arizona license due to that license being a Homeopathic license which is not equivalent to a Physicians license and Dr. Page was seeking a Physicians license in Utah.

Ms. Taxin commented it has been a concern of the Board that all the facts were not presented for the Board to make an appropriate decision. She stated Dr. Page was allowed to practice through the VA and Indian Health Services which requires an active license in some State. Ms. Taxin stated the Board may want to expand the language on unprofessional conduct in the Medical Practice Act Rules to include language such as: failure to disclose disciplinary action in other professions.

Dr. Babitz then commented on Dr. Chowdhury's Order. He stated the Board was presented with Dr. Chowdhury's agreement and the facts presented were not all the facts.

Ms. Taxin explained Dr. Chowdhury admitted to unprofessional conduct but not to negligence. She stated the situations are different.

Judge Eklund responded the Division is represented on one side and the licensee is represented on the other side and if the parties agreed to handle the situation as written in the

Order for expedient purposes it is the information which resolved the case.

The Board thanked Judge Eklund for the information.

APPLICATIONS:

Dr. Stavros G. Drakos, Physician Educator

Board reviewed Dr. Drakos application.

Dr. Ries stated Dr. Drakos has been working in research for many years at the University of Utah. She recommended the license be issued if the Division is able to confirm Dr. Drakos has not been working in any clinical practice as the application meets the Physician Educator licensing requirements. She recommended Dr. Drakos and his supervisor meet with the Board if he is doing clinical practice.

The Board concurred and requested Ms. Taxin contact Dr. Drakos for clarification.

DISCUSSION ITEMS:

FYI

Ms. Taxin informed the Board that Dr. Thomas A. Sazani signed a Stipulation and Order and will meet with the Board at the May 16, 2012 meeting. She stated he is living and working in California and did not renew his Utah license until after he had signed the Order which did not give him time to arrange to meet today. Ms. Taxin explained Dr. Sazani requested his attorney meet and speak for him today and she explained how the probation works and that Dr. Sazani will be required to meet and speak for himself. She stated Dr. Sazani was doing online prescribing and was sanctioned in California for online prescribing and for inappropriate prescribing and lack of documentation. Ms. Taxin stated Dr. Sazani is not interested in working in Utah as he wants to return to his home country and is hoping California will release him from probation early.

The Board thanked Ms. Taxin for the information.

Review FSMB Annual Meeting Resolutions
and Candidates

The Board reviewed the following FSMB Annual Meeting Resolutions:

1. The Impact of State Medical Board Disciplinary Action on AMBS/AOA BOS Board Certification & Recertification. **Dr. Schaecher made a motion to support the resolution. Dr. Babitz seconded the motion. The Board vote was unanimous.**
2. The Establishment of a Committee on Ethics & Professionalism. **Dr. Schaecher made a motion to support the resolution. Dr. Babitz seconded the motion. The Board vote was unanimous.**
3. Participation in ABMS MOC & AOA Bos Occ Programs to Meet CME Requirements for License Renewal. **Dr. Schaecher made a motion to support the resolution. Dr. Babitz seconded the motion. The Board vote was unanimous.**
4. Establishment of a Platinum Standard Certification for Licensure for the Purpose of Multi-State Practice.

Ms. Taxin explained FSMB has been pushing for all States to join FSMB uniform licensing application process. She stated applicants would be able to go online, complete the FSMB application and then FCVS will verify the information and send it to the States. Ms. Taxin stated the Division has had ongoing problems with receiving the FCVS packets in a timely manner and accuracy of the information received. She stated she would not recommend Utah agreeing at this time to a uniform application through FSMB for the application process.

The Board concurred that this resolution should not be supported.

5. The Federation of State Medical Boards (FSMB) Certifying as a Category 1 CME Provider.

Dr. Babitz voiced disagreement at this time. He stated the States are trying to find ways to fund

licensing Boards and FSMB is trying to get into providing CME to make money.

Dr. Schaecher commented more populated areas will provide CME whereas it is not offered as much in rural areas.

Ms. Taxin stated she does not want to be in a position where she or the Board needs to review to approve or deny CME.

Dr. Babitz made a motion to oppose the resolution.

Dr. Ries seconded the motion.

Mr. Hale, Dr. Byrd, Dr. Fowler, Dr. Bennion, Dr. Ries, Dr. Babitz and Dr. Affleck and Dr. Howell voted in favor of the motion to oppose the resolution. Dr. Schaecher wanted to support the resolution and voted against the motion.

6. Physician Assistant Initiative. **Dr. Schaecher made a motion oppose the resolution. Dr. Babitz seconded the motion. Following discussion, the Board vote was unanimous to oppose the resolution but to acknowledge PA's.**

FSMB Nominations:

Dr. Howell recommended Dr. Fowler review and make the decisions regarding the nominations.

Ms. Taxin asked if Dr. Fowler would be comfortable coordinating with Dr. Nye of the Osteopathic Physicians Board.

Dr. Fowler responded yes.

The Board supported the recommendation.

Sunshine Act

Ms. Taxin read the article "The Federal Physician Payment Sunshine Act" which requires pharmaceutical, biologic, and medical device manufacturers to annually disclose to the Department

of Health and Human Services payments and other transfers of value furnished to physicians and teach hospitals and the information would be made public through a searchable website.

The Board noted the information with no action taken.

FYI – Oklahoma Board Goes Paperless for Meetings

Ms. Taxin read the information to the Board and stated Oklahoma provides an ipad for each Board member for their meetings.

Dr. Ries commented that everything from the University of Utah is now online and available by using your own computer.

The Board noted the information with no action taken.

IHC – Webcam House Calls

Ms. Taxin informed the Board of IHC implementing webcam house calls. She stated this caused her some concern and she requested recommendations regarding how to proceed as there is nothing in the Medical Practice Act or Medical Practice Act Rule regarding this type of services.

Dr. Howell stated telemedicine practitioners allow appointments to be online. She stated there are secure measures for a group to be in session without patients seeing anyone but the therapist. She stated there would need to be an agreement in place before online services commence.

Ms. Taxin stated FSMB is trying to set a committee meeting to discuss this issue and have asked her to participate. She stated UMA is also concerned and will be addressing the issue. Ms. Taxin stated there is nothing in Statute and if someone called her she would say that the scope does not allow for webcam house calls.

Dr. Howell responded there are already MD's who are skypeing with their patients who may be anywhere in the world. She stated Florida is already doing this and patients are provided a computer for this purpose. Dr. Howell stated

Montana the VA Psychiatrists work through tele-health. She stated it is the way of the future.

Dr. Babitz voiced support for Ms. Taxin and the AG visiting with IHC regarding the Board's concerns and let them know they are exposing themselves to unprofessional conduct. He stated that might give the Division/Board time to get some guidelines in place.

The Board recommended Ms. Taxin request IHC hold on implementation as they have grave concerns about the practice at this time.

Ms. Taxin thanked the Board for their input and stated she will talk with the AG's and IHC.

FYI

Ms. Taxin stated she received the revised Vaccine Protocol from Dr. Young. She passed copies to Board members and requested they review the protocol and give her any feedback by Monday, March 12, 2012.

FYI

Ms. Taxin informed the Board that there will be more probationers coming before the Board. She stated she also believes there will need to be a few hearings.

Dr. Bennion asked if more facts about Dr. Chowdhury would have been available if that case had gone to a hearing.

Ms. Taxin responded maybe.

Dr. Ries asked if Dr. Chowdhury turned down a public reprimand.

Ms. Taxin responded yes.

Meetings

Dr. Howell suggested the Board meet for discussion items only and then meet another date with probationers only.

Ms. Taxin responded the Board could meet monthly but everyone would need to attend the meetings.

Dr. Howell responded not everyone is available for

each Board meeting but a quorum would need to meet for hearings.

The Board requested further discussion at a later date.

NEXT MEETING SCHEDULED FOR:

May 16, 2012

ADJOURN:

The time is 3:37 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.

May 16, 2012
Date Approved

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

March 29, 2012
Date Approved

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