

MINUTES

UTAH PHYSICIANS LICENSING BOARD MEETING

September 12, 2012

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

CONVENED: 9:03 A.M.

ADJOURNED: 3:37 P.M.

Bureau Manager:
Board Secretary:
Compliance Assistant:

Noël Taxin
Karen McCall
Debra Troxel

Board Members Present:

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

Board Members Absent:

Richard W. Chapa, MD
Kenneth L. Schaecher, MD

DOPL Staff Present:

Mark B. Steinagel, Division Director
Karl Perry, Assistant Attorney General
Judi Jensen, Assistant Attorney General

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the July 11, 2012 Board meeting were read.

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

APPOINTMENTS:

9:00 am

Michelle McOmber, UMA

Ms. McOmber explained that the UMA has been working on the telemedicine issue in regard to mental health therapy and that issue will be further discussed this afternoon. She stated she wanted to meet to discuss the use and supervision of medical assistants as the Utah Medical Practice Act refers to them but there is no licensure for them. Ms. McOmber read the Law reference 58-67-102(9), "Medical assistant means an unlicensed individual working under the direct and immediate supervision of a licensed physician and surgeon and engaged in specific tasks assigned by the licensed physician and surgeon in accordance with the standards and ethics of the profession." She stated the Division has defined direct, indirect and general supervision. She stated the direct and immediate supervision is defined as the Physician must be in the vicinity with the medical assistant as they perform their duties which is not necessary while a patient is being weighed, vitals taken or blood being drawn. She stated she has discussed the issue with Mr. Steinagel and they believe a Rule could be written for the supervision to be indirect supervision which is more in line with the supervision of most medical assistants.

Ms. McOmber commented the UMA is reviewing the standards of the medical assistant profession to determine specific duties they should be allowed to do and what they should not be doing to ensure patient safety is not compromised.

Dr. Byrd commented the medical assistant typically completes a training program of about six weeks.

Ms. McOmber stated the medical assistants also receive on the job training at doctor's offices but what they are trained to do at one office might not be what the next office expects of them.

Mr. Steinagel suggested general language be included in the Medical Practice Act Rule stating "as further defined by the Board in collaboration with the Division" which would include indirect supervision and list the duties out of their scope of

practice.

Dr. Babitz voiced being in favor of indirect supervision so the practice is not as restrictive but, he stated, he does not believe the profession would be in favor of taking on more responsibility without medical assistants being licensed.

Board members agreed.

Ms. McOmber volunteered to write some language and bring it back to the Board to review.

9:20 am

Debra Troxel, Compliance Update

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

Ms. Troxel reported **Dr. John R. Corkery** is currently in compliance with his Stipulation and Order. She stated Dr. Corkery's supervisor is Stephanie Plunkett, MD, at First Med, was willing to meet with the Board but had a conflict with meeting today. She stated Dr. Plunkett did provide the supervision report.

Ms. Troxel reported **Dr. Lynn Greenhouse** is currently in compliance with her Stipulation and Order as much as possible for her initial meeting. She explained Dr. Greenhouse had action taken in Nevada and surrendered her DEA in 2010.

Ms. Taxin stated Dr. Greenhouse's Order is a public reprimand as she does not work in Utah.

Ms. Troxel reported **Dr. John H. Schneider** is currently in compliance with his Stipulation and Order as much as possible for his initial meeting. She stated Dr. Schneider is not currently practicing in Utah and cannot prescribe certain controlled substance medications.

Ms. Taxin explained Dr. Schneider was unable to meet in person in July due to a previous vacation arrangement and was to meet today but his flight was cancelled. She stated he will meet telephonically today and in person on November

14, 2012. She stated Dr. Schneider is considered on probation in Utah as his issues would warrant probation if he was working in Utah. She stated as long as Dr. Schneider submits his reports on time the Board could consider monitoring him telephonically but if he does decide to work in Utah he would then be required to meet with the Board in person.

Ms. Troxel reported **Dr. Thomas A. Sazani** is currently in compliance with his Stipulation and Order.

Ms. Troxel reported **Dr. Arif A. Chowdhury** is currently in compliance with his Stipulation and Order.

Ms. Taxin reminded the Board of the discussion at the last Board meeting regarding amending Dr. Chowdhury's Order to no longer require Dr. Sadiq to monitor all lumbar punctures. She stated she has not yet amended the Order. Ms. Taxin stated Mr. Marshall called her on Monday and asked if there was any way Dr. Chowdhury's probation could be terminated at this time as he has been working on becoming Board Certified and will be unable to take the second portion of the examination if he is on probation. She stated she responded to Mr. Marshall that it is early in Dr. Chowdhury's probation for termination but he could bring it up with the Board at the meeting.

Ms. Taxin then stated she received an anonymous call from a Physician reporting that a local hospital had concerns about Dr. Chowdhury's performance and his high incidents for complications.

Dr. Howell voiced concern that someone at the hospital has submitted concerns and Mr. Marshall has requested termination of probation.

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

Order.

Ms. Troxel reported **Dr. Gregory R. Hoffman** is currently in compliance with his Stipulation and Order. She stated his probation is scheduled to be completed November 4, 2012 and this will probably be his last meeting with the Board.

Ms. Taxin stated Dr. Hoffman submitted a report regarding his probation and what he has learned from the experience for the Board to review.

Ms. Troxel reported **Dr. Robert I. Simpson** is currently in compliance with his Stipulation and Order. She stated he has submitted a request for approval to study for the Board certification examination in lieu of taking the PRIME course.

Ms. Taxin stated she recommended he ask the Physicians Board but also contact the certification Board for clarification as he might not be able to take the examination if he is on probation.

Ms. Troxel reported **Dr. Daniel J. Albertson** is currently in compliance with his Stipulation and Order. She stated Dr. Albertson has submitted documentation that the University of Utah would like to increase his responsibilities from being a fellow to a visiting instructor.

Dr. Howell responded it is a common practice at the U of U and is more for billing purposes.

Ms. Taxin clarified Dr. Albertson will still need both supervisors.

Ms. Troxel reported **Dr. Ludmil K. Manov** is currently in compliance with his Stipulation and Order. She stated Dr. Manov had requested Dr. Nathan Currier to be his approved supervisor and Dr. Currier's report was positive.

Ms. Taxin informed the Board that Dr. Currier was going to meet with the Board but had a conflict arise and will meet telephonically today. She stated he could meet in November if the Board wants. She stated she spoke with Dr. Currier and explained the expectations of a supervisor and he voiced understanding.

Ms. Taxin stated **Dr. Gary D. Slavens** currently has a suspended license until he completes the CPEP course and submits the evaluation. She stated she believes Dr. Slavens was a little confused regarding his requirements as he wanted the suspension lifted so he could work with his family while he completed the requirements. Ms. Taxin stated she explained the process to Dr. Slavens in regard to his completing the CPEP course and submitting documentation of the course with the required evaluation. She stated the Order does not address what needs to take place if the CPEP and evaluation document Dr. Slavens is unsafe to practice and another Order would have to be drafted and signed. Ms. Taxin stated she clarified with Dr. Slavens that it is not best practice to treat and prescribe to family and/or friends and this might be a good time to tell them he can no longer treat them and they should establish a primary care practitioner.

9:50 am

Mitchell Jones, Assistant Attorney General,
Review Process of Finding of Facts,
Negotiations, Final Orders

Ms. Taxin introduced Mr. Jones, Assistant Attorney General. She stated Mr. Jones will be speaking about Stipulated Orders and the process to give the Board an idea of what happens before getting to the point of action against a license and signing of an Order.

Mr. Jones stated he would not be discussing any specific case or person but will go through the Division's process to help give the Board better understanding.

Mr. Jones explained the process starts with a complaint which usually comes from the public but could be generated from the Division or a Board. He stated when investigations receives a complaint an investigator goes out to interview, may talk with an expert witness such as a Board member with general

questions to get an idea if the action was unlawful or unprofessional. He stated if the investigator determines nothing unlawful or unprofessional happened then the case is closed. However, if the investigator finds misconduct they meet with the Bureau Manager and decide if action should occur. If it is determined action and monitoring is appropriate it should go to a stipulation as hearings are very costly and time consuming. Mr. Jones stated like cases are treated in like manner and the Stipulation and Order will be generally the same. He stated the Bureau Managers know what has been done in the past for similar offenses and have input in regard to conditions in an Order.

Mr. Jones stated upon deciding to do an Order the case is then referred to him to write the facts section in chronological order by describing what the practitioner did and when, quoting the statutes violated and listing probationary terms. He stated it is then returned to the Bureau Manager to review and they may make some changes but once the Bureau Manager gives approval it is then given to the investigator to review with the practitioner, however, if there is an attorney the Order is given back to Mr. Jones to send to the practitioner's attorney. He stated it is at this point that the negotiation process begins and the Division has said negotiations may continue for up to three months and then are stopped. He stated if an agreement is not reached within the three months then he, as the AAG, will recommend a hearing before the Board. Mr. Jones stated during the negotiations period both sides have to give but there are some conditions the Division will not give on and if the other side wants too much the AAG will stop the negotiations and do a petition for a hearing. He explained the Board is the fact finder in a hearing and upon completion of the hearing the Board makes their recommendations to the Division Director who usually approves and signs the recommended Order but could recommend the sanction be heavier or less. He stated the Administrative Law Judge assists the Board in a hearing, decides what evidence will be heard and in drafting their findings.

Dr. Fowler asked at what point does the Division

determine the public is at risk and the practitioner can no longer practice.

Mr. Jones stated there would then be an emergency hearing before three like licensed practitioners who are not Board members. He stated the three member Board hears the evidence, hears from witnesses and at the end will issue an emergency Order to suspend the practitioners license to practice until a hearing is scheduled before the licensing Board. He stated the Board only hears the evidence presented before the emergency hearing Board.

Dr. Howell commented that a person does not automatically loose their license if criminal charges are made.

Mr. Jones responded Dr. Howell is correct as criminal action could go on for several years.

Dr. Bennion asked if criminal charges trigger the Division to take action.

Mr. Jones responded it may if controlled substances are involved or if the practitioner is impaired and then an emergency hearing would be called.

Dr. Babitz asked if the practitioner can appeal the Division's Order with the District Court.

Mr. Jones responded when a case comes to the Board it is a formal hearing on the same level as District Court but the defendant may request agency review through the Department of Commerce after a hearing.

Dr. Bennion asked what percent of the complaints come from hospitals or clinics, etc.

Mr. Jones responded if someone is terminated or released from their position at a hospital the Law requires disclosure to DOPL but complaints come from anywhere.

Dr. Howell commented the Board is not involved in the negotiation process and they question why Orders are written the way they are.

Mr. Jones responded during the negotiations period they will negotiate until they get to the minimum they know is needed to justify the sanction but they try to get as much retained in the facts as possible. He stated once the negotiated document is signed it is completed and practitioners have a paragraph stating they agreed to the facts in the Order. He stated the Order binds the practitioner as well as the Division and Board.

Dr. Bennion asked if Mr. Mitchell would still negotiate if he believes the case should go to a hearing.

Mr. Jones responded if the practitioner will not negotiate then a hearing is scheduled as the practitioner is still practicing without any supervision or other guidelines that would be conditions to practice.

Dr. Howell asked if it is possible to review all the information in the disciplinary file to better understand the facts.

Mr. Jones responded the Stipulation and Order resolves the matter and is the outcome of the investigation and negotiations.

Dr. Byrd voiced frustration in not knowing all the facts.

Dr. Bennion asked where diversion comes into play.

Mr. Jones responded diversion may come in at any time during the process. He stated the Bureau Manager may go to the diversion unit and request the information be reviewed and if the practitioner has a good attorney they may try for diversion. He stated if diversion does not accept the practitioner it then goes back to investigations for negotiations for an Order or it will go to a hearing.

Dr. Howell thanked Mr. Jones for his explanation of the process as it helps the Board understand if an Order is issued the practitioner has gone

through several layers first.

10:10 am

Dr. John R. Corkery, Probationary Interview

Dr. Corkery met for his probationary interview.

Dr. Byrd conducted the interview.

Dr. Corkery reported he is working 10 to 12 hours a week at First Med and it is going well for him. He stated he did not continue to pursue employment at Maliheh Clinic as the medical director had informed him they did not have a positive experience with a prior probationer.

Dr. Byrd confirmed Dr. Plunkett is still supervising him at First Med.

Dr. Corkery responded yes. He stated he is in urgent care and Dr. Plunkett has given some good feedback as a supervisor.

Dr. Byrd requested Dr. Corkery to report on the medical record keeping course he completed.

Dr. Corkery responded it was an interesting course but he did not learn much new information. He stated the controlled substance portion was very organized.

Ms. Taxin asked the Board if Dr. Plunkett should be invited to meet with Dr. Corkery at the November 14, 2012, meeting or meet telephonically.

Dr. Corkery commented that Dr. Plunkett reviews nearly every chart every day.

Board members suggested Dr. Plunkett meet telephonically.

Dr. Corkery stated he was requested to write an essay on what he learned in the CE course. He submitted the essay for Board review.

Ms. Taxin asked if Dr. Corkery learned anything that he plans to implement into his practice.

Dr. Corkery responded there are some things that are

nice to know but he does not use them in his practice. He stated he keeps up on medical issues so when he attends CE courses it is just a review of what he already knows.

Ms. Taxin asked if the course talked about the importance of documenting and justifying why he is prescribing medications to his patients.

Dr. Corkery responded he has not changed much about what he does in the clinic. He stated he is on probation because he dispensed medications he received through Henry Schein, Inc. but what he does in the clinic has never been in question.

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

An appointment was made for Dr. Corkery to meet again November 14, 2012.

10:30 am

Dr. Lynn Greenhouse, Initial Probationary Interview

Dr. Greenhouse met for her initial probationary interview.

Board members and Division staff were introduced.

Dr. Ries conducted the interview.

Dr. Ries asked Dr. Greenhouse what her specialty is in and to briefly explain what brought her before the Board.

Dr. Greenhouse responded her specialty is internal medicine. She explained she was purchasing drugs from Henry Schein, Inc. and then became involved with a friend whose husband was taking very expensive medications. She stated she wanted to assist her friend and gave her some of the medications she had purchased. Dr. Greenhouse stated the DEA came in and questioned her in regard to a distributor's license for the drugs and that was the first she knew she needed a license to distribute. She stated it came to the attention of the DEA as the result of a complaint on a patient who passed away from an overdose. Dr. Greenhouse stated the DEA informed her if she

voluntarily surrendered the DEA registration they would not take additional action and she could reapply for the DEA after 18 months. She stated when she surrendered the DEA registration the Nevada Board was notified and they investigated. She stated she signed the Order as she believes the Board understood she did not intend to do harm. She stated in Nevada she has an active license on probation, had to pay court and legal costs and take an additional 12 units of CE. She stated she has completed 8 units of the 12 and will submit copies of the completion certificates to Utah. Dr. Greenhouse stated the courses were approved by the Nevada State Board. She stated she has a four year probation in Nevada, will be monitored by Nevada and will be re-applying for her DEA registration soon. She stated she does not practice in Utah and does not plan to practice in Utah.

Dr. Ries suggested Utah monitor Dr. Greenhouse telephonically.

Ms. Taxin stated if the paperwork is in on time Dr. Greenhouse could meet telephonically. She suggested a telephonic appointment for November 14, 2012, and then determine the frequency to meet with the Board. She requested Dr. Greenhouse to submit copies of all information she submits to Nevada and a letter stating she is in compliance with the Nevada Order.

The Board determined Dr. Greenhouse is in compliance with her Stipulation and Order.

An appointment was made for Dr. Greenhouse to meet telephonically on November 14, 2012.

11:15 am

Dr. John H. Schneider, Initial Probationary Interview

Dr. Schneider called to inform the Board that his flight was cancelled. He met telephonically for his initial probationary interview.

Board members and Division staff were introduced.

Dr. Ries conducted the interview.

Dr. Ries informed Dr. Schneider that the Board

reviewed his Order and believe he needs to meet in person for the November 14, 2012 meeting. She asked if he has completed any of the required courses and met with the Wyoming Board.

Dr. Schneider responded he has completed a drug course, met with the Wyoming Board and has not prescribed any of the drugs listed in his Order.

Dr. Ries requested Dr. Schneider to submit copies to Utah of everything he submits to the Wyoming Board.

Dr. Schneider stated he has retained legal counsel and will have a hearing before the Wyoming Board. He petitioned the Utah Board to remove all restrictions on his Utah license.

Dr. Ries responded that Utah usually parallels Orders from other States. She stated the Utah Board would need to meet with Dr. Schneider on November 14, 2012.

Dr. Schneider agreed to submit copies of everything to Utah.

An appointment was made for Dr. Schneider to meet November 14, 2012 for his complete probationary interview.

12:00 pm

Dr. Thomas A. Sazani, Telephonic
Probationary Interview

Dr. Sazani met telephonically for his probationary interview.

Dr. Parker conducted the interview.

Dr. Parker asked Dr. Sazani if California has agreed to early termination of his probation there.

Dr. Sazani responded he will be eligible for termination of the California probation in August 2013.

Ms. Taxin reminded Dr. Sazani to continue to submit his paperwork to Ms. Troxel.

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

An appointment was made for Dr. Sazani to meet telephonically on January 9, 2013.

12:10 pm

Dr. Arif A. Chowdhury, Probationary
Interview

Dr. Chowdhury and Mr. Marshall met for Dr. Chowdhury's probationary interview.

Dr. Parker conducted the interview.

Dr. Chowdhury stated he is scheduled to take his written board examination on September 26, 2012, for initial Board Certification but will not be able to take it if he is still on probation. He stated he passed the oral boards already.

Dr. Howell responded the Board understands as it is a problem for anyone on probation.

Dr. Parker asked if Dr. Chowdhury could take the examination next year.

Dr. Chowdhury responded yes, he can take it next September.

Ms. Taxin asked if his probation affected taking the oral portion of the examination.

Dr. Chowdhury responded no.

Dr. Parker asked Dr. Chowdhury to share how the chart reviews are going.

Dr. Chowdhury responded the chart review is going well. He stated Dr. Sadiq had reported he was doing ok on the lumbar punctures.

Ms. Taxin asked if Dr. Chowdhury is still meeting with Mr. Davis.

Dr. Chowdhury responded no. He stated Dr. Sadiq meets with him once a month for the chart review. He stated he chooses the charts and takes them to Dr. Sadiq to review and Dr. Sadiq reviews the charts,

corrects his spelling errors and other minor things.

Ms. Taxin asked if Dr. Chowdhury has performed any lumbar puncture procedures lately and if Dr. Sadiq has observed and reviewed those charts.

Dr. Chowdhury responded yes, he has performed some lumbar punctures and Dr. Sadiq has reviewed all those charts. Dr. Chowdhury reported he has completed the course on ethics. He stated he had to write a paper regarding why he is on probation. He stated the whole class reviewed the answers. Dr. Chowdhury stated he now understands what ethics are, how practitioners should do things and how to stay within the boundaries. He stated it was a good learning experience for him and has helped him improve his practice. He stated he has also learned how to improve his communications, how to listen to his patients better and to address things while staying within the boundaries. Dr. Chowdhury stated the instructor commented many times Physicians look down at their patients and not up to who is above them. He stated he wishes the instructor was here in Utah to give a lecture on ethics.

Dr. Parker voiced understanding the examination issue but since Dr. Chowdhury has been on probation such a short time, he believes probation needs to continue for now before the Board will consider termination.

Dr. Babitz commented taking a Board examination is not a reason for the Board to consider early termination.

Ms. Taxin commented the Board/Division support him in taking the Board examination and if they would be willing to let him take the examination if she wrote a letter saying he is in compliance then she will write a letter.

Mr. Marshall responded he talked with the examination people and they said if Dr. Chowdhury is on probation he will not be allowed to sit for the examination.

Dr. Chowdhury stated the hospital has requested a letter from the Division documenting he no longer needs a supervisor at the hospital for the lumbar punctures.

Ms. Taxin responded Ms. Troxel will get a letter out to Dr. Chowdhury this week.

Dr. Chowdhury commented he is grateful to the Board for helping him have a better practice.

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

An appointment was made for Dr. Chowdhury to meet again November 14, 2012.

12:30 pm to 1:00 pm

Working Lunch and Discussion of Dr. Edward J. Eyring's Request.

Ms. Taxin explained that she emailed to the Board Dr. Eyring's request to attend the ACG 2012 Annual Scientific Meeting and Postgraduate Course, October 19 through October 23, 2012. She asked if the Board believes the course meets the criteria of his Stipulation and Order. She stated she contacted Dr. Eyring's attorney and requested he provide the specific courses he is interested in attending. She stated Board members should have the list of specific courses. Ms. Taxin stated if the Board approves the courses, Dr. Eyring should provide documentation of completion as well as an essay of what he learned from the classes.

Dr. Ries asked Ms. Taxin why Dr. Eyring would take a couple of hours of one course and not attend for the full day.

Ms. Taxin responded she is not sure but if the Board believes he should attend for the full day then she will notify Dr. Eyring.

Following additional discussion, Dr. Ries made a motion to approve the proposal with the recommendation Dr. Eyring take advantage of the whole session on the first day and submit documentation of completion with an essay

regarding what he learned from the courses.

Dr. Parker seconded the motion.

The Board vote was unanimous.

1:00 pm

Dr. David M. Anderson, Probationary
Interview

Dr. Anderson met for his probationary interview.

Dr. Byrd conducted the interview.

Dr. Anderson submitted an essay from the PRIME Ethics course. He reported he has 18 months of sobriety and his stress is way down now that the criminal elements have subsided. He stated he pled guilty and was given a plea in abeyance for one year. Dr. Anderson stated August is typically his busiest month of the year and August this year was again his busiest month. He stated now that school has started his business has dropped.

Dr. Byrd stated the reports were submitted and were positive. He asked if Dr. Brown still controls the medications.

Dr. Anderson responded yes. He stated Dr. Brown and the office manager are the only people who have access to any medications. He stated it has been somewhat embarrassing for him to explain to his patients but he tells his patients he has a problem with narcotics and Dr. Brown administers all his narcotic medications.

Dr. Byrd asked Dr. Anderson to briefly explain what he learned from the ethics course.

Dr. Anderson responded it was an eye opener for him as there are so many changes taking place right now. He stated he thinks of his situation and believes people change from their core ethics slowly until they are breaking the law. He stated it was good to know he is not alone but also good to learn to put systems in place to change his behavior or attitude to make changes in himself to get back to his core ethics.

Dr. Byrd asked if Dr. Anderson is still attending

AA meetings.

Dr. Anderson responded yes, he attends four meetings a week, one is an aftercare meeting, a PIR meeting and the AA meetings.

Dr. Bennion asked what Dr. Anderson does if he feels some cravings.

Dr. Anderson responded there are no cravings but at times he does feel squirrely and when he feels that way he will leave the area for awhile, go jumping, walk around, do some exercises or call someone to talk. He stated the person he has been calling lately is an auto mechanic but he has insight into addiction and has been very helpful. He stated he also checks in every day for testing, attends his meetings, exercises and it has been working out for him. He stated his family has been a great support and his father-in-law, who is a Physician, has been a help for him.

Mr. Hale asked if Dr. Anderson has thought about applying for his Utah Controlled Substance license and the DEA registration again.

Dr. Anderson responded yes. He stated the DEA people had told him to wait about one and a half to two years and then apply.

Dr. Howell suggested before Dr. Anderson applies for either maybe he should think about how he would manage his office different and what changes of procedures he would make or protocols he would put in place so he has no access or has limited access to all medications.

Dr. Anderson responded he has already made some changes such as never being in the office alone and never attempting to obtain any of the medications.

Dr. Howell suggested he write out his plan so it is in place.

Dr. Anderson thanked Dr. Howell for the suggestion. He stated he has heard there still may be some civil fines from the DEA but he has not heard from them.

Ms. Taxin recommended Dr. Anderson contact his attorney to contact the DEA to find out his status. She suggested he be proactive with the DEA and ask if there are concerns and what he can do to reduce the concerns.

Dr. Anderson thanked Ms. Taxin. He stated his therapist has recommended he meet quarterly. He asked if the Board needed to approve the recommendation.

Ms. Taxin responded no. She stated the therapist should write the recommendation in his next report but if Dr. Anderson believes he needs to see his therapist he should whether it is time for the quarterly appointment or not. She stated therapy should be meaningful and helpful to Dr. Anderson.

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

Dr. Anderson was instructed to contact Ms. McCall for an appointment if he believes he needs to meet on November 14, 2012, otherwise, the Board will meet with him on January 9, 2013.

1:20 pm

Dr. Gregory R. Hoffman, Probationary
Interview

Dr. Hoffman met for his probationary interview.

Dr. Ries conducted the interview.

Dr. Ries informed Dr. Hoffman that she reviewed his essay and was impressed with his comments regarding what he has learned through the probationary process. She asked what is happening with his license in Oregon.

Dr. Hoffman thanked Dr. Ries. He stated yearly Oregon deals with him and his probation but there are no requirements regarding monitoring, chart reviews or meeting with the Oregon Board.

Dr. Ries commented Dr. Hoffman has consistently been in compliance with his Utah Stipulation and Order. She then made a motion for termination of

the Utah probation on November 1, 2012.

Dr. Parker seconded the motion.

The Board vote was unanimous.

Ms. McCall explained the termination process for Dr. Hoffman.

Dr. Hoffman thanked the Board and stated Intermountain and Regence have agreed to review his information if he will re-apply for insurance privileges.

1:35 pm

Dr. Robert I. Simpson, Probationary Interview

Dr. Simpson met for his probationary interview.

Ms. Troxel reminded the Board of Dr. Simpson's request to study and take the examination for Board recertification in lieu of taking the required PRIME course.

Dr. Howell conducted the interview.

Dr. Howell asked if Dr. Simpson is still practicing at the 4th Street Clinic.

Dr. Simpson responded yes. He stated he is a primary care provider but sees whatever medical situation comes into the clinic and sometimes there are complicated issues to handle.

Dr. Howell asked Dr. Simpson how his own recovery is progressing.

Dr Simpson responded he attends a group on Thursdays and goes to three to five AA meetings each week. He stated he is in the process of starting a group at the 4th Street Clinic. Dr. Simpson stated he is required to complete two courses, the PACE course at the University of San Diego, which he has completed, and the PRIME course at the University of Medicine and Dentistry in New Jersey. He stated he anticipates recertifying in internal medicine as he had let the Board Certification expire and he would like to take the next year to complete the CME and study to take

the certification examination next fall.

Dr. Howell responded the Board has no concerns with Dr. Simpson taking the courses for recertification but they do not believe he will be allowed to sit for the certification Boards if he is on probation as an active, unrestricted license is required.

Dr. Simpson responded his Order reads that his license should not be considered restricted.

Ms. Taxin read Dr. Simpson's Order and the Board noted the Order does say the license should not be considered restricted.

Dr. Babitz recommended he check before he puts in the study time.

Dr. Howell again stated the Board would have no issue with Dr. Simpson taking course and preparing and sitting for the Board recertification examination but the Board would recommend Dr. Simpson take the PRIME course by the deadline of December 2013.

Dr. Bennion asked what the procedure is if someone comes into the 4th Street Clinic who needs additional care.

Dr. Simpson responded the clinic tries to get the a medical bed at a shelter, motel accommodations for awhile or try to locate the patient in a nursing home, etc. He stated the Road Home has some medical beds but the clinic outreach program is very limited and it is not a detox center.

Ms. Taxin asked if it is challenging to work with people going through the addiction process.

Dr. Simpson responded it is difficult as many times the resources are so limited that he wonders how they will get clean. He stated much of his work is recovery oriented.

Mr. Hale stated Dr. Simpson mentioned at a

previous meeting that there may be some criminal charges and if Dr. Simpson has heard anything regarding those charges.

Dr. Simpson responded he is still in the court system.

Dr. Howell asked if he has heard anything more from the DEA.

Dr. Simpson responded no. He stated he does not need the DEA registration where he works so he has not pressed for the registration.

Dr. Howell asked if going to drug court was satisfactory with the DEA.

Dr. Simpson responded he does not know. He stated his understanding of the DEA is that they can levy charges or fines on their own.

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

An appointment was made for Dr. Simpson to meet again November 14, 2012.

1:50 pm

Dr. Daniel J. Albertson, Probationary
Interview

Dr. Albertson met for his probationary interview.

Dr. Howell conducted the interview.

Dr. Albertson reported his work is going well. He stated his family is enjoying living in Bountiful. He stated he works with various pathologists at the University of Utah and he is considering staying in Utah and doing a fellowship. Dr. Albertson stated his recovery is also going well. He stated he attends AA meetings at the Backstreet Club in Bountiful about three times a week and has met several people who he does activities with outside of AA meetings.

Dr. Howell informed Dr. Albertson of the Board receiving a letter from the University of Utah (U of U) regarding a faculty appointment in addition to his fellowship program and appears he is doing well at the U of U. Dr. Howell asked Dr. Albertson

if he is comfortable with the status of a visiting instructor.

Dr. Albertson responded he would like to accept the visiting instructor position. He stated he is Board Certified and he believes it would be a little more stress for him but there are individuals in the department that he can go to with questions.

Dr. Howell asked how much supervision the U of U would be doing if he is an instructor.

Dr. Albertson responded he believes he would still be supervised quite closely.

Ms. Taxin asked if she should respond to the U of U or if Dr. Albertson would like to respond.

Dr. Howell suggested Ms. Taxin respond since the notification letter came to the Board. She then asked how Dr. Albertson got Board Certified.

Dr. Albertson responded when he applied for the examination he disclosed everything and was given permission to sit for the examination as he is not restricted. He stated he also believes it was helpful that he was clean for three years prior to starting the process. Dr. Albertson asked if there are any instances when the Board considered early termination of probation.

Dr. Howell responded yes, however, if Utah is not the primary State where action is taken then the Utah Board usually goes with what the primary State does. She stated if Nebraska terminates their probation early then Dr. Albertson may request Utah for early termination and the Board will consider the request.

Dr. Albertson asked if he could be excused from drug testing for a few days as he will be going to Montana for an interview.

Ms. Troxel explained the process for excused tests and out of town travel Dr. Albertson.

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

An appointment was made for Dr. Albertson to meet again November 14, 2012.

Comments regarding Early Termination of Probation

Dr. Howell commented probationers who meet and are working on their recovery are easy to interview. She stated if the addict plunges themselves into their recovery it makes it easier for them and their families. Dr. Howell stated the more AA meetings, aftercare meetings or PIR meetings the addict attends the better they do in their recovery.

Dr. Bennion asked if Utah would ever consider early termination of a probationer who is on probation in another State as Utah would be doing all the work of monitoring.

Ms. Taxin responded yes, the Board could consider early termination of probation but would consider what happened. She stated the Board/ Division tries to protect the public by meeting with the probation and probation is not meant as a punishment but as a way for a change of behavior. She stated if the probationer has met the conditions of their probation and are meeting with the Board just to meet but are in compliance and on track she believes the Board could consider early termination of probation.

Dr. Howell commented with addiction the magic number seems to be five years then recivity drops drastically.

2:15 pm

Dr. Ludmil K. Manov, Probationary Interview

Dr. Manov met for his probationary interview.

Mr. Hale conducted the interview.

Dr. Howell commented Dr. Manov has requested Dr. Currier to be his supervisor and Dr. Currier agreed. She asked if Dr. Manov has started working with Dr. Currier.

Dr. Manov responded he has been working with Dr.

Currier since the end of May.

Dr. Howell asked Dr. Manov to explain what they do when they meet.

Dr. Currier was called to meet telephonically.

Dr. Manov stated he works at the same location as Dr. Currier and Dr. Currier makes sure reports are turned in on time. He stated they have a good working relationship and Dr. Currier has been very helpful to be sure he is in compliance with his Order and address the boundary violation.

Mr. Hale asked if Dr. Manov or Dr. Currier had any questions for the Board.

Dr. Howell asked if either have any concerns regarding what is required of each.

Dr. Currier responded he did not have any questions. He stated it appears Dr. Manov has been open in their discussions. He stated Dr. Manov will be taking the boundaries course soon.

Dr. Manov commented he leaves tonight to start the PACE course tomorrow.

Dr. Howell directed Dr. Manov to write an overview of what he learned, what was surprising and not surprising to him and if the course was helpful and be prepared for discussion with the Board at his next appointment.

Dr. Currier stated he would like to meet with the Board at Dr. Manov's next appointment if it could be scheduled for the morning.

The Board voiced appreciation for Dr. Currier's willingness to meet but determined it would not be necessary at this time.

Ms. Taxin asked if she had answered all Dr. Currier's questions regarding the Board/Division expectations when she spoke with him.

Dr. Carrier responded yes. He stated Ms. Taxin helped him understand his responsibilities and to put together a plan as a supervisor.

Ms. Taxin stated once the probation was understood, Dr. Manov has worked on being more open and being in compliance. She stated Dr. Manov and Dr. Carrier should always ask if they have questions so Dr. Manov does not have any problems with his probation.

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

An appointment was made for Dr. Manov to meet again November 14, 2012.

2:35 pm

Dr. Gary Slavens, Interview/Discussion

Dr. Slavens met with the Board.

Board members and Division staff were introduced.

Dr. Babitz voiced understanding that Dr. Slavens met to make sure he understands his agreement.

Dr. Slavens responded yes. He stated he has registered to take the CPEP course in November.

Ms. Taxin stated she contacted CPEP and they have informed her Dr. Slavens could call and request he be accepted prior to November for the course and they could probably get him in.

Dr. Babitz recommended he contact CPEP to take the course and get the evaluation so the Board can review it at the November 15, 2012 meeting.

Dr. Slavens thanked the Board for their comments and guidance. He stated he will contact CPEP.

3:00 pm

Board Discussion Regarding Exemptions from Licensure

Ms. Taxin explained that Alan Smith, Assistant Dean and Director of the U of U Graduate Medical Education, had contacted her and asked the following:

1. Do foreign medical graduates qualify for exemptions from medical licensure if they

- engage in an ACGME-accredited fellowship training program under the supervision of qualified individuals? If so, what is the allowed length of the exemption?
2. Do foreign medical graduates qualify for exemptions from medical licensure if they engage in a non-accredited fellowship training program under the supervision of qualified individuals? If so, what is the allowed length of the exemption?
 3. Do foreign medical graduates qualify for exemptions from medical licensure if they engage in an on-the-job training program under the supervision of qualified individuals? If so, what is the allowed length of the exemption?
 4. If a foreign medical graduate intends to return to his/her country of residence following completion of a non-accredited fellowship or on-the-job training and does not intend to pursue a permanent Utah medical license, would this affect his/her qualification for an exemption?

Dr. Howell voiced being familiar with the situation and stated the Physician was going to be in an ACGME approved fellowship. She stated the situation could come up again as there are several individual ACGME fellowship component programs but combined programs may not be ACGME approved. She suggested the Board recommend if ACGME reviewed the program and approved it then the Board/Division could approve the program.

Dr. Babitz commented there is a shortage of Physicians. He stated this exemption may be a backdoor way to get people licensed.

Mr. Perry commented the exemption is limited to the U of U.

Dr. Parker stated IHC has a lot of hospitals outside of Salt Lake City. He asked what would stop a group from saying they will have their own ACGME committee.

Ms. Taxin responded the U of U was going to email her their written policy addressing ACGME and non-ACGME accredited programs for residency and fellowships but to date she has not received the email.

Mr. Perry read the Law. He stated the Board/ Division have always stood by the Law which stated an ACGME approved program. He stated after two years of practice in the education program the applicant would need to meet current licensure requirements of ACGME residency education.

Ms. McOmber responded the Legislation the UMA ran last year was for ACGME approved residencies and then a list was included. She suggested ACGME and other residencies be contacted regarding global approval.

Ms. Taxin commented Mr. Perry is correct. She stated the resident may work for the first two years and then they have to meet the ACGME requirement for licensure.

After further discussion it was determined to invite Allen Smith to meet with the Board in November for further discussion.

Ms. Taxin stated she will request information be sent to her regarding specifics and then review with Dr. Howell and Karl Perry, AG, to determine if Mr. Smith should meet with the Board in November.

3:30 pm
Telemedicine/Law Discussion

Ms. Taxin stated the Utah Statute does not specifically mention telemedicine. She referred the Board to the IHC article regarding webcam medicine and stated she and Karl Perry, AG, went to their building where they showed them their webcam treatment. Ms. Taxin stated the Board recommended IHC hold on webcam medicine for now but they are moving forward using a test pilot with employees.

Ms. Taxin stated she, Dr. Howell and Mr. Perry met with FSMB regarding the subject of telemedicine.

Dr. Howell commented several people from different locations and different backgrounds met. She stated many States are silent on the issue of telemedicine and others have developed some language but it was not clear that telemedicine is what medicine is moving into. She stated the Board will need to determine if they want Utah to set some criteria and some guidelines but Utah Law is currently silent on the issue.

Ms. McOmber responded the UMA is working with the University of Utah on a telemedicine bill to allow mental health therapy telemedicine. She stated the health care professions have an open bill for telemedicine.

Dr. Babitz commented a big issue is definitions and what it includes.

Ms. Taxin stated there are people using the cell phones. She stated even if the language is simple at first it can be refined later. She stated Utah cannot control what other States allow but she recommended Utah review the guidelines of other States or maybe requiring a certification of some type for those who want to do telemedicine.

Ms. McOmber commented Mr. Oborn is working on the issues of talking telephonically, email and online services. She stated the standards are currently broad but the Division will develop parameters and make sure the practitioners have specific things in place in order to practice.

Mr. Perry commented at the FSMB meeting someone at IHC brought up that the Law says the practice of medicine is by any means or instrumentality and that is how the U of U is interpreting the Law for telemedicine.

Ms. Taxin stated if a Physician is not licensed in Utah we have no control over them regarding treatment.

Ms. McOmber stated the UMA has said if a Utah patient was treated out of State the Physician could continue to treat the patient for up to 30 days and

then a Utah practitioner would need to treat the patient.

Dr. Parker responded he must have a license in States where he wants to treat patients.

Ms. McOmber stated the UMA has concerns about putting so much detail in the Law.

Ms. Taxin recommended Ms. McOmber contact Wes Valdez as he was hired to work on this issue and develop the program for IHC.

Dr. Howell commented the U of U uses cell phone contact for consultation around the State of Utah.

Ms. Taxin clarified the U of U using cell phones for consulting in Utah is different that consulting in Colorado or another State.

Dr. Babitz stated the autism bill which required telemedicine for autistic people was passed by the Legislature.

Ms. McOmber stated there should be some type of guidance in place so the Board/Division does not say it is ok and then let Physicians loose to do telemedicine.

Dr. Ries commented telemedicine is the way of the future and should be addressed.

Following additional discussion it was determined that the Law would need to be changed with specific guidelines addressed by Rule.

APPLICATIONS:

Dr. Steven G. Potkin, Examination Review

Ms. Taxin explained Dr. Potkin submitted his application for licensure which documents he completed steps 1 and 2 of the USMLE and then took the Missouri State examination instead of Step 3. She stated there has been no disciplinary action against Dr. Potkin's license. Ms. Taxin stated there was a malpractice suit in 1993, which was dismissed. She stated Dr. Potkin is American Board Certified

in Psychiatry. She stated if Dr. Potkin was a new applicant and not licensed in another State then the Missouri examination would not meet Utah's requirements for licensure. She asked if the Board would accept the Missouri examination as meeting requirements as Dr. Potkin has been licensed many years.

Dr. Babitz responded there were no National examinations back in the 1970's and Utah should accept the examination.

The Board recommended the Missouri examination be accepted and the license be issued.

DISCUSSION ITEMS:

Rule Filing for CS Prescribers

Ms. Taxin explained the last Legislative session mandated a requirement of 4 hours of specific continuing education in prescribing for those who hold a controlled substance license.

Ms. Taxin stated she wrote proposed Rules and requested Board to review and provide feedback. She stated the proposed Rule language incorporates some of the anticipated requirements from the REM's program.

Dr. Howell commented the Dean at the U of U may want to offer a course on prescribing. She stated if the U of U did offer a course then it would need to be set up for anyone to take.

Ms. Taxin stated the U of U Dean called her regarding offering a course and she reviewed the proposed Rule with him.

Dr. Babitz asked what would prevent people from completing some of the journal readings and then stated he is not sure requiring an examination is appropriate.

Ms. Taxin responded she put in the proposed Rule requirements that states "have a method of verification of attendance and a post course knowledge assessment or examination. She stated the REMS program has

this requirement. She then stated the Division has had several calls regarding what the requirements will be and she tried to establish a standard based on CE requirements in other professions and addressing the Statute.

Dr. Babitz suggested the proposed Rules be filed and then let people comment.

Dr. Howell asked if it is clear that the 4 hours needs to be an online course or an in person course.

Ms. Taxin responded she originally had the course to be either online or in person but it was recommended to keep the Rule simple and not put that language in the Rule.

Dr. Howell commented as long as the course is category I and enduring CME it would count for Physicians. She suggested the Division conduct random audits after the Rule passes.

Review Division Website FAQ's Information

Ms. Taxin read the FAQ that is currently on the DOPL Physicians website and asked if the Board had any recommendations for additional FAQ's or changes for the one listed.

Board members recommended people be referred to the UMA regarding Board Certification.

Dr. Howell suggested information be included regarding the diversion program.

Mr. Hale asked if the Division has the ability to determine how many hits are made on the FAQ and if not many then consider dropping it from the website.

Board members agreed.

Dr. Babitz stated he has received phone calls requesting verification of specific Physicians being Board Certified. He recommended those phone calls be referred to the UMA.

Ms. McOmber responded the UMA is able to verify

Board Certification for UMA members.

Review Dr. Robert A. Weitzel's Status

Ms. Taxin informed the Board that Dr. Weitzel has faced challenges obtain employment as a Physician and Surgeon. She stated Dr. Weitzel mentioned a Physician who works in Logan, Utah, and he asked if the Board would approve him working with this Physician in preparing him to get back into practice. Ms. Taxin stated she approved his plan but stated it would not meet the requirements of the Stipulation and Order. She stated Dr. Weitzel is also considering changing his specialty and becoming Board Certified. She stated he will probably also run into the same problems other probationers have had with getting Board Certified.

The Board requested Dr. Weitzel be invited to meet with them November 14, 2012.

FYI

Ms. Taxin informed the Board that Dr. James R. Frede surrendered his Utah license on August 16, 2012. Ms. Taxin read the facts to the Board.

No Board action was taken.

FYI

Ms. Taxin informed the Board that a public reprimand was issued to Dr. Kenneth L. Crump. She read the facts to the Board.

No Board action was taken.

Information

Ms. Taxin stated the FSMB Newsletter has a list of programs available for practitioners who have had practice problems or legal problems. She stated if Board members know of any additional programs that would be beneficial for probationers to let her know and she will add them to her resource list.

Dr. Howell commented programs recommended should be useful to the practitioner as well as cost effective.

The Board concurred.

2013 Board Meeting Schedule

The Board noted the following dates for the 2013 Board meeting schedule: **January 9**, February 13,

March 20, April 10, **May 1**, June 12, **July 10**, August 14, **September 11**, October 9, **November 13** and December 11. The Board noted they will plan to meet every other month with the schedule for monthly in case additional meetings are necessary. The planned dates are in **Bold and underlined**.

CORRESPONDENCE:

NAMI Information

Ms. Taxin explained she spoke with a person from NAMI who wanted to meet with the Physicians Board and the Nursing Board to explain their program. She stated she suggested they provide a packet for the Board to review and that packet has been given to each Board member today. Ms. Taxin stated if the Board would like them to meet to discuss their program and services she will arrange an appointment.

Dr. Babitz responded there are many organizations who offer this type of service and he believes the Board should not set a precedence recommending NAMI above other programs. He stated the UMA would be a better place for them to distribute information out to the public.

Board members concurred.

FSMB, Notification of Item Writing Workshop, October 16, 2012

Ms. Taxin informed the Board of the one day item writing workshop. She stated there are no attendees from Utah. Ms. Taxin stated USMLE will pick up the cost for lodging but since Utah still has a freeze on travel any Board member wanting to attend will have to contact Ms. McCall to fill out the paperwork for travel and approval. She stated if anyone does go they will need to be sure to follow the per diem guidelines.

Dr. Ries stated she worked on Part 3 of USMLE about ten year ago and it was a very good workshop on writing questions.

NEXT MEETING SCHEDULED FOR: November 14, 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.

November 14, 2012
Date Approved

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

October 17, 2012
Date Approved

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