

MINUTES

**UTAH
PHYSICIANS LICENSING
BOARD MEETING**

November 14, 2012

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

CONVENED: 9:00 A.M.

ADJOURNED: 4:10 P.M.

Bureau Manager:
Board Secretary:
Compliance Assistant:

Noël Taxin
Karen McCall
Debra Troxel

Board Members Present:

Elizabeth F. Howell, MD, Chairperson
Paul J. Affleck MD
Richard W. Chapa, MD
Kenneth L. Schaecher, MD
Gary A. Hale, R.Ph.
David D. Byrd, MD
Daniel J. Parker, MD
David A. Cook, MD
John S. Montgomery, MD

Board Members Absent:

Kristen Ries, MD
John W. Bennion, Ph.D.

Guests:

Jason Rusk
Bryson Garbett
Katherine McClellan
Misoo Abele
Katie Carlson
Georgia Geerlings

DOPL Staff Present:

Matthew White, Division Project Manager

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Swearing in of Dr. David A. Cook and Dr. John S. Montgomery as Board Members

Ms. Taxin conducted the swearing in of Dr. Cook and Dr. Montgomery as Board members. **The Board**

welcomed them.

FYI

Ms. Taxin informed the Board of the reappointment of Dr. Daniel J. Parker as a Board member. **The Board thanked Ms. Taxin for the information.**

Board Chairperson

Dr. Parker made a motion for Dr. Elizabeth F. Howell to continue as Board chairperson. Mr. Hale seconded the motion. **The Board vote was unanimous.**

MINUTES:

The minutes from the September 12, 2012 Board meeting were read.

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

Dr. Howell Comments

For the benefit of the two new Board members Dr. Howell explained all information is recorded, breaks are taken and occasionally the meeting is closed for discussion of personal medical information, mental capacity and/or psychological evaluations. She stated the preliminary minutes and the final minutes are posted on the DOPL website with all agendas as there are times when the Board or Attorneys need to refer to something said. She encouraged the new Board members to be formal and responsible about their comments and if they have questions regarding policies they should ask. Dr. Howell stated a lot of work goes into preparing Orders for probationers and the Board is not always aware of all the facts but Board members may ask questions of probationers.

Ms. Taxin stated there is also the option of being recused if Board members know probationers. She stated they may disclose knowing the specific probationer and ask if the probationer is comfortable with them being part of the discussion and any decisions that may need to be made or they may recuse themselves from the meeting with specific probationers.

Dr. Cook disclosed he knows Dr. Chowdhury.

Ms. Taxin requested he identify the relationship when Dr. Chowdhury meets.

Dr. Howell commented she will also have a conflict with a probationer who has met with the Board.

Ms. Taxin explained the Board/Division only monitor for what is in the Order. She stated if Board members have concerns they may make a suggestion but there is no authority to impose additional conditions without amending an Order. She stated if the concern is substantive a new case may be opened to address the concern.

APPOINTMENTS:

9:25 am

Debra Troxel, Compliance Update

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

Ms. Troxel reported **Dr. Daniel J. Albertson** is currently in compliance with his Stipulation and Order.

Ms. Troxel reported **Dr. Edmund Chein** is currently in compliance with his Stipulation and Order.

Ms. Taxin explained California took additional action to continue monitoring Dr. Chein. She stated Utah updated his Stipulation and Order which also extended the Utah monitoring. She read the amended Order. She stated Dr. Chein will need to continue submitting report of being in compliance with the California Order and he was required to complete a psychological evaluation which she received this morning for the Board to review.

Dr. Howell commented the first few sentences in the psychological evaluation indicate Dr. Chein is not impaired to practice.

Ms. Troxel reported **Dr. Carl F. Wurster** is currently in compliance with his Stipulation and Order as far as he can be without working.

Ms. Taxin explained Dr. Wurster has been on probation for quite some time. She stated he was doing plastic surgeries and harmed some patients.

She explained Dr. Wurster's Utah Order says he has to be in compliance with his Idaho Order but he has not worked in medicine in either State the five years he has been on probation. She stated in prior discussions both she and the Board have discussed she offer Dr. Wurster to surrender the Utah license as his time has not counted but he would not surrender.

Dr. Affleck stated Dr. Wurster requested termination in Idaho and since their Order requires supervision and he has not worked, they would not terminate his probation.

Dr. Howell stated she believes Dr. Wurster is teaching in Idaho and he may need a license for that.

Dr. Parker asked what options Dr. Wurster and the Division/Board have.

Ms. Taxin responded Dr. Wurster's options are to surrender or suspend his Utah license, he could work as a Physician and be monitored for the probationary time to count or the Order could be amended to require that he only work in the setting where he is currently teaching.

Ms. Troxel reported **Dr. Lynn Greenhouse** is currently in compliance with her Stipulation and Order.

Ms. Troxel reported **Dr. John R. Corkery** is currently in compliance with his Stipulation and Order.

Dr. Montgomery asked if the Board is allowed to ask why Dr. Corkery ordered such large amounts of medications.

Dr. Howell responded yes.

Dr. Byrd responded Dr. Corkery ordered large amounts of medications as he was taking them with him to sporting events and if there was a medical

situation/emergency he would give the medications to the patients.

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

Dr. Parker asked what the final decision was regarding Dixon Davis as a consultant.

Ms. Taxin responded Mr. Davis was hired as a communications expert but was not a medical doctor so the Board required Dr. Sadiq to supervise, monitor and review.

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

Ms. Troxel reported **Dr. Michael S. Roundy** is currently in compliance with his Stipulation and Order.

Ms. Troxel reported **Dr. James E. Pickens** is currently in compliance with his Stipulation and Order.

Ms. Taxin reminded the Board of Dr. Pickens closing his Bountiful office and moving into the same building as his supervisor.

Ms. Troxel reported **Dr. Robert I. Simpson** is currently in compliance with his Stipulation and Order.

Ms. Troxel reported **Dr. Robert A. Weitzel** is currently in compliance with his Stipulation and Order as much as possible without working in the medical field. She stated he may have the possibility for employment and would be required to work a minimum of 10 hours a week or no more than 40

hours a week.

Ms. Taxin stated Dr. Weitzel's drug and alcohol tests have been negative. She stated the meeting may need to be closed for part of his appointment and she believes the Board needs to re-establish his conditions and their expectations of him. She stated Dr. Weitzel was given credit for three months of time on his probation clock but he still is not working and no additional time is counting toward completing his probation.

Ms. Troxel reported **Dr. John H. Schneider** is currently in compliance with his Stipulation and Order. She stated he would like to make a termination proposal regarding his Order but he signed the Order and agreed to the conditions.

Ms. Taxin stated this is Dr. Schneider's first appointment with the Board as he had already planned a family vacation during the time of his first appointment and then in September his flight was cancelled. She stated he submitted a letter and the Board may ask him the intent of the letter. She stated the Board needs to be sure Dr. Schneider follows conditions of the Utah Order and not debate the Wyoming disciplinary action. She stated he will also need to submit all documentation he provides for the Wyoming Board.

10:10 am

Dr. Daniel J. Albertson, Probationary
Interview

Dr. Albertson met for his probationary interview.

Dr. Howell introduced the two new board members.

Dr. Howell conducted the interview.

Dr. Albertson stated his fellowship is going well. He stated he is looking for employment as he would like to move on and start a practice but there does not seem to be any openings in his specialty. He stated he has been looking mainly in Kansas and Colorado but also other States. Dr. Albertson stated if he does not find what he is looking for he will do an extended fellowship in Utah. He stated he is still attending

about three meetings a week at the Backstreet and still talking with his sponsor in Nebraska daily.

Dr. Howell asked how much longer he would be on the Nebraska probation.

Dr. Albertson responded he believes the Nebraska probation will be completed in August 2013.

Dr. Howell stated, depending on Dr. Albertson's compliance in Utah, the Board could discuss termination in Utah when Nebraska terminates.

Ms. Taxin stated the Board could also consider early termination.

Dr. Howell asked Dr. Albertson to explain what will change in his recovery program when the Nebraska probation is terminated.

Dr. Albertson responded he does not plan to make any changes in his recovery plan and will continue with the steps of recovery as they have worked for him for the last 4 ½ years. Dr. Albertson asked if his reports could be due quarterly now.

Ms. Taxin responded they could be submitted quarterly starting in January 2013.

Dr. Albertson asked if Utah is suppose to notify Nebraska of his compliance here.

Ms. Troxel responded she is not sure. She stated she will check and then send something out today if necessary.

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

An appointment was made for Dr. Albertson to meet again March 20, 2013.

10:25 am

Discussion of Dr. Gary D. Slavens Preliminary CPEP Report

Ms. Taxin explained his license was revoked in Kansas. He was working as an OBGYN and had documentation and competency issues for which

Kansas revoked his license. She stated most of the time Utah will follow the same disciplinary action but Dr. Slavens requested a hearing with the Board. She stated, following the hearing the board recommended Dr. Slavens be given the opportunity to retain his Utah license if he would get a CPEP evaluation and he did that. It is in Colorado and they do a lot of different types of testing that is geared to the specialty of the practitioner. She stated Dr. Slavens Utah license is suspended until the report is received and documents Dr. Slavens is competent. Ms. Taxin stated she received a preliminary report and would like to close the meet for this discussion.

10:25 am – Closure of Meeting

Dr. Parker made a motion to close the meet for discussion of mental competency.

Dr. Affleck seconded the motion.

The Board vote was unanimous.

10:39 am – Reopen Meeting

Dr. Parker make a motion to reopen the meeting.

Dr. Chapa seconded the motion.

The Board vote was unanimous.

Ms. Taxin summarized the full evaluation will need to be received but Dr. Slavens will be requested to meet January 9, 2013, for guidance on the steps he will need to take.

10:40 am

Dr. Edmund Chein, Telephonic Probationary Interview

Dr. Chein met for his telephonic probationary interview.

The two new Board members were introduced.

Mr. Hale conducted interview.

Dr. Chein informed the Board that he has settled his situation in California, completed and sent a copy of

the required evaluation, completed the required ethics course last Saturday and sent a copy of the enrollment to the Utah Board. He stated the second part of the ethics course is a year after the first part and he will send documentation next year when it is completed.

Dr. Howell asked which ethics course Dr. Chein took.

Dr. Chein responded the PACE course in San Diego.

Mr. Hale requested Dr. Chein to share what he learned in the course.

Dr. Chein responded he did not have an ethics issue as he was attempting to stop a man from fleeing. He stated he decided to settle but the previous California probation document required him to follow all Laws so that probation was extended for another four years.

Ms. Taxin asked if the California Board recommended the evaluator or if Dr. Chein made the selection.

Dr. Chein responded the California Board made the selection. He stated the evaluator wrote a beautiful letter on him for the Board.

Ms. Taxin reminded Dr. Chein to submit copies of his CE certificates to Ms. Troxel when they become available and if his status changes. She asked how his practice is going and if he is abiding by the standards of conduct.

Dr. Chein responded his supervisor has submitted the report every quarter for the last nine years and there have never been any patient complaints against his license.

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

An appointment was made for Dr. Chein to meet again March 20, 2013.

10:50 am

Dr. Carl F. Wurster, Telephonic Probationary
Interview

Dr. Wurster met for his telephonic probationary
interview.

The two new Board members were introduced.

Dr. Affleck conducted interview.

**Dr. Affleck requested Dr. Wurster to briefly
update the Board regarding his situation.**

Dr. Wurster stated he is on probation in Idaho but due
to health issues is unable to return to physical medical
practice.

**Dr. Affleck asked if there have been any updates
from the Idaho Board.**

Dr. Wurster responded no.

**Dr. Affleck asked Dr. Wurster to explain his
current employment.**

Dr. Wurster responded he is doing a lot of medical
writing and editing for a company in New York. He
stated he was teaching medical assisting, anatomy and
pharmacology at a college in Idaho but right now is
only doing the writing as he is able to write from his
chair at home.

**Dr. Affleck requested something in writing to
update Dr. Wurster's file.**

**Dr. Howell reminded Dr. Wurster that his
Stipulation and Order requires him to submit
notification if he changes employment.**

**Ms. Taxin stated the issue of not informing the
Utah Board of changes has come up before. She
stated if he is not working in the medical field it
does not make any sense to continue to monitor Dr.
Wurster for probation as his time does not count.**

Dr. Wurster responded he has an appointment with
another Physician who believes he can stabilize his
situation. He stated the license is critical for teaching
or editing and for writing.

Dr. Howell suggest Dr. Wurster's license be suspended until he is well enough to practice.

Dr. Wurster asked that the license not be suspended as it would be disciplinary action.

Ms. Taxin suggested an amended Order to suspend the license until he is well enough to be in active practice. She stated he could also surrender the Utah license later if he decides not to go back into active practice.

Dr. Wurster requested a letter outlining the options.

Ms. Taxin responded it would not be in the form of a letter it would be an amended Order. She stated she will do the research, write it out and send it to Dr. Wurster to review. She stated if he agrees he could sign and if he does not agree then he could call her for clarification. Ms. Taxin stated Dr. Wurster would still be required to maintain his Utah license and there might be additional information required to reactive the license to be sure he is competent if he is able to go back into medical practice.

Dr. Wurster asked for the address of where to send the notification of his change of employment.

Ms. Taxin recommended he fax it to Ms. Troxel and stated she will get a proposed amended Order out to him soon.

The Board determined Dr. Wurster is out of compliance today as he failed to notify the Utah Board of the change in employment as required by his Order.

Ms. Taxin stated she did not recommend another appointment as he may sign an amended Order and not need to meet. She stated if he does not sign an amended Order then he will need to meet in March.

11:00 am

Dr. Lynn Greenhouse, Telephonic
Probationary Interview

Dr. Greenhouse met for her telephonic probationary interview.

The two new Board members were introduced.

Dr. Affleck conducted the interview.

Dr. Affleck stated at Dr. Greenhouse's last appointment she mentioned she was going to complete additional specific CE. He asked if she completed the CE.

Dr. Greenhouse responded she did complete some but has not found anything else to complete the entire requirement. She stated the CE does not need to be completed until March so she will find something else soon.

Dr. Affleck asked if Dr. Greenhouse has reapplied for her DEA registration.

Dr. Greenhouse responded yes and anticipates hearing something any time.

Ms. Taxin thanked Dr. Greenhouse for submitting the required information and communicating with her. She asked if Dr. Greenhouse learned anything from the completed course she can adapt to her practice or if she just completed course.

Dr. Greenhouse responded she learned the importance of documentation for payments and to look for conditions patients may have that may require medications. She stated prior to prescribing again she will be sure a questionnaire is completely filled out. She stated she also became aware of patients trying to play the system just to obtain medications and there is an interesting monitoring system to pick up on these people.

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

An appointment was made for Dr. Greenhouse to

meet again telephonically on March 20, 2013.

Ms. Taxin reminded Dr. Greenhouse to continue to submit her compliance documentation and to submit copies of certificates of completion for any other courses required by her Stipulation that she completes.

11:10 am

Dr. John R. Corkery, Probationary Interview

Dr. Corkery met for his probationary interview.

The two new Board members were introduced.

Dr. Byrd conducted the interview.

Dr. Corkery reported he is still working at the clinic about 10 hours a week with Dr. Plunket as his supervisor.

Dr. Byrd asked if Dr. Corkery has had any additional issues with the DEA.

Dr. Corkery responded no. He stated he called the DEA and they are trying to figure out if they will ever register him again. He stated their answer will determine if he practices or if he decides to retire.

Dr. Corkery stated the State Prosecutor has charged him with improper record keeping in regard to five of the medications he dispensed. He stated he has put all his records together and has had patients write letters on his behalf.

Dr. Byrd asked if he will be dispensing medications at the ski hill again.

Dr. Corkery responded he will practice according to the Law and within his scope.

Ms. Taxin asked who is charging Dr. Corkery with improper record keeping as the Division is not making any charges.

Dr. Corkery responded the State and he had to meet at the Mattheson Court House. He stated he assumed DOPL would have the paperwork as the charges were

through the State of Utah.

Dr. Byrd asked what conditions will be required for those charges.

Dr. Corkery responded he put together affidavits from patients and the medical records and gave them to his attorney who said he would take it all to the Utah State Attorney. He stated he was then charged with one count misdemeanor for distribution of Oxycodone. He stated he was informed if he did everything DOPL requires it will be changed to a minor misdemeanor. Dr. Corkery stated he does not yet have any documentation.

Ms. Taxin voiced confusion as to who filed charges. She requested Dr. Corkery to submit copies of any documentation he receives.

Dr. Corkery stated he plead guilty to two counts. He stated his attorney informed him the DEA investigates initially and then they hand over everything to the State to make the charges. He stated when he met downstairs they had everything the DEA had put together. Dr. Corkery stated he tried to provide all the information to the DEA but they would not accept it and the State person took all his information.

Ms. Taxin offered to look into the situation. She asked if the misdemeanor can be expunged.

Dr. Corkery responded no. He stated it will stay on his record as a minor misdemeanor if he is successful in his probation.

Dr. Byrd requested an explanation regarding the medication co-signed by Dr. Plunkett that showed up on the CS database.

Ms. Troxel responded she contacted the Pharmacy and it was an error. She stated the Pharmacy is working

Dr. Byrd asked if Dr. Corkery has given any medical attention to anyone at any sporting events or if there has been any pressure to treat.

Dr. Corkery responded he has never had anyone pressure him to treat or medicate.

Dr. Chapa asked if Dr. Corkery has done any more business with Henry Schein, Inc.

Dr. Corkery responded no and stated he will never do business with them again.

Dr. Byrd reminded Dr. Corkery that completion of the PACE and PRIME course are required within a year of signing his Stipulation and Order, which will be April 11, 2013. He asked if Dr. Corkery has registered yet for either course.

Dr. Corkery responded no he has not registered for either course. He asked if there is an alternative to taking the courses such as reading a book.

Ms. Taxin responded there is no reading a book alternative and he will need to take both courses unless he can find comparable courses.

Ms. Taxin asked the Board if they would consider issuing Dr. Corkery a controlled substance (CS) license if the DEA agrees to consider issuing the DEA registration. She stated if he had the CS license the Board could monitor him while he is on probation.

Dr. Byrd made a motion to support issuing the CS if the DEA will agree to the DEA registration.

Dr. Parker seconded the motion.

The Board vote was unanimous.

Dr. Corkery thanked the Board and stated he will contact the DEA immediately and submit an application if the DEA has a positive response. He asked if the Board wanted copies of the affidavits and his letters.

Dr. Howell responded they would not be necessary.

Ms. Taxin suggested Dr. Corkery submit a proposal for the Board to consider if he is serious about an alternate course. She stated sometimes PACE offers a boundaries course in Colorado.

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

An appointment was made for Dr. Corkery to meet again January 9, 2013.

11:25 am

Dr. Arif A. Chowdhury, Probationary
Interview

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

The two new Board members were introduced.

Dr. Parker conducted the interview.

Ms. Taxin stated Dr. Cook disclosed he has previously worked with Dr. Chowdhury. She explained sometimes it is a little uncomfortable for the probationer and the previous co-worker in a probationary interview. She stated Dr. Cook may recuse himself from the discussion and any decision making but stay and listen, he could leave the room or he could stay and be part of the discussion and any decision making. Ms. Taxin asked which Dr. Chowdhury would prefer.

Dr. Chowdhury responded he would be comfortable with Dr. Cook being part of the discussion and any decision making.

Dr. Chowdhury reported his practice is going well and he is trying to do his best.

Dr. Parker stated the supervisor report and chart review were combined on one report. He stated he is ok with that format.

Ms. Taxin requested Dr. Sadiq and Mr. Marshall include more specific descriptive comments on the reports.

Dr. Byrd asked if Mr. Davis is still consulting.

Dr. Chowdhury responded not presently as Mr. Davis is dealing with the billing side.

Ms. Taxin asked if Dr. Chowdhury is seeing any differences in his interactions with his patients and if he has found the supervision helpful to him and in helping his patients with their care.

Dr. Chowdhury responded the consulting has helped him and he believes his interaction with patients is better. He stated he now asks if patients have questions regarding the procedures, the tests or the medications prescribed. Dr. Chowdhury stated he also explains the tests he is ordering and the reasons for the tests. He stated the process has been very good for him and thanked the Board for pointing out what he should be doing.

Ms. Taxin commented Dr. Chowdhury presented better and talked more today instead of having Mr. Marshall do the talking.

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

An appointment was made for Dr. Chowdhury to meet again March 20, 2013.

11:40 am

Dr. Donald N. Harline, Probationary Interview

Dr. Harline met for his probationary interview.

The two new Board members were introduced.

Dr. Byrd conducted the interview.

Dr. Harline stated he is busier than he has been as he picked up some patients from another Physician. He stated the increase in patients has helped him reach his goal of patient base. He stated he is still doing some pain management but is moving toward wellness management and recommends exercise to all his patients. He stated he is still prescribing Suboxone. Dr. Harline stated he has informed all new patients that they must have clean urine tests or he will not see them. He stated he had to let three patients go as their

tests were positive. Dr. Harline stated he requires all his own patients to see a Psychologist but the new patients referred from the other Physician have not yet seen the Psychologist.

Dr. Byrd asked how Dr. Oakey has helped Dr. Harline.

Dr. Harline responded Dr. Oakey has helped him with his charting and since he has done better on the charting the patients have been more compliant.

Dr. Byrd informed Dr. Harline that the supervision report was very positive. He then asked if Dr. Harline has had any issues with female patients.

Dr. Harline responded no.

Ms. Troxel stated there were three patients listed on the chaperone log that were not identified by name or gender.

Dr. Harline reviewed the log and stated the three patients were female. He stated his medical assistant is one chaperone. He stated he has now hired his wife who is a nurse and will need to get her added as a chaperone.

Ms. Taxin stated Mrs. Harline will need to submit her resume with a letter requesting she be added as a chaperone. She stated she believes Mrs. Harline will be a good support for Dr. Harline.

Dr. Harline thanked Ms. Taxin and stated Mrs. Harline is now learning laser techniques. He stated she has a great dynamic with females and he believes it will be an asset for his practice.

Dr. Howell asked if Dr. Harline anticipates any problems with Mrs. Harline as a chaperone.

Dr. Harline responded no. He stated she adds more to the interactions with patients.

Dr. Howell asked if Dr. Harline has thought about what will change in his practice when he completes

his probation.

Dr. Harline responded yes, he has thought about it. He stated he believes he will continue having a chaperone with him.

Dr. Howell commented she believes it is good practice and she thinks patients are more comfortable with a chaperone in the room.

Dr. Harline asked if his Order could be amended as he is currently required to have a chaperone for females from 0 to 54.

Dr. Howell recommended Dr. Harline put a proposal in writing for the Board to consider at his next appointment. She recommended Mrs. Harline be approved as a chaperone first.

Ms. Taxin suggested Mrs. Harline write her experience of working with Dr. Harline.

Dr. Harline responded his wife has worked with him before and with her learning to use the laser working with him will now be her only job.

Dr. Byrd asked if Dr. Harline is still attending support groups.

Dr. Harline responded yes.

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

An appointment was made for Dr. Harline to meet again March 20, 2013.

11:55 am

Dr. Michael S. Roundy, Probationary
Interview

Dr. Roundy met for his probationary interview.

The new Board members were introduced.

Dr. Parker conducted the interview.

Dr. Parker requested Dr. Roundy to briefly explain what brought him before the Board for the benefit

of the new Board members.

Dr. Roundy briefly explained.

Dr. Parker informed Dr. Roundy that he is in compliance with his Stipulation and Order.

Dr. Roundy responded good. He stated he is now doing half outpatient and half inpatient psychiatry. He stated he recently accepted a weekend position at Lake View Hospital where Dr. McPherson does not have privileges. He asked if Dr. McPherson could review additional files instead of obtaining a new supervisor for Lake View Hospital.

Dr. Howell responded Dr. Roundy is required to have a supervisor. She then named a few people Dr. Roundy could approach to supervise him at Lake View Hospital and stated he will need to submit a letter from the proposed supervisor confirming having read the Stipulation and Order and their willingness to assist Dr. Roundy in being successful in his probation. Dr. Howell stated the proposed supervisor will also need to submit a resume.

Dr. Roundy asked if the letter needs to be from his peer supervisor or his employer.

Ms. Taxin responded a letter from his supervisor but his new supervisor and his new employer will also need to submit reports to document he is keeping his boundaries appropriately at Lake View Hospital. She recommended Dr. Roundy read his Order regarding the reports. She stated the Board could recommend the reports be submitted quarterly.

Dr. Howell suggested Dr. Roundy ask Linda Webster, a social worker, as she would be the most consistent to observe and write the reports.

Dr. Roundy reminded the Board of their request for a copy of the medications used at MacKay Dee and he submitted the information for the Board to review.

Ms. Taxin asked if there is anything Dr. Roundy would do different now that he has been on probation and has supervision.

Dr. Roundy responded yes. He stated there is a lot of flattery at work and now he would not be a part of that.

Ms. Taxin asked what Dr. Roundy would do different in regard to his own scenario.

Dr. Roundy responded he would not have written prescriptions for anyone other than patients. He stated he now no longer writes any prescriptions for his children. Dr. Roundy commented the employer report will be from Ms. Walker if she will supervise and then he asked who would do the chart review.

Ms. Taxin responded there would no be a chart review required at Lake View Hospital, just an employer report of overall quality of practice.

An appointment was made for Dr. Roundy to meet again March 20, 2013.

12:15 pm to 1:00 pm

WORKING LUNCH

1:00 pm

Dr. James E. Pickens, Probationary Interview

Dr. Pickens met for his probationary interview.

The two new Board members were introduced.

Dr. Affleck conducted the interview.

Dr. Affleck requested Dr. Pickens briefly explain what brought him before the Board.

Dr. Pickens briefly explained. He then stated the Supreme Court has stayed sentencing until the courts have heard the case. He stated Laws have now been passed that require a face to face contact with the patient prior to prescribing controlled substances. He stated he is still working at the Sandy office. He stated his business is starting to pick up and he sees about 10 to 15 patients per week for weight loss, botox and fillers. He stated there is now platelet rich plasma

that can be used with injections to increase collagen and he has used it.

Dr. Affleck confirmed Dr. Pickens attended the PRIME and prescribing courses.

Dr. Pickens responded yes.

Ms. Taxin requested Dr. Pickens to keep the Division updated on the criminal action and to make sure Dr. Youngblood continues his supervision and peer review. She stated any feedback Dr. Youngblood is able to include in the reports is helpful.

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

An appointment was made for Dr. Pickens to meet again March 20, 2013.

1:20 pm

Dr. Robert I. Simpson, Probationary Interview

Dr. Simpson met for his probationary interview.

The two new Board members were introduced.

Dr. Howell conducted the interview.

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

Dr. Simpson briefly explained. He stated he has now been in recovery for 17 months and this may turn out to be the best thing that has happened in his life. He stated he is enjoying working at the 4th Street Clinic and as he gets to look after people who have difficulty dealing with their lives.

Ms. Taxin responded the 4th Street Clinic feels fortunate to have him as an employee. She stated the reports have been very positive.

Dr. Howell stated the last report asks if reports could now be submitted quarterly. She stated positive reports have come in monthly for six months and the employer and therapy reports may

now change to reporting quarterly.

Ms. Taxin clarified the reports may be submitted quarterly but they should incorporate all three months.

Ms. Taxin asked Dr. Simpson how he deals with stress in his life.

Dr. Simpson responded life is life and just because he is in recovery does not mean he does not have the same issues but he is learning to deal with the stresses without substances. He stated he still goes to drug court once a week and that should be concluded the last part of January.

Dr. Howell asked if Dr. Simpson if he has any cravings.

Dr. Simpson responded not really. He stated he occasionally thinks about it but knows it is not a good idea and it does not take him long to work through those thoughts.

Dr. Howell asked if Dr. Simpson is working the steps for recovery and working with a sponsor.

Dr. Simpson responded yes. He stated he still makes mistakes but he and his wife are recovering together.

Dr. Byrd asked if Dr. Simpson has thought about returning to his prior line of work.

Dr. Simpson responded no. He stated the balance is better and the employment situation is ideal.

Dr. Howell asked if the family is happier that they are able to see him more.

Dr. Simpson responded the family is doing ok.

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

An appointment was made for Dr. Simpson to meet again March 20, 2013.

1:35 pm

Dr. Robert A. Weitzel, Probationary Interview

Ms. Taxin introduced Karl Perry, Assistant Attorney General, who works with her and will assist with the order review and/or any questions.

The two new Board members were introduced.

Dr. and Mrs. Weitzel met for his probationary interview.

Dr. Howell conducted the interview.

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

Dr. Weitzel briefly explained. He then stated he would like to discuss an issue that is affecting his psychological and mental health.

1:36 pm – Closure of Meeting

Dr. Parker made a motion to close the meeting for psychological and mental health discussion.

Dr. Chapa seconded the motion.

The Board vote was unanimous.

1:49 pm – Reopen Meeting

Dr. Affleck made a motion to reopen the meeting.

Dr. Parker seconded the motion.

The Board vote was unanimous.

Ms. Taxin referred the Board to Dr. Weitzel's Stipulation and Order regarding being on probation for five years. She explained it sometimes takes a few months for probationers to obtain employment and get other conditions in order so she has given Dr. Weitzel three months off his probation time. She then read the conditions of Dr. Weitzel's Order and asked if the Board would want to consider amending h.(i) – Re-education

requirement and/or h.(ii) – Mini-residency.

Dr. Weitzel stated until he is able to find work in psychiatry it does not make sense for him to complete a re-education program or a mini-residency. He stated if he could find a position he would attempt to find a psychiatrist to supervise but he is unable to complete a mini-residency program due to the cost.

Dr. Howell responded Utah does not license by specialty. She stated one of the concerns is Dr. Weitzel has been out of practice with any type of medicine for over ten years.

Ms. Taxin reminded the Board that they do not have to recommend any amendments. She suggested the Order remain as written for now and if Dr. Weitzel obtains a position in psychiatry then the Order could be amended.

Mr. Perry commented the Order anticipates Dr. Weitzel returning to practicing psychiatry right away which might not be his plan. He suggested the Board consider amending the Order to remove the word psychiatry in the first paragraph.

Ms. Taxin suggested the Board review the Order and make recommendations to her regarding any amendments.

Dr. Howell stated if Dr. Weitzel secures a position he should notify the Division and meet with the Board January 9, 2013. She requested he have a specific plan and a proposed supervisor name, letter and resume and notify the proposed supervisor that they will also need to meet with Dr. Weitzel.

An appointment was made for Dr. Weitzel to meet again January 9, 2013.

1:50 pm
Dr. John H. Schneider, Initial Probationary
Interview

Dr. Schneider met for his initial probationary
interview.

The two new Board members were introduced.

Dr. Byrd conducted the interview.

Dr. Bryd requested Dr. Schneider to briefly explain what brought him before the Board.

Dr. Schneider responded he is a neurosurgeon. He stated he has been in Cody, Wyoming since 2007 and does reconstructive surgery, extensive pain management and reconstructive spine work. He stated there was a related death after one of his surgeries. Dr. Schneider explained his medical records person requested he look at her husband as it was common for him to review x-rays and give a diagnosis. He stated he had never seen this patient who had previous neurosurgery work on his back and was not pleased with the result. Dr. Schneider stated he review the scan between his own surgeries and said he had concerns. He stated on Monday after Thanksgiving the medical records person called to say her husband was having urinary problems and wanted an appointment. Dr. Schneider stated he arranged to see the patient and believed an emergency procedure was necessary but was not aware the insurance would only pay if the procedure was done at a specific location. Dr. Schneider stated he did the surgery, the patient was doing fine for the first 24 hours and they kept him in the hospital several days. He stated the patient's pain was escalating over time even on significant amounts of pain medications. Dr. Schneider stated the pain became reasonably under control and he gave the patient a prescription for medications to take at home. He stated on the discharge morning the Physician Assistant gave additional prescriptions to the patient without his knowledge and the oxygen levels dropped drastically. He explained the Physician Assistant (PA) authorized the discharge when the patient was not medically stable and the patient went home where he expired that night. He stated he was informed of the death the next morning. He stated the mother filed a complaint with the Wyoming Board and the year before the patient's father had passed away while in the same hospital after a routine surgery.

Dr. Schneider stated the impact on his practice has been profound and he has had to let half of his staff

go. He stated it is now a year later and he still has not had a hearing in Wyoming.

Dr. Byrd asked if there was an issue between him and the PA.

Dr. Schneider responded no. He stated this is the only post operative complication which resulted in death with his patients. He stated he believes there was a miscommunication among the Nurse, the PA and himself and it was a breach in the protocols which are in place. He stated he was never informed of the oxygen saturation but the information is in the chart.

Dr. Byrd asked if Dr. Schneider takes any responsibility for the death of the patient.

Dr. Schneider responded he is over the PA so it is his responsibility.

Ms. Taxin explained the Utah action was based on the Wyoming action. She stated she wanted to ensure if Dr. Schneider came to Utah to practice he would practice according to standard practices. She stated if Wyoming terminates probation then Dr. Schneider may request termination of probation in Utah.

Dr. Byrd asked if Montana sanctioned the license.

Dr. Schneider responded no.

Ms. Taxin stated Dr. Schneider's Order requires him to keep the Utah Board informed and to submit employer reports.

Dr. Byrd commented Wyoming restricted Dr. Schneider's license and requires him to have a supervisor for six months.

Dr. Schneider responded Dr. Byrd is correct. He stated he was hoping Utah would consider releasing him as Montana did not take action.

Ms. Taxin responded if Wyoming terminates probation then he will need to get a copy to her and

then the Board can consider termination in Utah. She stated if Dr. Schneider submits his paperwork then the Board can meet with him telephonically.

Dr. Schneider stated he will be closing his practice and taking some time off but he wants to maintain the Montana and Utah licenses.

Dr. Howell commented it will not look good to just close the Wyoming practice and not renew.

Ms. Taxin suggest he try to negotiate with Wyoming and maybe ask if he can surrender his license there and practice somewhere else. She stated if Dr. Schneider came to Utah then it would be the concern of the Utah Board/Division. She stated before he surrenders he should contact her to review Utah consequences in case he decides to come to Utah as the Wyoming issues would not be resolved.

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

An appointment was made for Dr. Schneider to meet telephonically March 20, 2013.

Dr. Schneider left the meeting.

The Board questioned if action was necessary.

Dr. Cook asked if it is a firm policy to follow action taken by another State.

Ms. Taxin responded no. She stated the other State has already completed the investigation and she has to trust they did not restrict the license without reason. She stated Dr. Schneider could request a hearing in Utah and the Board/Division would have to honor the request but they would also have to bring in all the witnesses. She stated the Board also has the ability to amend the Order. Ms. Taxin stated if Utah did not take action Dr. Schneider could come to Utah to practice and then there might be an issue. She stated he already informed the Board that he is considering going somewhere

else. Ms. Taxin stated there are consequences when action is taken as it is reported to the national database and many times the insurance panels will drop them but Utah has probationers who still obtain employment and remain on insurance panels.

Dr. Byrd voiced wondering why Montana did not take action. He stated the restriction of not prescribing Fentanyl is odd to him.

Dr. Howell responded there is always more that the Board does not hear.

Dr. Cook asked if Utah would have to start over if Dr. Schneider comes to Utah to work.

Ms. Taxin responded no as the Utah Stipulation and Order has guidelines in case he does come here to practice.

3:15 pm

Matthew White and Wu Xu, E-Prescription

Mr. White met with the Board to discuss E-prescriptions. Dr. Xu was unable to attend.

Mr. White explained all Utah practitioners need to provide patients with the option of an e-prescription. He stated the DEA has standards for controlled substances only and it is not mandatory but the State of Utah requires the option for all prescriptions.

Mr. White stated practitioners will need to have the computer software program certified for auditing. He stated there are currently four companies who are approved for the audits:

1. DrFirst;
2. NewCrop;
3. NextGen; and
4. RxNT.

Dr. Cook commented his office used the NextGen. He asked if they may use only e-prescriptions or do they have to do something else first.

Mr. White responded there are additional

requirements. He stated the DEA approved three companies but have not certified any organization to do controlled substances. He stated the Utah State Law does give the right to issue exemptions if there is a hardship. Mr. White stated the Division's plan is for the Board to review the proposed Rule and make any recommendations. He stated when Mr. Steinagel met with Representative Menlove, the sponsor, there were concerns that prescribers would not be able to meet the obligations. Mr. White stated Mr. Steinagel had said he will be liberal in issuing exemptions and laid back in enforcement.

Dr. Cook asked what will happen if a practitioner is out of compliance.

Mr. White responded they will probably be issued a verbal warning citation or be fined.

Dr. Parker stated there are a few times a year when he has to write a prescription for drug reactions. He asked if he would need to notify the patients of e-prescriptions in those cases.

Mr. White responded yes, it has to be offered to the patients.

Dr. Cook asked if the e-prescription has to be through an EMR system or if it can be faxed.

Mr. White responded Federal requirements will not allow them to be faxed. He stated Utah Law will allow faxing. He stated over the next few years DOPL will be looking at clinic's/practitioners with small patient loads.

Mr. Garbett asked if the Utah Law means practitioners have to offer but do not have to do the e-prescribing.

Ms. Taxin responded yes.

Mr. White asked the Board for a recommendation regarding the proposed Rule and complying.

Mr. Hale made a motion to accept the proposed

Rule.

Dr. Montgomery seconded the motion.

The Board vote was Mr. Hale, Dr. Cook, Dr. Chapa, Dr. Howell, Dr. Affleck and Dr. Montgomery voted in favor of the motion.

Dr. Parker and Dr. Byrd abstained from voting.

Dr. Cook asked how practitioners are to inform patients.

Mr. White responded the method of informing will be left up to the practitioners.

Ms. Taxin suggested it be put on the consent to treat form or a box the practitioner checks so when they are audited they have documentation of notification.

Dr. Howell commented she believes e-prescribing is great as addicts will not be able to say their prescription was stolen.

DISCUSSION ITEMS:

Annual Board Member Training

Ms. Taxin conducted the annual 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. She 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.

Ms. Taxin explained the process for an emergency hearing and stated she contacts three people to act as a Board to hearing the facts of the case and to make a recommendation. She stated she tries to have licensees of the profession as two of the three but it is not always possible. Ms. Taxin stated the emergency hearing agenda does not have to be posted 24 hours in advance as the hearing is usually with a day or two of determining there is an emergency situation.

Ms. Taxin 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.

Ms. Taxin reminded the Board that it is a priority to protect the public and the public member of the Board is a viable Board member and needs to speak up if they don't believe something said is in the best interest of the public. She stated the public member may also serve as Board Chairperson.

Ms. Taxin 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. She stated if a Board member is aware of an issue of someone meeting or aware of a probationer issue they may recuse themselves so they are not part of the discussion or part of decisions, such as, revocation of a license.

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 and act with integrity as they are looked up to.

Ms. Taxin covered the fire drill and her expectations for everyone to get out of the building and meet across the street in the North 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. She concluded by reviewing the fire escape locations.

Ms. Taxin also reviewed the new informal hearing procedures and stated the Board would conduct these hearings for the following reasons:

1. If a probationer is out of compliance with their probation;
2. If the Division denies a renewal of a license; or
3. If action has been taking in another State.

She stated she will present the information to the Board and make a recommendation and then the Board may discuss the information and make a formal motion and vote back to the Division. Ms. Taxin stated practitioners may then go through the District Courts with their appeals.

Ms. Taxin requested Board members to contact her if they have any questions and if they have suggestions to make the process better.

The Board thanked Ms. Taxin for the information.

Review Dr. Edward Eyring's Proposed Coursework for Approval

Ms. Taxin reminded the Board that they pre-approved previous information regarding courses but Dr. Eyring had an illness in his family and could not attend the previously approved courses. She stated he is now requesting Board approval for the submitted courses. Ms. Taxin then read the requirements of Dr. Eyring's Order regarding he is required to complete CME specific to his specialty.

Dr. Chapa commented he does not see anything in the proposed coursework that would enhance Dr.

Eyring's practice as a surgeon.

Dr. Parker asked if the problem was with Dr. Eyring's surgical skills.

Ms. Taxin responded most of the problem was with his surgical skills.

Dr. Affleck made a motion to accept the proposed CE.

Dr. Chapa seconded the motion.

The Board vote was unanimous.

The Board requested Dr. Eyring write a paper on each course regarding what he learned and how he will apply the new information in his practice.

Review Board Survey Regarding Online Disciplinary Documents and Make a Recommendation

Ms. Taxin read Mr. Steinagel's letter regarding disciplinary documents being available on the DOPL website only, searchable through the DOPL website and through general internet searches or if neither option is acceptable. She stated she needs a motion regarding this information. Ms. Taxin reminded the Board that Utah disciplinary records are not expungable and information on Google is not always updated or corrected.

Following discussion Dr. Affleck made a motion to recommend option 1: "We believe disciplinary documents posted on DOPL's website should only be found through a search someone performs within DOPL's website. General internet searches shouldn't be allowed to display or embed disciplinary documents as a search result."

Dr. Byrd seconded the motion.

The Board vote was unanimous.

Review TIME, Health & Science Article on Web MD's

Ms. Taxin stated she thought this article might be of interest to the Board and stated they may take the article to review.

No Board action was taken.

FYI

Ms. Taxin informed the Board of Dr. Bernard I. Grosser's surrender of his Utah license. She read the facts to the Board.

The Board thanked Ms. Taxin for the information.

Update on the CS Proposed Rule

Ms. Taxin reminded the Board of the discussion in the last meeting regarding the Utah Controlled Substance requirements. She stated she wrote a Rule that meets the Law requirement and the Rule hearing was last week. She stated there were no comments and she anticipates the Rule will go through.

Ms. Taxin stated the UMA is developing an online program that will be similar to the online tutorial/examination Physicians took when they renewed their licenses in January 2012, with modules related to specialties. She stated the program should be ready in January 2013. Ms. Taxin stated she has received a lot of questions as there is quite a bit of controversy as there are several professions who have prescriptive practice and the Law requires the education to be Category 1, approved by ACCME or another recognized State CME accrediting body. She stated the intent is that the UMA wants to approve the course.

Dr. Parker commented IHC might be another recognized State CME accredited body.

Dr. Howell recommended Ms. Taxin also contact the University of Utah CME office.

Ms. Taxin thanked the Board for their input and asked as long as the prescribing course meets the criteria and is category 1 if that is acceptable.

The Board responded yes.

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 16**, August 14, **September 11**, October 9, **November 13** and December 11, 2013. The Board noted the planned meetings are in **BOLD** with the additional dates

tentatively scheduled in case they are needed.

CORRESPONDENCE:

FSMB Item Writing workshop

Ms. Taxin if anyone is interested in participating in the item writing workshop they may call FSMB and inquire. She stated it is not required of Board members.

Dr. Cook voiced interest and took the information.

FSMB Request Regarding Board Sponsorship
Role in USMLE Step 3

Ms. Taxin stated she believes FSMB is trying to amend Step 3 of the USMLE. She read the questionnaire.

Board members requested the discussion and recommendation be deferred to the January 9, 2013, Board meeting.

FSMB Information regarding Maintenance of
Licensure

Ms. Taxin read the information and requested they contact her if they have any comments.

JMR Booklet

Ms. Taxin passed the booklets around for board members to take. Dr. Cook and Dr. Montgomery each took one.

NEXT MEETING SCHEDULED FOR:

January 9, 2013

ADJOURN:

The time is 4:10 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.

January 9, 2013
Date Approved

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

December 17, 2012
Date Approved

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