

**MINUTES**

**UTAH  
PHYSICIAN'S  
BOARD MEETING**

**April 9, 2008**

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

**CONVENED:** 9:00 A.M.

**ADJOURNED:** 2:25 P.M.

**Bureau Manager:  
Board Secretary:**

Noel Taxin  
Karen McCall

**Board Members Present:**

George C. Pingree, MD, Chairperson  
Stephen E. Lamb, MD  
James R. Fowler, MD  
Michael T. Giovanniello, MD  
John W. Bennion, PhD  
Kristen Ries, MD  
James H. Pingree, MD  
Lori G. Buhler

**Board Members Absent:**

Elizabeth F. Howell, MD  
Marc E. Babitz, MD  
Richard J. Sperry, MD

**DOPL Staff Present:**

David Stanley, Division Director

**TOPICS FOR DISCUSSION**

**DECISIONS AND RECOMMENDATIONS**

**ADMINISTRATIVE BUSINESS:**

**MINUTES:**

The minutes from the March 12, 2008 Board meeting were read.

Dr. Ries made a motion to approve the minutes with minor revisions. Dr. James Pingree seconded the motion. **The Board vote was unanimous.**

**APPOINTMENTS:**

**9:30 am**

Debbie Harry, Compliance Update

Ms. Harry reviewed the probationers regarding

compliance and non-compliance.

Ms. Harry reported that Dr. William Gullede is out of compliance this quarter as the required information from Texas has not yet been received. Ms. Harry stated that she contacted Texas and asked if they would give a verbal verification over the telephone and was informed that they could not. She stated that she was instructed to have Dr. Gullede contact the Texas Board for the information and it will take approximately 3 weeks to send out information. Ms. Harry concluded that Dr. Gullede should be instructed to contact Texas a month in advance of his appointments in order for Utah to receive the information for his appointments.

Ms. Harry reported that Dr. Sidney Johnson is out of compliance this quarter as the required report from Hawaii has not yet been received.

Ms. Harry reported that Dr. Darrell Anderson is out of compliance this quarter as the supervisor report, controlled substance log and record review have not been submitted.

**Dr. Lamb commented that Dr. Anderson has continually been out of compliance. He stated that the Board had requested an Order to Show Cause (OSC). Dr. Lamb asked Ms. Taxin if she had any information regarding the OSC. He stated that Dr. Anderson's behavior has not been modified by being on probation and he is spinning the wheels of the Board by meeting quarterly.**

**Ms. Taxin responded that she did not have any information but would contact the AG's office for an update. Ms. Taxin stated that she will have the information by the May 14, 2008 Board meeting.**

Ms. Harry reported that Dr. David Aune is out of compliance this quarter as the aftercare report, therapy report, PIR cards and employer report have not been submitted. Ms. Harry stated that Dr. Aune called to notify her that the person doing the aftercare report has been on vacation and the report will be submitted upon them returning. She stated that Dr. Aune asked if his

Stipulation and Order could be amended to no longer require attendance in an aftercare program. Ms. Harry informed Dr. Aune that he could discuss his request with the Board but a final aftercare report with a recommendation would be required.

**Ms. Taxin commented that Dr. Aune would also need to have reports for January, February, March and April 2008 submitted from Tammy Dusoe with a recommendation to terminate the requirement. She stated that the Board needs to be very clear with Dr. Aune that the aftercare is different than the PIR and he currently is required to attend both.**

Ms. Harry reported that Dr. Phillip Washburn is out of compliance this quarter as the record review, triplicate prescription forms and the controlled substance log have not been received. Ms. Harry notified the Board that Dr. Washburn's probation started June 27, 2006 and is scheduled to end June 27, 2008. Ms. Harry stated that the supervision report was received this morning.

**Ms. Taxin commented that the Board needs to be sure Dr. Washburn has met all his probationary requirements if his probation terminates June 27, 2008. She also reminded the Board that there have been a few times that Dr. Washburn has not appeared for his probationary interviews. She stated that the Board should be clear with Dr. Washburn that all requirements must be met and he must be in compliance if he is to be terminated from probation.**

Ms. Harry reported that Dr. Randal Ellsworth is out of compliance this quarter as he has not yet paid the \$2,000.00 fine, submitted a copy of the prescription for Provigil, the employer report, the PIR and 12 step attendance cards and the therapy report.

**Ms. Taxin commented that the \$2,000.00 fine was to be paid within 18 months of his probation commencing. She stated that she was informed that the fine has already gone to collections.**

Ms. Harry reported that Dr. Brandon Bentz is in compliance this quarter.

Ms. Harry informed the Board that Dr. Craig Miercort submitted a request for early termination of his probation. She stated that Florida submitted a letter stating he is in compliance with their Stipulation and Order. Ms. Harry explained that the Florida probation is for a longer period of time than the Utah probation and Florida will not terminate probation until the Utah probation has been terminated. Ms. Harry concluded that Dr. Miercort has consistently been in compliance with the Utah Stipulation and Order.

**Dr. Ries made a motion to terminate Dr. Craig Miercort's Utah probation based on his consistent compliance with the Utah Stipulation and Order and receiving documentation of Dr. Miercort's compliance with the Florida Stipulation and Order.**

**Dr. George Pingree seconded the motion.**

**The Board vote was unanimous.**

Ms. Harry informed the Board that Dr. Michael Goates has had 2 more positive drug tests. She stated that she contacted Dr. Goates regarding the first positive test as per his request and then asked him to contact her regarding additional tests or questions he might have with positive tests.

**Dr. Lamb commented that he believes the AG's office will not act on tests 1500 or under.**

**Ms. Taxin commented that she believes the Board was very clear that Dr. Goates needs to maintain negative tests and when he has one positive test with another positive test that is higher it is a concern. Ms. Taxin stated that she will contact the AG's office regarding the 1500 or less issue.**

**The Board thanked Ms. Harry for the update.**

**10:00 am**  
Dr. Cyrus W. Partington, New Application  
Telephonic Review

Dr. Partington met telephonically with the Board regarding his Utah application.

Dr. Lamb conducted the interview.

**Dr. Lamb stated that Dr. Partington's application is lacking documentation of taking the National examination.**

Dr. Partington responded that he completed Part I in 1956, Part II in 1957 and Part III in 1958. He stated that there should be a certificate of successful completion in the application.

**Dr. Lamb found the certificate of completion in the application. He stated that the certificate was difficult to read.**

**Dr. Lamb stated that Dr. Partington submitted information regarding completing a residency but no one could validate that residency.**

**Ms. Taxin asked where the residency was completed.**

Dr. Partington responded that he completed his residency at the Veterans Administration Hospital in Denver, Colorado and at the University of Colorado. Dr. Partington explained that he would like to be licensed in Utah to do teleradiography, which is radical solutions in assisted living facilities and nursing homes. Dr. Partington stated that he has been on staff in general radiography for 22 years at a military facility and 31 years at Evans Arm Hospital in Colorado Springs, Colorado.

**Dr. Giovanniello asked Dr. Partington if he works out of his home or at a hospital.**

Dr. Partington responded that he works out of his home.

**Dr. Lamb made a motion to approve Dr. Partington's application as a Physician in Utah based on meeting the requirements for licensure for Utah.**

**Dr. Giovanniello seconded the motion.**

**The Board vote was unanimous.**

**Ms. Taxin explained that the license will probably be issued tomorrow and he should have the printed license by the end of next week.**

Dr. Partington thanked the Board.

**10:20 am**

Dr. William Gulledge, Telephonic  
Probationary Interview

Dr. Gulledge met for his telephonic probationary interview.

Dr. Ries conducted interview.

**Dr. Ries asked Dr. Gulledge to update the Board regarding how he is doing and any problems he may be having.**

Dr. Gulledge responded that he needs to complete the course on record keeping and is having no problems.

**Dr. Ries stated that Dr. Gulledge is currently out of compliance with his Utah Stipulation and Order as the Texas information has not been received. She notified Dr. Gulledge that he needs to contact the Texas State Board to submit his documentation to Utah. She explained that it takes approximately 3 weeks for Texas to send information and Dr. Gulledge should make contact a month prior to his next appointment.**

**Ms. Harry commented that some information was received in January 2008 but there has been nothing from Texas since. She reminded Dr. Gulledge that he is required to submit quarterly reports. Ms. Harry stated that Dr. Gulledge meets quarterly, in January, April, July and October. She stated that reports must be received for his quarterly meetings in order to be in compliance with the Utah Stipulation and Order.**

Dr. Gulledge responded that he has not heard from the Texas Board for several months but will contact them to send Utah the information. Dr. Gulledge asked if the Texas Board could fax the information to Utah.

**Ms. Harry responded that Utah will accept a fax and she gave Dr. Gullede the fax number.**

**Dr. Ries concluded that Dr. Gullede is out of compliance at this time and recommended he contact the Texas Board as soon as possible in order to be in compliance.**

**An appointment was made for Dr. Gullede to meet again with the Board July 9, 2008.**

**10:40 am**

Dr. Sidney Johnson, Telephonic Probationary Interview

Dr. Johnson met for his telephonic probationary interview.

Dr. Giovanniello conducted interview.

**Dr. Giovanniello asked Dr. Johnson if he is still in the process of obtaining a medical license in Massachusetts.**

Dr. Johnson responded that he currently has active licenses in Utah, Washington State and Hawaii. He stated that Hawaii is losing a pediatric surgeon and it would be a hardship if he were to leave Hawaii at this time. He stated that he plans to continue living and working in Hawaii for a few more years.

**Dr. Giovanniello informed Dr. Johnson that he is currently out of compliance with the Utah Stipulation and Order as the report from Hawaii has not been received. He stated that the last report was received in January 2008.**

Dr. Johnson responded that he will send an e-mail to the person in Hawaii to send a report as soon as possible.

**Dr. Giovanniello stated that Utah will expect the report soon. He then asked if Dr. Johnson is attending the PIR group.**

Dr. Johnson responded that he is attending and is very actively involved.

**Dr. Giovanniello asked if Dr. Johnson is**

**comfortable with his recovery program.**

Dr. Johnson responded that his recovery is going well. He stated that the Utah and Hawaii probation are spin-offs from the Massachusetts action. Dr. Johnson stated that he is petitioning Hawaii to change his probation dates to coincide with the Massachusetts probation dates as he started probation in Massachusetts in 2004 and Hawaii and Utah in 2005. He stated that it appears Hawaii will shift their time to match Massachusetts. Dr. Johnson then asked if Utah would also make the change in his Utah probation.

**Dr. Giovanniello responded that it might be possible for Utah to also make a change in his Utah probation time. He stated that if Hawaii does make the change for Dr. Johnson to submit the documentation to Utah with a letter of request for the Board to consider.**

**Dr. James Pingree asked Dr. Johnson what his connection is to Utah as he had mentioned at one time that he may return to Utah.**

Dr. Johnson responded that he grew up in Utah and his and his wife's families are still living in Utah. He stated that Utah is his home even though he has been living out of Utah for about 8 years.

**Ms. Taxin asked if Dr. Johnson is still in therapy.**

Dr. Johnson responded that he is still in therapy. He stated that he has therapy once a month or every month and a half with a Psychiatrist, Dr. Kimball.

**Ms. Harry stated that Dr. Johnson meets quarterly, January, April, July and October. She stated that he needs to be sure all his paperwork is submitted prior to his appointments. Ms. Harry again reminded Dr. Johnson that he is currently out of compliance with his Utah Stipulation and Order as the reports have not been received. Ms. Harry gave Dr. Johnson her phone number to check on his reports and if he has any questions.**

**An appointment was made for Dr. Johnson to meet**

**again July 9, 2008.**

**11:00 am  
Break**

**11:20 am**  
Dr. Darrell Anderson, Probationary Interview

**Dr. Lamb noted that Dr. Anderson was late for his appointment. The Board recommended moving on with the agenda and rescheduling Dr. Anderson for July 9, 2008.**

Dr. Anderson arrived at 11:35 am for his probationary interview which was scheduled for 11:20 am.

Dr. Lamb conducted the interview.

**Dr. Lamb asked Dr. Anderson to update the Board regarding how he is doing.**

Dr. Anderson responded that he would like to say everything is going well but his practice is dwindling. He stated that he has used about 65% of his retirement and the equity in his home to support his family. Dr. Anderson stated that he is working 5 days a week and sees 5 to 10 patients a day. He stated that he could see additional patients but is not very good with the business part of the practice.

**Dr. Lamb stated that in December 2007 the Board discussed Dr. Anderson not having the required supervisor for approximately a year. He stated that Dr. Anderson had informed the Board that he had contacted Dr. Lionel Mausberg to supervise. Dr. Lamb asked if Dr. Mausberg is supervising and, if he is, how often do they meet, go over charts, etc.**

Dr. Anderson responded that Dr. Mausberg is supervising his practice. He stated that they have only met 2 to 3 times since December 2007 to review charts as needed. Dr. Anderson explained that he and Dr. Mausberg reviewed all his charts at their first meeting. He stated that Dr. Mausberg asked many questions regarding the Board's concerns of higher than usual doses of stimulants. He stated that Dr. Mausberg does not treat many ADHD patients or use the higher doses

of stimulants. He stated that Dr. Mausberg is not a friend of his who reviews charts and then just signs off on them.

**Dr. Lamb asked if Dr. Anderson believes it is helpful to meet with Dr. Mausberg and how long the first appointment was.**

Dr. Anderson responded that he believes it has been helpful to meet with Dr. Mausberg but does not remember how long their first appointment was.

**Dr. Lamb asked how many charts they reviewed together and who decides which charts to review.**

Dr. Anderson responded that they reviewed the new female patient charts and all charts of patients on controlled substances. He stated that he decides which charts to review. He stated that he counted all the charts and then decided to start with A and go through the alphabet as it seemed easier to keep track of which charts have been reviewed. He stated that to date Dr. Mausberg has reviewed about 15 charts.

**Dr. Lamb asked if Dr. Mausberg disagrees with Dr. Anderson's type of management.**

Dr. Anderson responded that Dr. Mausberg does disagree with his type of management and he disagrees with the dosages Dr. Anderson prescribes.

**Dr. Lamb asked if Dr. Mausberg has indicated that he believes Dr. Anderson is unsafe to practice.**

Dr. Anderson responded that he asked Dr. Mausberg and Dr. Mausberg stated he did not believe Dr. Anderson was unsafe to practice.

**Dr. Lamb informed Dr. Anderson that Dr. Mausberg has not submitted a report to the Division/Board.**

Dr. Anderson responded that he brought a report with him. He submitted the report for review.

**Ms. Harry informed Dr. Anderson that he will**

**need to be sure his reports are submitted prior to his appointments. She stated that he is scheduled to meet in July and the reports need to be sent the last week of June.**

**Dr. Lamb commented that Dr. Anderson's supervision report indicates that Dr. Anderson has been ill, the over prescribing appears to continue to be a problem, they reviewed between 15 and 19 charts and Dr. Mausberg believes the diagnosis of ADHD is overrated. He stated that the report does not indicate the dates they met.**

**Ms. Taxin asked Dr. Anderson to explain his understanding regarding the frequency he and Dr. Mausberg should be meeting and the purpose of meeting.**

Dr. Anderson responded that they only meet for Dr. Mausberg to review some files and to be sure he is a safe practitioner.

**Ms. Taxin commented that Dr. Mausberg has indicated concerns regarding the prescriptions. She asked Dr. Anderson why he would not revise his practice knowing those concerns. She asked why Dr. Anderson is willing to take the risk of using the high doses.**

Dr. Anderson responded that ADHD is specific and there is documentation to support the use of high doses of medications. He stated that the documentation has evolved over 20 years of practice and he is not prescribing in the first few months that he sees a patient. He stated that Dr. Mausberg does not and probably never will use the higher doses. Dr. Anderson stated that his patients become well again with the higher doses. He stated that companies try to keep doses low as side affects may appear if the higher doses are used. He stated that the lower doses are inadequate for the ADHD patients. Dr. Anderson stated that as long as he sees positive affects with no side affects he believes the higher doses are a good way to treat patients with ADHD.

**Dr. Lamb stated that the supervisor notes that Dr. Anderson is not monitoring his patients for hypertension. He asked Dr. Anderson to please explain.**

Dr. Anderson responded that he had not been monitoring his patients for hypertension but after Dr. Mausberg discussed the importance of monitoring all patients are now monitored.

**Ms. Harry asked if Dr. Anderson has a copy of his numbered log to submit.**

Dr. Anderson responded that he would use the numbered log only to distribute samples and he does not give out samples.

**Ms. Taxin stated that the Stipulation and Order requires him to maintain a numbered log and to submit a copy to the Board.**

Dr. Anderson interjected that Diana Baker informed him that he would not be required to submit a log if he was not giving out samples.

**Dr. Lamb commented that the Board cannot hold Dr. Anderson accountable to submit the log if he was told he does not have to meet that requirement. Dr. Lamb read the Stipulation and Order regarding the supervision and recommended Dr. Anderson to be sure he is meeting that requirement.**

**Ms. Taxin also read the supervision portion of the Stipulation and Order and reminded Dr. Anderson that he is to have supervision at his own expense. She stated that the random audits should be of at least 10% of Dr. Anderson's files and Dr. Mausberg should note that information in his quarterly report to the Board.**

**Dr. Lamb informed Dr. Anderson that he is in compliance with his Stipulation and Order for the first time in 3 years. He stated that he reviewed the prescriptions and it also appears that they all consecutive numbers have been submitted.**

**Dr. Lamb made a motion to have Dr. Anderson continue to submit documentation of his prescriptions and terminate the requirement of submitting the prescription log.**

**Dr. Ries seconded the motion.**

**The Board vote was unanimous.**

**Dr. Bennion asked how frequent Dr. Anderson and Dr. Mausberg should be meeting.**

**Ms. Taxin responded that they should meet at least once a month and reports need to be submitted at least a week prior to Dr. Anderson's appointments.**

**An appointment was made for Dr. Anderson to meet again July 9, 2008.**

**Ms. Harry requested Dr. Anderson to be sure all his information is submitted by June 28, 2008 in order for her to prepare the file for the July 9, 2008 meeting.**

**Ms. Taxin requested Dr. Anderson to try to be on time in the future as he was 20 minutes late for his appointment this morning.**

**11:40 am**

Dr. David Aune, Probationary Interview

Dr. Aune met for his probationary interview.

Ms. Buhler conducted interview.

Ms. Buhler introduced Ms. Taxin, Bureau Manager, and Ms. McCall, Board Secretary.

**Ms. Buhler requested Dr. Aune to update the board regarding his practice and probation.**

Dr. Aune responded that he is working full-time and also has a part-time position. He stated that he believes he is on track.

**Ms. Buhler informed Dr. Aune that he is currently out of compliance for this quarter as the aftercare report has not been received.**

Dr. Aune responded that he has tried to obtain the aftercare report for the last two weeks. He stated that he obtained signatures of every meeting he has attended from January 9, 2008 to last week. Dr. Aune stated that he sent the information to the Division.

**Ms. Taxin confirmed that Ms. Baker forwarded his information to her.**

**Ms. Buhler stated that Dr. Aune is out of compliance as the therapy report, the employer report and the PIR cards have not yet been received.**

Dr. Aune responded that he brought the reports and the PIR cards with him today. He submitted the information for his file.

**Ms. Harry informed Dr. Aune that all information needs to be submitted by June 28, 2008 for his next appointment in order for her to update his file for the Board to review. She stated that if all information is received he will be in compliance with his Stipulation and Order. Ms. Harry stated that she will return all prescriptions he has previously submitted as he is required to always retain them in case they are ever requested.**

**Ms. Taxin commented that Dr. Aune's Stipulation and Order states that if he is doing well in the aftercare program then he may request early termination of that requirement.**

Dr. Aune responded that he has called the aftercare person several times this week but has been unable to make contact. He stated that he has had Terry Sellers sign his forms to document he has been attending the evening aftercare meetings.

**Ms. Taxin asked Dr. Aune to elaborate regarding discussions in the aftercare program with Terry Sellers.**

Dr. Aune responded that it is an aftercare group and the discussion is centered on the aftercare.

**Ms. Buhler asked if Dr. Aune could have all information to Ms. Harry before June 28, 2008 with the exception of the cards.**

**Dr. Lamb stated that a letter from Tammy Dusoe is also required as Terry Sellers is not the responsible aftercare person. He then asked if Dr. Aune believes he is gaining anything by continuing to attend the aftercare program.**

Dr. Aune responded that the aftercare program is no longer beneficial to him but he does attend as required.

**Ms. Taxin reminded Dr. Aune that the aftercare report must document attendance for January, February, March and April for this quarter and then May and June for the next quarter.**

**Ms. Buhler stated that a motion for termination could not be made at this time as the report needs to be submitted first. She asked if Dr. Aune had any questions of the Board.**

Dr. Aune responded that the job he currently has wants him to have hospital privileges in order to see the babies in the hospital. He stated that the hospital will not allow him privileges while he is on a restricted probationary license. Dr. Aune requested the word restricted be taken off his license in order to have hospital privileges.

**Ms. Taxin responded that that his Stipulation and Order has restrictions written in and the word cannot be taken off the license while those restrictions are in place. She stated that if the restrictions were removed then the license would not be required to say restricted but it would remain a probationary license.**

**Ms. McCall read the restrictions.**

**Ms. Buhler made a motion to remove the restrictions on the license if it is possible.**

**Dr. Bennion seconded the motion.**

**The Board vote was unanimous.**

**Ms. Taxin stated that she will review the Stipulation and Order and make the amendments if appropriate.**

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

**An appointment was made for Dr. Aune to meet again July 9, 2008.**

**12:00 pm**

Dr. Philip Washburn, Probationary Interview

Dr. Washburn met for his probationary interview.

Ms. Buhler conducted the interview.

Ms. Taxin, Bureau Manager, and Ms. McCall, Board secretary, were introduced.

**Ms. Buhler asked Dr. Washburn to update the Board regarding his practice.**

Dr. Washburn responded that he is only working 3/4 time with in-patients and out-patients.

**Ms. Buhler informed Dr. Washburn that he is out of compliance with his Stipulation and Order at this time as his record review, prescription copies and prescription log have not been received.**

Dr. Washburn responded that he brought the prescription copies with him but his office manager, Scott Pederson, fills out the log and he would need to ask Mr. Pederson if he brought the log today.

**Ms. Taxin commented that Dr. Washburn should be filling out the log.**

**The Board concurred.**

**Ms. Buhler asked how many files are reviewed by the supervisor.**

Dr. Washburn responded that 10% of his files are reviewed by Dr. Chipman. He stated that he does not

meet with Dr. Chipman as Scott takes the files to be reviewed over to Dr. Chipman and then brings them back to the office. He stated that Dr. Chipman has never contacted him regarding any issues with any of the files he has reviewed.

**Dr. Bennion asked if Dr. Chipman gives him any type of feedback.**

Dr. Washburn responded that Dr. Chipman does not give him any type of feedback but does tell him that he has reviewed the files.

**Ms. Taxin commented that logically Dr. Chipman would give Dr. Washburn comments regarding the files.**

**Ms. Buhler informed Dr. Washburn that Dr. Chipman has not submitted his documentation regarding a record review.**

**Ms. Taxin stated that January 3, 2008 was the last report received from Dr. Chipman. She stated that February, March and April reports are now due.**

**Ms. Harry informed Dr. Washburn that she will now assist him in being compliant and in getting the paperwork submitted by calling him if information has not been received. She stated that Dr. Chipman could fax his report to her.**

**Ms. Taxin stated that Dr. Chipman will need to write an update for the last 4 months and include any comments supporting termination of Dr. Washburn's probation.**

**Ms. Harry stated that the Division has not received a copy of his prescription log since February 2007, which is over a year ago.**

**Ms. Taxin asked if Mr. Pederson should be asked to meet regarding the log issue.**

**The Board responded that they would appreciate talking with Mr. Pederson regarding the log issue.**

Mr. Pederson came into the meeting.

**Ms. Buhler asked Mr. Pederson if he brought a copy of the prescription log and, if he did not, to address the issue as the Stipulation and Order requires Dr. Washburn to maintain a log and to submit a copy to the Board for review.**

Mr. Pederson responded that he met a year ago with the Board and Diana Baker, Bureau Manager, had said that he no longer need to submit a copy of the log for the Board to review.

**Ms. Taxin asked Mr. Pederson to submit a copy of the log for the last quarter as Dr. Washburn is approaching the ending date of his probation and the Board would like to review the log before making a recommendation.**

**Ms. Taxin reminded Dr. Washburn that a report is due for the last quarter and another report by the June 4, 2008 meeting. She asked Dr. Washburn to be sure that the June report include a summary of support or non-support regarding termination of probation and for Dr. Washburn to be prepared to talk with the Board regarding his probationary experience.**

**Ms. Harry requested all information to be submitted by May 28, 2008 in order for her to prepare the information for the Board meeting on June 4, 2008.**

**The Board determined Dr. Washburn is currently out of compliance for this quarter.**

**An appointment was made for Dr. Washburn to meet again June 4, 2008.**

**12:30 pm to 1:15 pm**  
Working Lunch with Dr. Charles Walton

Mr. Stanley commented that he attends approximately 63 boards. He stated that he has noticed disparity in the probationary interviews. Mr. Stanley stated that Dr. Charles Walton has been coordinating the diversion unit for about 16 years and has developed a program regarding how to conduct probationary

interviews. Mr. Stanley introduced Dr. Walton and explained that he would present how to conduct appropriate probationary interviews.

Dr. Walton stated that the objective of the probationary interview is to recognize the state of mind of probationers, understand their initial interview considerations, the subsequent interview considerations, positive consequences of motivational interview, negative consequences of insensitive interviewing and to recognize boundary concerns for the Board. He cautioned the Board to be careful to keep the interview focused on the Stipulation and Order requirements and positive reinforcement and stay away from making the interview a therapy session. Dr. Walton distributed a list of ideas to review in the initial interview and a list for subsequent interviews. He explained that some probationers come to the Board feeling the probation is a punishment when they are asked to talk about the situation over and over again, that they have a high anxiety level by being asked to be accountable for their actions and feel intimidated by the whole process. He stated that they have a fear of losing their livelihood and are confused as to what the Board really wants of them. Dr. Walton stated that there have been some post-interview suicides and that is not what the probationary interview should be about. He stated that probationers should be treated with respect and consideration as these people are professionals. Dr. Walton stated that introductions should be made and Board name plates should be visible to the probationers. He stated that the interviewer should be documenting the probationer's progress and helping the probationer to be successful by providing support and structure for them. Dr. Walton stated that the Board is also here to be sure the public is protected and the probationer needs to understand that role of the Board. He stated that the Board should use velvet that covers steel. Dr. Walton explained that it is ok to use velvet at times and to be soft with the probationer but underneath the Board also needs to be firm in being sure the requirements are met and the probationer is in compliance. He stated that probationers should leave the meeting with a clear understanding of the Board's expectations and what their next step should be for

their next appointment.

**Dr. Bennion requested guidance regarding probationers who are in denial and continue to be in denial each meeting.**

Dr. Walton stated that the Board may need to uncover more steel with those probationers in order to protect the public.

**Dr. Fowler commented that there recently has been press comments regarding plastic surgeons. He asked how the Utah Board fits in with those comments.**

Dr. Walton explained that California had a diversion program but it was not confidential and private. He stated that California was hesitant going to the authorities with problems. Dr. Walton stated that Utah's diversion program is confidential and private as long as those in the program follow the guidelines for the program. He stated that if a person in the diversion program is having difficulty following the guidelines then he, Dr. Walton, meets with Mr. Stanley and the diversion person for discussion regarding the program.

**The Board asked if some of the people on probation should be moved to the diversion program.**

**Ms. Taxin explained that people in the diversion program usually have only one charge but if they continue to have difficulty then they are dropped from diversion and may or may not go to a Stipulation and Order.**

**Dr. Lamb asked about how many Physician's are current in the diversion program and what is the typical time line for those in diversion.**

Dr. Walton responded that there are about 25 Physician's out of about 130 licensees on diversion. He stated that typically a person is in the diversion program for 5 years but there are several points taken into consideration.

**The Board thanked Dr. Walton for his presentation.**

**1:15 pm  
Break**

**1:30 pm**  
Dr. Randal Ellsworth, Probationary Interview

Dr. Ellsworth met for his probationary interview.

Dr. Bennion conducted the interview.

**Dr. Bennion commented that the Board just completed training regarding how to conduct a probationary interview appropriately. He then asked Dr. Ellsworth to update the Board regarding his practice.**

Dr. Ellsworth responded that he is working part time due to an injury he had many years ago. He explained that he will be wheel chair bound sometime in the next 5 to 10 years.

**Ms. Taxin asked if Dr. Oakley was the Physician who evaluated Dr. Ellsworth.**

Dr. Ellsworth responded that Ms. Taxin was correct.

**Dr. Bennion informed Dr. Ellsworth that he is currently out of compliance with his Stipulation and Order as there is no documentation that he has paid the fine he agreed to pay.**

Dr. Ellsworth responded that Dr. Bennion is correct in that he has not paid the fine. Dr. Ellsworth stated that over 6 months ago he wrote a letter to the Board requesting he be allowed to donate to a charitable program, donate community service or be allowed to pay the fine over a period of time. He stated that he typed his letter of request but brought a copy for the Board to review as information does get lost at the Division. He submitted the copy.

**Ms. Harry informed Dr. Ellsworth that he may send or fax information directly to her. She gave Dr. Ellsworth the number of the fax that is located near her desk. She stated that Dr. Ellsworth faxed**

**something this morning to a wrong fax number but the information was delivered to her prior to the Board meeting.**

**Dr. Bennion informed Dr. Ellsworth that his file is missing an updated employer report.**

Dr. Ellsworth responded that it is difficult for him to get the reports from his supervisor as he works out of St. George, Utah and out of Las Vegas, Nevada. He stated that he is trying to do the best he can. Dr. Ellsworth stated that his supervisor called to be sure of the fax number and was given an incorrect fax number.

**Dr. Bennion then asked if Dr. Ellsworth brought a copy of his prescriptions, the PIR attendance cards and the 12 step attendance cards.**

Dr. Ellsworth submitted a copy of his prescriptions. He stated that he was given another prescription but did not have it filled. He also submitted his PIR and 12 step program cards. Dr. Ellsworth stated that he attends both programs but does not find them helpful to him. He stated that he has never believed the 12 step program applies to him but he does attend. He stated that the PIR program is just another 12 step program. He stated that the group hold hands, chants and discusses how many people they have harmed.

**Ms. Taxin asked Dr. Ellsworth to explain why the PIR program is not beneficial to him.**

Dr. Ellsworth responded that the PIR program is very similar to the 12 step program and does not benefit him. He stated that he attends in St. George sometimes and in Orem sometimes.

**Dr. Bennion asked Dr. Ellsworth to address his vulnerability.**

Dr. Ellsworth responded that he does not have a problem with being vulnerable. He stated that he was pushed into the probation 2 years ago in July.

**Dr. Bennion asked Ms. Taxin if there is something**

**she could do to assist Dr. Ellsworth in setting up a plan for the payment of the fine or other options to pay off the fine.**

**Ms. Taxin responded that she will check into the options and get in touch with Dr. Ellsworth. She asked if Dr. Ellsworth received a letter from the Division regarding the payment of the fine.**

Dr. Ellsworth responded that his wife screens all his mail as he becomes physically ill when he receives letters from the Division. He stated that a letter came 2 or 3 weeks ago but he does not believe it was in regard to the fine.

Dr. Ellsworth reported that he was doing some volunteer work at Mountainlands Clinic until they notified him that due to the probation he could not work there as they could not afford the liability. He stated that he would like to volunteer his time at the Rose Education Foundation but is not there at this time. He reported that he now has his depression under control and is currently working on his sleep apnea condition. He stated that his daughter is in Germany and someone has offered to pay for his family to meet her in Berlin, Germany, to pick her up. Dr. Ellsworth stated that he would be out of the country May 7, 2008 through May 20, 2008. He asked if there is anything he needs to submit for permission to go away.

**Ms. Taxin responded that she appreciated him informing the Board and that it would be ok for Dr. Ellsworth to go on his planned trip.**

**Ms. Harry responded that she will handle the drug testing portion of his probation.**

**Dr. Giovanniello asked Dr. Ellsworth what he would be doing if he was no longer on probation.**

Dr. Ellsworth responded that he can not work full time so he would be doing what he is currently doing. He stated that he has found that he is able to spend more time with the patients that he has and he is enjoying the extra time he spends with them.

**Ms. Harry requested all information be submitted to her by June 29, 2008 in order to prepare the information for his probationary interview in July.**

**An appointment was made for Dr. Ellsworth to meet again July 9, 2008.**

**1:50 pm**

Dr. Jason Church, Probationary Interview

Dr. Church was scheduled in error and will meet in July 2008.

**2:10 pm**

Dr. Brandon Bentz, Probationary Interview

Dr. Bentz met for his probationary interview.

Dr. James Pingree conducted the interview.

**Dr. James Pingree informed Dr. Bentz that he is in compliance with his Stipulation and Order. He asked Dr. Bentz to update the Board regarding his practice.**

Dr. Bentz responded that his practice is doing well. He stated that Illinois State has mirrored the Utah Stipulation and Order but New York State has imposed a lose/lose situation for him. He stated that New York State offered an inactive license forever or he could take the option of never having a license there again. He stated that if he surrenders the New York State license then he has to disclose that surrender for the rest of his career and he does not want that. He stated that he is currently working at the University only. He stated that he worked at the VA for a period of time but terminated that employment because of the probation. Dr. Bentz stated that the major insurance carriers have understood the situation and have recommended that if he is in compliance he may continue treating their patients.

**Dr. James Pingree commented that Dr. Bentz is doing well and in compliance with his Utah probation.**

**Ms. Harry requested Dr. Bentz to submit his paperwork by June 28, 2008 in order to prepare his file for his next probationary interview.**

**An appointment was made for Dr. Bentz to meet again July 9, 2008.**

**DISCUSSION ITEMS:**

Review FSMB Foundation Web Portal CME Course on Pharmaceutical Marketing Practices

The Board reviewed the information. **No action was taken.**

Update from Dr. Robert McKeen regarding Board Request

Ms. Taxin reported that Dr. McKeen submitted his practice plan to her March 27, 2008. She read the plan to the Board. Ms. Taxin stated that, according to the documentation submitted, Dr. William Peugh has agreed to care for Dr. McKeen's patients if the other Dr. is not available. She stated that Dr. Peugh covers the Timpanogos and American Fork hospitals.

**Dr. James Pingree recommended Dr. Peugh submit a letter confirming that he agrees to care for Dr. McKeen's patients and that he also does the lap band procedure.**

**Dr. Lamb recommended Ms. Taxin call Dr. Peugh to confirm his intentions and understanding of the request.**

Ms. Taxin agreed to contact Dr. Peugh.

Dr. Alan Heap Update

Ms. Taxin stated that Dr. Heap called and left a message regarding CME he found and wants to take. She stated that she called him back and asked him to fax the course description for her to review. Ms. Taxin stated that she received the course description last night.

**The Board reviewed the course description.**

**Dr. Ries commented that the description appears to be a CME course for Physician's Assistants. She stated that it is a good comprehensive course. She stated that Dr. Heap may be able to get the presenter to verify some hours for a medical doctor and, if he can, then the Board would accept the medical doctor hours.**

**The Board concurred.**

Probationer Update

Ms. Taxin informed the Board that she will be reviewing the probationers with Ms. Harry to try to better balance the load of appointments. She asked if there are any probationers that the Board is concerned about that they would like her follow-up with.

**Dr. Lamb responded that Dr. Anthony is due to terminate his probation soon. He asked Ms. Taxin to review Dr. Anthony's file to be sure he has completed all his probationary requirements.**

**Ms. Buhler requested Ms. Taxin to follow-up on Dr. Washburn as he is also scheduled to complete his probation in the near future.**

Ms. Taxin asked if there are any probationers that the Board believes should be terminated from probation.

**Dr. George Pingree responded that he believes Dr. Jason Church should be terminated from probation.**

**Dr. Giovanniello responded that Dr. Church is also on probation in Ohio and Ohio will not grant an early termination of probation. He stated that Ohio requires Dr. Church to travel there to meet in person with the Board for each probationary interview.**

**Dr. Lamb commented that there are also probationers who are content to remain on probation as it helps them to be required to meet and report to the Board on a regular basis. He stated that monitoring these people is good for them.**

Ms. Taxin stated that she will inform the Board of any changes in probationary schedules.

Dr. Giovanniello Question

Dr. Giovanniello asked if some of the probationers could be transitioned over to diversion.

**Ms. Taxin responded that people may transition from diversion to probation but not from probation to diversion. She explained that diversion is usually licensed professionals that have only one**

**charge or incident and probationers have more charges or incidents.**

**Ms. Harry explained that the diversion panel meets personally with the licensed professional to help them with their issues.**

**Ms. Taxin stated that if the Board determines a probationer has completed all their requirements, has consistently taken responsibility for their actions and are safe to practice, then the Board may recommend early termination of their probation.**

Dr. James Pingree stated that he believes Dr. Brandon Bentz would fit into the category of completing all probationary requirements, consistently being in compliance and taking responsibility for his actions.

**Ms. Taxin responded that the Board could ask Dr. Bentz to prepare a request for early termination of his probation. She stated that Dr. Bentz would need to submit a paper regarding what he has learned from the process and what changes he has made in his practice to be sure the incident is not repeated.**

Dr. James Pingree asked how other States become aware of probationers.

**Ms. Taxin and Ms. Harry responded that the Division is legally required to notify the National Data Bank of all probationary licenses.**

Dr. James Pingree asked why Dr. Bentz was not dropped from all insurance companies.

**Ms. Taxin responded that Dr. Bentz had stated that he explained the situation to the insurance companies and was not dropped.**

**Dr. Giovanniello responded that some insurance companies are very black and white and drop a practitioner while other companies are more flexible.**

**NEXT MEETING SCHEDULED FOR:** May 15, 2008

**ADJOURN:** The time is 2:25 pm and the Board meeting is adjourned.

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

May 14, 2008  
Date Approved

(ss) George Pingree  
Chairperson, Utah Physician's Licensing Board

April 29, 2008  
Date Approved

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