

MINUTES
UTAH
PHYSICIANS LICENSING
BOARD

November 12, 2008

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

CONVENED: 9:10 A.M.

ADJOURNED: 2:04 P.M.

Bureau Manager:
Board Secretary:
Division Compliance Specialist:

Noel Taxin
Karen McCall
Debbie Harry

Board Members Present:

John W. Bennion, Ph.D.
Kristen Ries, MD
Richard J. Sperry, MD
George C. Pingree, MD
Lori G. Buhler, Public Member
Stephen E. Lamb, MD
James H. Pingree, MD
Elizabeth F. Howell, MD
Daniel J. Parker, MD

Board Members Absent:

Marc E. Babitz, MD, Chairperson
James R. Fowler, MD

GUESTS:

Leanne Pope
Benjamin Johnson, Attorney

DOPL Staff Present:

David Stanley, Division Director
Wayne Holman, Chief Investigator

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Acting Board Chairperson

Dr. Sperry volunteered to act as Board chairperson for this meeting in the absence of Dr. Babitz.

MINUTES:

The minutes from the October 8, 2008 Board meeting were read.

Dr. George Pingree made a motion to approve the

minutes as read. Dr. Ries seconded the motion. **The Board vote was unanimous.**

APPOINTMENTS:

9:00 am

Debbie Harry, Compliance Update

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

Ms. Harry reported that **Dr. Stanton Bailey** is currently out of compliance with his Stipulation and Order as he is late getting his information submitted. She stated that the PIR card, 12 step cards, supervisor report and the evaluation from Dr. Crookston have not yet been received. Ms. Harry stated that Dr. Bailey had a second evaluation by Dr. Crookston as requested by the Board and he has submitted a request for early termination of probation.

Ms. Harry reported that **Dr. David M. Pope** is currently in compliance with his Stipulation and Order. She stated that all paperwork was submitted on time. Ms. Harry stated that Ms. Taxin reviewed Dr. Pope's triplicate copies of the Controlled Substance (CS) and they appear to be appropriate.

Ms. Harry reported that **Dr. Alan F. Heap** is currently in compliance with his Stipulation and Order. She stated that he submitted all his required information at the last minute. Ms. Harry stated that Dr. Heap submitted his triplicate copies of his CS on October 6, 2008 and he may bring addition copies today.

Ms. Taxin stated that when she received the triplicate CS copies from Dr. Heap; there was a white substance on the documents. She stated that she called Dr. Heap's office and was informed that the substance was probably Sweet n Low.

Ms. Harry reported that **Dr. Edmund Chein** is coming from California for his initial appointment and is currently in compliance with submitting CA reports. She stated that he has not documented completion of the California requirement of an ethics course. Ms. Harry stated that she called the California Board and asked if Dr. Chein is in compliance there. She stated

that the California Board reported that they did a drop in audit and everything was in order. She stated that she is not sure why Dr. Chein is licensed in Utah as he has never practiced here.

Ms. Taxin stated that Dr. Chein is required to complete an ethics course and, if he is not self employed he needs to have a supervisor. She stated that Dr. Chein is also required to review employee's charts once a month and cannot supervise Physician Assistants. Ms. Taxin explained that California probationers fill out their own compliance report and submit it to the Board. She stated that Dr. Chein's attorney called to inquire if he should attend this meeting with Dr. Chein. Ms. Taxin stated that she explained to the attorney that it is not necessary for him to attend the meeting as it is not a Hearing but is a probationary interview with the Utah Board. She stated that she informed Dr. Chein's attorney that Dr. Chein has never met with the Board and is required to meet on a regular basis. She stated that Dr. Chein and his attorney were concerned that he would have to come to Utah for every appointment but she explained that once he has met with the Board his other appointments would most likely be telephonic meetings. Ms. Taxin stated that she informed Dr. Chein's attorney that Dr. Chein agreed to meet telephonically in October but did not keep his appointment.

Dr. Ries reviewed Dr. Chein's file and noted that he has several charges of incompetency as he has written prescriptions without checking the patient.

Dr. Howell asked if a surrender of Dr. Chein's Utah license would be a good option for him if he is not planning to practice here.

Ms. Taxin responded that it would be a disciplinary surrender as he has not met the requirements of his Utah probation.

Ms. Harry reported that **Dr. Terry Sellers** is currently in compliance with his Stipulation and Order. She stated that he is meeting today to request reinstatement

of his CS license. Ms. Harry stated that Dr. Sellers needs to update the Board today regarding his employment.

9:50 am

Dr. Stanton Bailey, Probationary Interview

Dr. Bailey met for his probationary interview.

Dr. Lamb conducted interview.

Dr. Lamb asked Dr. Bailey how he has been doing since his last appointment.

Dr. Bailey responded that he is personally doing well and is sometimes bored.

Dr. Lamb stated that the Board reviewed Dr. Bailey's information and noted that the supervisor report, PIR attendance and AA attendance cards have not been received. He asked Dr. Bailey if he brought the information to submit today.

Dr. Bailey responded that he did bring the information today. He stated that he also brought Dr. Crookston's report. All was submitted for the Board to review.

Dr. Lamb read the last paragraph of Dr. Crookston's report regarding a recommendation for early termination of probation. He then asked Dr. Bailey to explain his practice and the medications he is prescribing.

Dr. Bailey responded that if a patient has been in a weight loss program for several months and does not seem to have success in losing weight then he prescribes a medication to assist them. He stated that each patient must meet monthly for an evaluation and they must also continue with the weight loss clinic program.

Dr. Lamb requested Dr. Bailey review the CS database list and respond regarding if Dr. Bailey believes that his prescribing is within his scope of practice.

Dr. Bailey reviewed the list and responded that he does believe the CS's prescribed are within his scope

of practice. He stated that he has a patient that he has followed for about 6 months. He stated that he has informed the patient that he is not comfortable treating her chronic pain and has referred the patient to a chronic pain physician.

Dr. Lamb asked if Dr. Bailey is requesting early termination of probation today and, if he is, does he see any problems in his life that may cause him to relapse.

Dr. Bailey responded that he is requesting early termination of his probation. He stated that he knows the chances of relapse are high. He stated that he believes as long as he continues doing the things he is doing, has the support of his groups and family then he won't return to drinking. Dr. Bailey stated that he is an alcoholic and cannot drink again. He explained that he works with 6 other Physicians that do the same work he does but not as complex. He stated that they are all supportive and cover for him if he needs to get away for a few days. He stated that his priorities are to continue his sobriety, his family and then his practice. Dr. Bailey stated that he has been sober since March 13, 2004.

Dr. Howell asked if Dr. Bailey plans to continue seeing Dr. Crookston.

Dr. Bailey responded that he does not have a therapy relationship with Dr. Crookston. He stated that he does plan to continue with his clinical Psychologist, R. J. Courtney, at the U of U.

Dr. Lamb made a motion for early termination of probation based on Dr. Bailey's continued compliance with his Stipulation and Order and the progress Dr. Bailey has made. Dr. Howell seconded the motion. The Board vote was unanimous.

Ms. Taxin explained the process of the paperwork and stated that Dr. Bailey will receive a new license within a couple of weeks.

Ms. Harry stated that Dr. Bailey will need to be

sure to continue calling for his drug testing until the paperwork has been completed and probation taken off his license.

Dr. Bennion commented that it has been gratifying to the Board to see the growth and progress Dr. Bailey has had during his probation.

Dr. Bailey thanked the Board for their help and support and stated that they have been a large part of helping him get his life in order.

10:15 am

Dr. David M. Pope, Probationary Interview

Dr. Pope met for his probationary interview.

Leanne Pope, Dr. Pope's wife, also attended the interview.

Board members and Division staff were introduced.

Dr. George Pingree conducted interview.

Dr. George Pingree stated that Dr. Pope is in compliance with his Stipulation and Order as all reports have been received and his triplicate copies of prescriptions have been received. He asked Dr. Pope to update the Board regarding how he and his practice are doing.

Dr. Pope responded that he is doing well. He stated that he completed a 2 ½ day prescribing course as required. Dr. Pope stated that the course talked about Laws pertaining to prescribing Controlled Substances and working with difficult patients, some strategies, etc. He stated that he works with patients with fibromialgia and chronic pain.

Dr. George Pingree asked Dr. Pope how he deals with a patient who comes in and says they have chronic pain.

Dr. Pope responded that he refers the patient out as he cannot treat chronic pain right now. He stated that he used to try to deal with the patient as best he could. He stated that he now tries to see patients regularly to be sure they are taking their medicines as they should.

Dr. Pope stated currently there are some patients who just suffer with their pain as they do not want to see anyone else for treatment or prescriptions.

Ms. Taxin explained that Dr. Pope was restricted from treating chronic pain until he completed the course. She asked if he found the course will help him do things differently.

Dr. Pope stated that he is more aware now and has made some changes. He stated that he also completed an AMA course and is looking into a Mayo Clinic course to take in March.

Ms. Taxin asked Dr. Pope if he believes he has enough information to start working with chronic pain patients again or that he should wait until he has completed the Mayo Clinic course in March.

Dr. Pope responded that he does want and plans to complete the Mayo Clinic course. He stated that it is time for him to recertify for family practice medicine and he has to have an unrestricted license before he can recertify. He stated that he wants to take the examination in December for recertification. He asked for advice.

Ms. Taxin responded that Dr. Pope is on probation and has a restricted license. She stated that he is required to complete a pain management course in order to have the restriction removed. Ms. Taxin stated that Dr. Pope completed the PACE program and the AMA on-line pain management course. She asked the Board if they believe Dr. Pope needs to complete an additional course prior to removing the restriction.

Dr. Howell asked if Dr. Pope can apply for the December examination with a restricted license.

Dr. Pope responded that he will not be allowed to apply for the examination with a restricted license.

Dr. Lamb commented that, based on the discussion, he would be comfortable lifting the restriction on the Physician license but not

reinstating the CS license.

Ms. Taxin stated that she would also be comfortable lifting the restriction on the Physician license if Dr. Pope commits to taking the Mayo Clinic course in March.

Dr. Ries asked if Dr. Pope is treating 40 to 50 patients for chronic pain.

Dr. Pope responded that he is not treating that many. He stated that some patients may use only 30 pills in 2 months.

Dr. Howell asked how many patients are just suffering that really need the medications and how many don't really need the medications.

Dr. Pope responded that some of his patients have gone to another Physician in order to continue their medications. He stated that some patients have decided to go off the medications and he has done some other things to help those patients.

Based on more discussion, Dr. Lamb made a motion to lift the restriction on Dr. Pope's Physician license and to reinstate his CS license with the condition that Dr. Pope will take the Mayo Clinic course in March. Dr. Ries seconded the motion. The Board vote was unanimous.

Ms. Taxin explained the process and informed Dr. Pope that his license will not have restriction on it but will say "Active on Probation". She requested Dr. Pope to submit the course syllabus or course description in February and then a copy of the certification of completion when he has completed the Mayo Clinic course. Ms. Taxin also asked Dr. Pope to request his supervisor to address in his next report the CS medications he reviews in Dr. Pope's files.

An appointment was made for Dr. Pope to meet again February 11, 2009.

Ms. Harry reminded Dr. Pope to be sure all his

reports are submitted by the 28th of each month.

10:35 am

Dr. Alan F. Heap, Probationary Interview

Dr. Heap met for his probationary interview.

Dr. Heap asked Ms. Taxin if she received his letter this morning.

Ms. Taxin responded that she did not receive the letter this morning but would go check her mail.

Dr. James Pingree conducted the interview.

Dr. James Pingree stated that the last time Dr. Heap met with the Board he had some serious issues in his office. He asked if those issues have been resolved.

Dr. Heap responded that the issues have not yet been resolved but he is still working on them.

Dr. Howell asked how many patients Dr. Heap is now seeing.

Dr. Heap responded that he now sees 12 patients on Monday and Friday and about 2 patients a day Tuesday, Wednesday and Thursday.

Dr. Lamb asked if Dr. Heap's practice is growing and if he is still considering retirement.

Dr. Heap responded that his practice is growing and he is not sure yet about retiring.

Ms. Taxin commented that she received information from Dr. Heap that there was a white substance on the documents. She stated that Dr. Heap explained the substance was Splenda. She then asked Dr. Heap to address his appointment with Dr. Spector.

Dr. Heap responded that he met Monday with Dr. Spector for about an hour and a half. He stated that Dr. Spector reviewed several issues that were wrong in his office that were his fault and he agreed with Dr. Spector. Dr. Heap stated that the embezzlement has

really kept his office in turmoil. He stated his own health is improving and he has started an exercise program up at the U of U.

Dr. Howell commented that it is concerning to note that the majority of Dr. Heap's 120 patients per month appear to be on some type of controlled substance according to the database report.

Dr. Heap responded that Dr. Howell is correct. He stated that he now puts some patients on one medication for 3 months and then re-evaluates to determine if they need the same medication or can be taken off the medication. He stated that he now does a lot more screening of his patients.

Dr. Howell asked if Dr. Heap believes some of his patients are just shopping around for controlled substances.

Dr. Heap responded that he believes there are some patients that do shop around to get the controlled substances they want. He stated that some of his patients call him the candy man and it is disturbing to him.

Dr. Howell commented that she does not have any of her patients on most of the prescriptions Dr. Heap is using. She stated that the patients she sees are addicts and some of the prescriptions Dr. Heap is prescribing are addicting. Dr. Howell stated that the person receiving an addictive prescription should be the exception and not the rule where Dr. Heap's addictive prescriptions appear to be the rule and not the exception. She then reviewed the database list with Dr. Heap as there were several prescriptions given to some patients in one day.

Dr. Heap responded that he made some mistakes and his new secretary is working with him to cut down on the prescriptions he is writing in one day for his patients.

Dr. James Pingree recommended Dr. Heap evaluate the medications he is prescribing to his patients.

Dr. Howell asked if Dr. Heap needs help on where to go to help him deal with some of the issues. She stated that the concern is the pattern for everyone on controlled substances as it appears to be about 75% of his total practice. She stated that if his patients call him the candy man and, if that is the case, his patients are taking advantage of him. She suggested Dr. Heap get assistance in learning how to deal with people who are coming to him just to obtain controlled substance drugs. She also suggested Dr. Heap tell his patients that he is cutting down on their prescriptions. Dr. Howell stated that Dr. Heap is the only person who can change the pattern and he should take the leadership and refer patients who just want more drugs to places to get detoxification safely.

Ms. Taxin commented that Dr. Heap does not have to service all those people. She stated that he can refer them out. Ms. Taxin stated that Dr. Heap could tell these patients that he believes he has helped them all he can and he believes they need to be referred to an appropriate facility such as the U of U, LDS, Lakeview, U of U or Mountain West in Tooele.

Dr. Howell stated that Dr. Heap could also tell these patients that he is not willing to continue to prescribe the large amounts of controlled substance drugs without a second opinion and then refer these patients to family practitioners. She stated that she believes Dr. Heap has a difficult time saying no to his patients.

Ms. Taxin referred Dr. Heap to the Federation of State Medical Boards to order “Responsible Opioid Prescribing” book regarding this issue. She then loaned Dr. Heap the book. Ms. Taxin suggested he also contact CPEP regarding dialogue with someone on this issue.

Dr. Heap thanked Dr. Howell and Ms. Taxin for their comments.

Dr. Bennion stated that it is disturbing to him that Dr. Heap has said he has made mistakes in writing

prescriptions. He recommended Dr. Heap be more aware and more careful in his practice.

Dr. Lamb commented that Dr. Heap has appealed to the Boards sense of humanity with his health problems and office problems. He stated that the Board does not believe Dr. Heap is a safe practitioner at this time as he is allow patients to manipulate him and is not taking control of his own practice. He stated that the Board needs to see a marked change in Dr. Heaps prescribing.

Dr. Howell commented that Dr. Heap can endanger patients by being lax, distracted, forgetful or allowing people to manipulate him. She reminded Dr. Heap that the accountability comes down to him and not his patients. She reminded Dr. Heap that he is convenient but not indispensable.

Ms. Taxin stated that Dr. Heap needs to read the little book she loaned him. She recommended he develop a plan of what he will do different and talk with Dr. Spector regarding how to be more assertive and to do what is medically appropriate. Ms. Taxin asked Dr. Heap to meet again in December and be prepared to present and discuss his plan with the Board.

Dr. Howell was requested to contact Dr. Spector regarding the concerns of the Board.

The Board found Dr. Heap in compliance with his Stipulation and Order and acknowledged the concerns discussed.

An appointment was made for Dr. Heap to meet again December 10, 2008.

10:50 am

Dr. Richard P. Marrs, Telephonic Interview regarding Examination Requirements for Licensure

Ms. Taxin explained to the Board that Dr. Marrs took the Texas State examination in 1974 and did not take the FLEX or USMLE although they were available.

The Board reviewed Dr. Marrs application and determined Dr. Marrs completed the National examination as part of his education curriculum.

The Board recommended Dr. Marrs appointment be cancelled and the license be issued.

11:15 am

Dr. Jerry Martin, Reinstatement Requirements

Dr. Martin met for the discussion regarding reinstatement requirements.

Board members and Division staff were introduced. Ms. Taxin explained that Dr. Martin's license expired January 31, 2007 and he applied for renewal of his license about 2 years and 8 months later. She stated that she and her staff explained the reinstatement process after 2 years of expiration to Dr. Martin. Ms. Taxin stated that she offered to allow Dr. Martin to withdraw his renewal application instead of taking a denial or meet with the Board to discuss his concerns. She stated that Dr. Martin requested his renewal application be withdrawn and now has called to meet with the Board regarding reinstatement of his license.

Dr. Sperry conducted the interview.

Dr. Sperry requested Dr. Martin to briefly explain his situation.

Dr. Martin explained that he did not believe he would need his Utah license again and then when he decided to return to practice in Utah he discovered the license had been expired about 2 years and 8 months. He commented that he was informed by the DOPL staff that he would be required to meet current requirements as the license expired over 2 years ago. He stated that he has not practiced in the last 2 years but has kept his CME current by doing readings. He stated that preparing for the required examinations takes a lot of time and, in his opinion, the penalty for his innocent oversight is quite excessive. Dr. Martin requested the Division develop a policy to send a second notification to all Physicians who have not responded to renewing their license. He also requested the Board to develop a better plan for reinstatement of an expired license.

Mr. Stanley responded that there are thousands of renewals sent out which is very expensive. He stated that it would be prohibitive to send a second notice to those who did not renew on time.

Dr. Howell responded that the Division Law, 58-1-308(6)(a) and (b) requires everyone to meet the current requirements for licensure if they did not renew or reinstate within 2 years after the license expired. She explained that the Legislature approves the Law and the Division and/or Board write the Rules to explain the Law.

Following extensive additional discussion, the Board recommended Dr. Martin review the current Laws and Rules, contact the Federation of State Medical Boards for the FCVS packet and submit a complete application, fees and all supporting documentation for the Board to review complete information as he will be required to meet the current requirements for licensure. The Board informed Dr. Martin that they are not guaranteeing his license will be reinstated or that he will not be required to complete the examinations but they will review his information when received.

Dr. Martin asked if he could give advice to his family or friends regarding illnesses without a license.

Ms. Taxin responded that he could give advice but could not practice medicine.

Dr. Martin asked if he would qualify for a Medical Assistant license.

Ms. Taxin responded that he would qualify as a medical assistant. She explained that the medical assistant is not licensed and is under the supervision of a licensed Physician.

12:00 pm to 1:00 pm

WORKING LUNCH

1:00 pm

Dr. Edmund Chein, Probationary Interview

Dr. Chein met for his probationary interview.

Ben Johnson, Dr. Chein's attorney, also met for the appointment.

Board members and Division staff were introduced.

Dr. Ries conducted the interview.

Dr. Ries stated that this is the first face-to-face appointment Dr. Chein has had with the Board although he has been on and off probation since 1996. She asked Dr. Chein to briefly explain his past probation and his current probation in California and Utah.

Dr. Chein responded that he was charged with purgery as he testified for the plaintiff in a high profile case. He stated that he settled for probation rather than fight the charges.

Dr. Chein stated that the current probation is due to the 1 of the 2 Physicians he had working for him filled a prescription prior to seeing the patient. He stated that, as the owner of the clinic, he was responsible for the actions of the 2 Physicians working for him. He stated that he took the 5 year probation and no longer employs any Physicians. Dr. Chein stated that he has completed all the California requirements except the time frame.

Dr. Ries asked if Dr. Chein completed the required CE course in ethics.

Dr. Chein responded that he completed a course in ethical prescribing through UCLA in California and has the copy of the completion certificate.

Ms. Taxin stated that Utah will also need a copy of the completion certificate.

Dr. Chein commented that he submitted a copy of the certificate to the AG's office.

Ms. Taxin responded that the AG's copy is part of his file with them and the Division also needs a copy. Ms. Taxin stated that Dr. Chein was invited to meet in person with the Utah Board as it is important to establish a relationship with him, the Board and the Division. She explained that Utah also has the responsibility to be sure Dr. Chein has met the California and Utah probationary requirements. Ms. Taxin stated that Dr. Chein will

not be required to meet each time in person with the Board but will be required to meet on a quarterly basis telephonically. Ms. Taxin then asked Dr. Chein what he has done to ensure that he does not have the same problems again.

Dr. Chein responded that he no longer employs the two Physicians and when they take a patient they are responsible for the patient. He stated that he is no longer a supervisor for any Physicians. Dr. Chein explained that he is now responsible for all the international clients and travels extensively to set up the hormone clinics that treat both men and women. He stated that he only gives the knowledge on what to do and how to check the patient but has no financial interest in the international clinics. Dr. Chein stated that he is a Mormon and wanted to be licensed in Utah so that he could come here to practice at some point.

Dr. Ries asked Dr. Chein what the California requirements are for his probation.

Dr. Chein responded that the requirements are to pay a \$3,000.00 fine, submit quarterly reports, take an ethics course and be on probation for 5 years.

Ms. Taxin stated that Dr. Chein also has the requirement that he is to review the charts of his employees once a month and cannot supervise Physician Assistants (PA's). She asked if he has followed those requirements.

Dr. Chein responded that he has as he changed the structure of his clinic and no longer has an employee relationship so he no longer hires or supervises the Physicians. He stated that he has not supervised any PA's.

Ms. Taxin asked if California amended the employee review requirement of their Stipulation and Order.

Dr. Chein responded that California did not amend his Stipulation and Order. He stated they have done a verbal acknowledgement that he no longer has to complete that requirement.

Dr. Ries asked Dr. Chein if he completes his own quarterly reports for California.

Dr. Chein responded California requires him to complete their quarterly report and submit it to their Board. He stated that he meets with a California Board probation officer and does not meet with the Board. Dr. Chein explained that the probation officer just drops in unannounced and they meet.

Dr. Ries asked Dr. Chein if he uses the growth hormone in his practice.

Dr. Chein responded that the growth hormone is used a lot. Dr. Chein voluntarily disclosed some of his history with schooling and professional relationships.

Dr. Lamb commented that most Physician's will go through their entire career without any problems but Dr. Chein appears to have inspired problems with State Boards, AG's and education programs he has attended. He asked Dr. Chein if he has done any introspect into himself to see if he has some personal problems. He stated that it appears that Dr. Chein is pushing the envelope as everyone does not need the medications he is giving. Dr. Lamb stated that the medications Dr. Chein advocates are not proven medications.

Dr. Chein responded that Dr. Lamb is correct but he believes in the hormone therapy.

A telephonic appointment was made for Dr. Chein to meet again on February 11, 2009.

Ms. Harry reminded Dr. Chein that all his paperwork is due to the Utah Division by the 28th of the month.

Dr. Ries made a motion to accept the ethics course Dr. Chein completed as meeting that requirement. Dr. Howell seconded the motion. The Board vote was unanimous.

Ms. Taxin commented that there are requirements in the Utah Stipulation and Order for Dr. Chein to

complete and California has requirements to complete. She voiced concern that California is saying Dr. Chein does not need to complete some of their requirements but have not amended his agreement with them. Ms. Taxin recommended Dr. Chein contact his probation office regarding the issues and then submit a written statement to Utah that addresses each California clause so that Utah is aware of what is required and what Dr. Chein is doing. She stated that Utah would consider termination of probation if and when California terminates his probation.

Dr. Howell commented that it is helpful to the Utah Board if Dr. Chein would write a statement that at the current time he does not have any employees and California is not enforcing that requirement at this time.

Dr. Ries asked if Dr. Chein signed the California Stipulation and Order in 2005.

Dr. Chein responded that Dr. Ries is correct.

Dr. Ries requested Dr. Chein to submit a complete copy of the California document for his Utah file as it appears the first 5 pages are missing.

Ms. Taxin stated that Utah will also need copies of all monitor reports that Dr. Chein has submitted and will submit to California.

Dr. Ries asked Dr. Chein to clarify that he does or does not see any United States patients.

Dr. Chein responded that he sees only sees overseas patients.

The Board thanked Dr. Chein for meeting today.

1:45 pm
Dr. Terry Sellers, Discussion regarding CS
Licensing

Dr. Sellers met to discuss reinstatement of his CS
license.

Ms. Buhler conducted the interview.

Ms. Buhler requested Dr. Sellers to update the Board regarding his employment status.

Dr. Sellers responded that he is currently unemployed but does have a potential position as a backup medical director and a position with Cirque Lodge in the works. He stated that he and Cirque Lodge have to define his job description.

Ms. Taxin stated that Dr. Seller may take any position he wants. She stated that he must notify the Division what the position is and when he starts and what he is doing whether it is one position or more. She stated that he will also need a supervisor for each location where he works or one supervisor that will supervisor all employment locations.

Dr. Sellers responded that Dr. Howard Loomis will be his supervisor in the position he will be taking with Talecrist in Provo.

Ms. Buhler asked Dr. Sellers to explain where he is with the new spa in St. George that he discussed at his last appointment.

Dr. Sellers responded that he is no longer pursuing employment with that specific spa.

Ms. Buhler stated that it is the understanding of the Board that Dr. Sellers would like his Controlled Substance (CS) license reinstated. She asked him to explain.

Dr. Sellers responded that she is correct. He stated that he does not personally need the CS license for his own use as he can still go to his own Physician or others and get prescriptions if he wants them. He stated that his intention is to continue to remain clean and sober and continue with the supports he has developed over the last few years. He stated that he has now been clean and sober for 4 ½ years. Dr. Sellers stated that he may be heading toward working in the field of substance abuse and would need the CS license to prescribe for that population, if needed.

Dr. Pingree asked if Dr. Sellers is still having the

headaches.

Dr. Sellers responded that he does and they are no better but he now takes Excedrin or occasionally some Physician friends will give him samples of medications. He stated that he now has a better attitude about the medications and headaches.

Dr. Lamb asked how Dr. Sellers will cope at Cirque Lodge if he is employed there with manipulative people trying to get controlled substances.

Dr. Sellers responded that he knows what his use of controlled substances brought him and what his recovery has brought him. He stated that he does not want to go through that again. He stated that based on his experiences he believes he will be able to recognize and work with manipulative people at Cirque Lodge.

Dr. Lamb asked if not having the CS license would prevent Dr. Sellers from obtaining any of the positions he has applied for.

Dr. Sellers responded that he would not be required to have the CS license for any of the positions he has applied for but feels that it would allow him to offer more service to the patients.

Ms. Taxin stated that Dr. Sellers will also need the DEA license as he cannot use the Utah CS without having the DEA.

Dr. Ries commented that it might be wise to issue the CS license while Dr. Sellers is on probation in order to give the Board some time to monitor.

Ms. Taxin asked if the Board would require Dr. Sellers to submit triplicate copies of all his prescriptions and a log, if he is administering.

The Board responded that triplicate copies and a log for administering would be required.

Dr. Sellers stated that he does not see writing CS prescriptions on a regular basis. He stated that he will

have in-patients only at Cirque Lodge.

Ms. Taxin explained that if the Board decides to issue the CS license then Dr. Sellers will have to submit a complete CS application with the fees for the Division to review. She reminded Dr. Sellers that the CS license would also be a probationary license.

Dr. Ries made a motion to reinstate Dr. Sellers' CS license and place it on probation based on his compliance with his Stipulation and Order. Dr. James Pingree seconded the motion. The Board vote was unanimous.

Ms. Taxin suggested Dr. Sellers take a prescribing course while he has the time in order to update himself. She stated that the AMA has a free on-line course and Health Insight does a course around the State of Utah to show people how to use the database and educates on safe prescribing practices. Ms. Taxin stated that Kim Bateman is the person who runs the Health Insight course. She also recommended Dr. Sellers read "Responsible Opioid Prescribing" from the Federation of State Medical Boards. Ms. Taxin stated that reports from Telecrist, the plasma center, needs to be submitted.

An appointment was made for Dr. Sellers to meet again January 14, 2009.

APPLICATIONS:

Dr. Evan Farmer, Review Examinations for Licensure

Ms. Taxin explained that Dr. Farmer's situation is similar to Dr. Marr's in that Dr. Farmer did not take a separate National Examination.

Dr. Sperry reviewed Dr. Farmer's application with the Board and determined Dr. Farmer completed the examinations which qualifies him for licensure in Utah.

The Board recommended Dr. Farmer's license be issued.

DISCUSSION ITEMS:

Chairperson Elect

Dr. Lamb explained that in the past the Board has decided that the chairperson would serve for 2 terms. He stated that a chairperson elect has been chosen to cover for the chairperson in their absence and would then move into the chairperson position. He stated that there are 6 Board members who could be appointed through 2012 and maybe someone with seniority would want to volunteer as a newer Board member would have time to be chairperson later. Dr. Lamb noted that Dr. Fowler and Dr. Babitz have missed quite a few meetings.

Dr. Howell responded that she would be interested in serving at some point.

Dr. Lamb requested this item be deferred to the next Board meeting and for the names of the 6 people be included on the agenda for the Board to consider.

The Board concurred.

FSMB Annual Meeting Attendees and Travel

Ms. Taxin stated that the State has put a freeze on all travel. She stated that she has put in a request for herself and one Board member to attend the Federation meeting in April as the Federation will fund up to \$1,600.00 for each of 2 attendees. Ms. Taxin informed the Board that the meeting will be April 30 through May 2, 2009, in Washington, D.C.

Ms. McCall stated that Dr. Fowler contacted her regarding his desire to attend the meeting if no one else is able to attend.

Following discussion, Ms. Taxin suggested the Board consider their schedules and be prepared to make a commitment at the December 10, 2008 Board meeting.

2009 Board Meeting Schedule

The Board noted the following dates for the 2009 Board meeting schedule: January 14, February 11, March 11, April 8, May 13, June 10, July 8, August 12, September 9, October 14, November 4 and December 9, 2009.

Dr. Howell reminded the Board and Division that she

will not be able to attend the December and March meetings.

Ms. Buhler stated that she will be absent for the December meeting.

Dr. Howell Inquiry

Dr. Howell asked Ms. Taxin if she could be scheduled for a presentation to the Board regarding ideas for probationers who have abuse alcohol or drugs after their probation is completed such as continued attendance at support meetings. She stated that one reason Physicians have a high rate of success after probation is the support system.

Ms. Taxin voiced appreciation to Dr. Howell for her concern and willingness to conduct a presentation. She requested Dr. Howell to contact the Board secretary to schedule a date and time.

BUSINESS FROM PREVIOUS MEETING:

Opt-Out Meeting Information

As a follow-up to Dr. Babitz request for the name of the individual who spoke about anesthesiology services, Ms. Taxin reminded the Board that Dr. Russell Peterson, Mountain West Anesthesiology, stated that he was willing to have his company cover in rural areas if someone is needed.

Board Member Training

This item was deferred to a later date.

Dr. Layfe Anthony Hearing Update

Ms. Taxin stated that the Hearing will be November 24 and 25, 2008. She stated that it was very difficult to schedule for a quorum of the Physicians Board to be present on both days. Therefore, Mr. Stanley appointed a committee of 3 people to hear the case. Ms. Taxin stated that she will be in attendance for the Hearing.

Dr. Howell asked if the 3 committee members are other Physicians.

Ms. Taxin responded that Mr. Stanley may appoint anyone and she has no say in who is appointed. She stated that the 3 committee members are not Physicians but are individuals who have a lot of experience with State Laws and Rules and in disciplinary matters and process.

Dr. George Pingree commented that he believes the Board is being manipulated as Dr. Anthony's legal counsel has requested two members of the Physicians Board be recused and that leaves nine Board members who must commit to being off work for two days.

Dr. Lamb commented that members of the Physicians Board have been very fair with Dr. Anthony and have had to talk with him sometimes in very specific terms regarding Dr. Anthony's deficiencies. He stated that the 3 committee members and the AG will not know the history that has taken place between the Board and Dr. Anthony. Dr. Lamb stated that he hopes someone will convey the facts to the committee and the AG.

Ms. Taxin reminded the Board that the Hearing will be based on new facts and the issues and facts of Dr. Anthony's probation cannot be addressed in this Hearing.

Dr. Howell stated that the Hearing might be a better process as the committee will not have the history and if the Board is not privy to the new facts then they cannot address them.

NEXT MEETING SCHEDULED FOR:

December 10, 2008

ADJOURN:

The time is 2:04 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.

December 10, 2008
Date Approved

(ss) Marc E. Babitz, MD
Chairperson, Utah Physicians Licensing Board

December 2, 2008
Date Approved

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