

MINUTES

UTAH

PHYSICIANS LICENSING BOARD

BOARD MEETING

August 12, 2009

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

CONVENED: 8:07 A.M.

ADJOURNED: 2:05 P.M.

Bureau Manager:

Noel Taxin

Board Secretary:

Karen McCall

Compliance Specialist:

Debbie Harry

Physicians Board Members Present:

Elizabeth F. Howell, MD, Chairperson Elect

Kristen Ries, MD

David D. Byrd, MD

George C. Pingree, MD

Lori Buhler

Stephen E. Lamb, MD

James H. Pingree, MD

James R. Fowler, MD

Marc E. Babitz, MD

Physicians Board Members Absent:

John W. Bennion, Ph.D., Chairperson

Daniel J. Parker, MD

**Osteopathic Physician Board Members
Present for Working Lunch:**

J. Howard Loomis, DO, Chairperson

Keith P. Ramsey, DO

Warren A. Peterson, DO

**Osteopathic Physician Board Members
Absent:**

Jane W. Brown

W. David Voss, DO

Guests:

Cheryl Vaught, JD, FSMB Board of Directors
David Johnson, MA, FSMB Vice President of
Assessment Services

Cynthia Lawlor

Leanne Pope

Maria Currier

Radd Berrett

DOPL Staff Present:

Mark Steinagel, Division Director
Laura Poe, Bureau Manager
Dan Lau, Assistant AG
Karl Perry, Assistant AG

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Swearing in of Dr. David D. Byrd, MD, as a Board Member

Ms. Taxin conducted the swearing in of Dr. Byrd as a Board member. **The Board welcomed Dr. Byrd.**

Acting Board Chairperson

In the absence of Dr. Bennion, Chairperson, Dr. Elizabeth Howell, MD, Chairperson Elect, conducted the meeting.

MINUTES:

The minutes from the June 10, 2009 Board meeting were read.

Dr. Babitz made a motion to approve the minutes with minor revisions. Dr. Fowler seconded the motion. **The Board vote was unanimous.**

Dr. Howell thanked Dr. Babitz for his service as Board Chairperson on behalf of the Board and Division.

BUSINESS FROM PREVIOUS MEETING

Follow-up by Ms. McCall on FSMB recommendations for appropriate therapy programs for probationers before/after probation

Ms. McCall reported she contacted Frances Cain at FSMB for information and was sent the Report of the Ad Hoc Committee on Physician Impairment and the Directory of Physician Assessment and Remedial Education Programs links on the FSMB website. She stated Ms. Cain stated the information is available but FSMB does not make specific recommendations and if the Utah Board has additional recommendations they may contact Linda Jordan at FSMB to have the programs added to the FSMB list.

The Board thanked Ms. McCall for the information.

APPOINTMENTS:

8:20 am

Debbie Harry, Compliance Update

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

Ms. Harry reported that today is **Dr. David Morris's** initial interview. She stated Dr. Morris submitted his practice plan for the Board to review. Ms. Harry stated Ms. Taxin pre-approved Dr. Lynn Webster to supervise Dr. Morris but the Board will have to give final approval and the Board will interview him telephonically today.

Dr. Byrd disclosed that he knows of Dr. Morris from residency and they practice the same type of medicine.

Ms. Taxin stated it would not be a conflict of interest for Dr. Byrd to participate in the interview unless Dr. Byrd feels uncomfortable.

Ms. Taxin reviewed Dr. Crookston's letter of support of Dr. Morris and informed the Board of the prescribed medications Dr. Morris is taking.

Dr. Lamb commented that the Board has had a history with Dr. Morris. He stated he believes Dr. Morris is in denial of his past offenses and the Board has declined to accept his justification of his diabetes causing his problems. He stated Dr. Crookston may not be prescribing to Dr. Morris appropriately if he believes Dr. Morris's actions were based on his diabetes.

Ms. Harry reported **Dr. David L. Aune** is currently in compliance. She stated he has requested early termination of his probation.

Ms. Taxin requested the Board to review the triplicate prescriptions Dr. Aune submitted as she had some questions on them which she tabbed for review.

Ms. Harry reported **Dr. David M. Pope** is currently in compliance. She stated Dr. Pope submitted all his paperwork on time.

Ms. Taxin requested the Board to review the triplicate prescriptions Dr. Pope submitted as she had some questions regarding several large numbers of opiates and Dr. Pope's writing more than one prescription on a prescription with controlled substances (CS's).

Ms. Harry reported **Dr. Terrell L. Sellers** is currently out of compliance. She stated Dr. Sellers has never been in compliance with his paperwork since 2008 when the compliance program was started. She stated Dr. Jorgensen is Dr. Sellers' supervisor.

Ms. Harry reported **Dr. Nathan Currier** is currently in compliance. She stated he submitted his practice plan for the Board to review. Ms. Harry stated Dr. Currier was on probation before and did not complete it.

Ms. Taxin stated Dr. Currier's Order may need to be revised as he is not currently working as a psychiatrist and has no direct patient care.

8:30 am

Dr. David Morris, Initial Probationary Interview

Dr. Morris met for his probationary interview.

Board members and Division staff were introduced.

Dr. Babitz conducted the interview.

Dr. Babitz gave Dr. Morris report forms and notified him that Dr. Webster's reports are due monthly by the 28th of each month. He stated reports are also due from Dr. Crookston and Dr. Kuo. Dr. Babitz stated Dr. Morris will need to notify Dr. Webster of his Stipulation and Order and Dr. Webster will need to submit a letter that he has read the document and is willing to assist Dr. Morris in being successful in his probation. He

stated Dr. Morris was required to document completion of 40 hours of continuing education (CE) within 90 days of signing his Stipulation and Order. Dr. Babitz asked if he has completed that requirement.

Dr. Morris stated he has already submitted the CE documentation to Ms. Taxin. He explained that all records and prescriptions are electronic. He proposed he be approved to print a copy of each prescription to submit monthly or he will need his own prescription pads and will then write the prescriptions to submit.

Dr. Howell commented Dr. Morris cannot have duplicate prescriptions.

Ms. Taxin suggested Dr. Morris make a copy, stamp it “copy” so it cannot be used and submit it to the Division. She stated it would be easy to track as the prescription copy would have the date and time printed.

Dr. Howell recommended he also retain a log of prescriptions written and submit it monthly.

Dr. Babitz asked if Dr. Morris takes only appropriately prescribed prescriptions and to explain his list of prescriptions. He asked if Dr. Webster is aware of the medication Dr. Morris is taking.

Dr. Morris responded Dr. Webster is aware he is on medications but he does not believe Dr. Webster is aware of the dosages.

Dr. Babitz stated he review the practice plan Dr. Morris submitted. He stated there are a couple of areas that need to be revised, ie: Under #3, Supervision: the plan should read “Dr. Webster and I will meet in person on a regular basis weekly” as the Order gives the guidelines for frequency of supervision. Under #7, Volunteer Activities, Dr. Babitz stated this section must be removed at this time as it is too early in the probation to discuss volunteering.

Dr. Lamb commented he was pleased to see a fully developed practice plan and pleased to see Dr. Morris making progress personally as the Board seldom sees probationers go the full circle when they have issues. He stated the Board has been troubled by Dr. Morris's denial regarding his past behaviors and unwillingness to take responsibility for his actions. He asked if Dr. Webster is fully aware of Dr. Morris's issues.

Dr. Morris responded he believes Dr. Webster is aware of every detail. He stated it has been several years since he has had interactions with the Board and he does not believe he is the same person who met prior to today. Dr. Morris stated he is ultimately responsible for his behavior but does believe metabolic encephalopathy is responsible for his behavior. He stated the Board may believe him or not but he does apologize for his behavior regardless of the origin. Dr. Morris stated if he practices appropriately then he will be proud to meet with the Board but if something improper occurs then he does not deserve to practice.

Dr. Babitz made a motion to accept the practice plan with a revision in #2 to read "Dr. Webster and I will meet in person on a regular basis weekly." and delete all of #7, Volunteer Activities.

Dr. James Pingree seconded the motion.

Dr. Howell, Dr. Byrd, Dr. George Pingree, Dr. Lamb, Ms. Buhler, Dr. James Pingree, Dr. Fowler and Dr. Babitz voted in favor of the motion. Dr. Ries abstained from voting. The motion passed with a majority vote.

A call was made to Dr. Webster, the proposed supervisor.

Dr. Babitz asked if Dr. Webster understands what is required of him to supervise Dr. Morris to be sure he is treating and prescribing appropriately and if he aware Dr. Morris takes large amounts of controlled substances.

Dr. Webster responded he believes he understands the responsibility of supervising and is aware of the medications Dr. Morris is taking.

Dr. Babitz stated Dr. Webster will be required to meet weekly with Dr. Morris and submit monthly reports by the 28th of each month to the Division. Dr. Babitz stated the monthly reports must be submitted for 6 months and then the Board will determine if they continue monthly or should move to being due quarterly. He explained Dr. Morris is to submit a triplicate copy of each controlled substance prescription writes once he obtains a DEA registration or he may submit a copy of an electronic prescription. He stated Dr. Morris should keep a log of his prescriptions if he is going to submit electronic copies. Dr. Babitz stated each electronic copy should have COPY stamped on it so that it cannot be filled by a pharmacy. He explained that the Board compares the controlled substance prescriptions with the DOPL database.

Ms. Taxin stated Dr. Webster should note on his reports Dr. Morris's interaction and professionalism with patients and staff and be specific on his report regarding Dr. Morris's prescribing practice and strengths/weaknesses as a practitioner.

Ms. Harry stated she will mail the report form to Dr. Webster. She explained the form mentions specific areas to be reviewed and discussed with Dr. Morris.

Dr. Lamb commented the Board and Dr. Morris had a thorough discussion today and the Board is pleased that Dr. Morris is making progress in his life. He stated Dr. Morris is very adept in skirting issues and the Board would appreciate Dr. Webster being aware of the concerns in the Order(s).

Ms. Taxin stated Dr. Webster may call her if he has any questions.

Dr. Webster thanked the Board for the call and information.

Dr. George Pingree made a motion to approve Dr. Webster to supervise Dr. Morris.

Dr. Fowler seconded the motion.

Dr. Howell, Dr. Byrd, Dr. George Pingree, Dr. Lamb, Ms. Buhler, Dr. James Pingree, Dr. Fowler and Dr. Babitz voted in favor of the motion. Dr. Ries abstained from voting. The motion passed with a majority vote.

Dr. Babitz requested Dr. Morris to explain a controlled substance (CS) prescription written February 23, 2009, and the prescription written to Herbie Morris.

Dr. Morris responded he did not know about a CS prescription written in February. He stated Herbie was his dog who was ill and needed prescriptions but passed away.

Ms. Taxin stated she will send the report to investigations to research and request the prescription to be pulled from the pharmacy to be sure of the signature and report to the Board in September.

Dr. Howell explained when there is a probationer with Dr. Morris's history the Board normally requires drug testing. She stated he is on a number of CS medications that would appear on the drug test but the testing can be adjust to take those medications into account. Dr. Howell stated the Board is not requiring drug testing at this time but may require it at some point prior to the termination of Dr. Morris's probation.

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

An appointment was made for Dr. Morris to meet November 4, 2009.

9:30 am

Dr. David L. Aune, Probationary Interview

Dr. Aune met for his probationary interview.

Dr. Byrd was introduced.

Dr. George Pingree conducted the interview.

Dr. George Pingree read Dr. Aune's request for early termination of his probation. He then requested Dr. Aune to review the triplicate prescriptions he submitted and address Ms. Taxin's concerns.

Ms. Taxin explained a few patients received prescriptions with large numbers and then a few days later received another one with large numbers. She stated there are also several triplicate copies with void written across them. Ms. Taxin asked Dr. Aune to be aware of what he is prescribing and not let patients take advantage of him.

Dr. Aune stated sometimes the insurance has a problem so he writes the prescription again. He thanked Ms. Taxin for the advice.

Dr. Howell asked what Dr. Aune's sees as his recovery goals and what issues he believes he needs to continue to work on.

Dr. Aune responded he plans to continue with his recovery program and is aware that recovery is always one day at a time. He stated he has watched himself become a different person through the recovery process and believes he is more compassionate and less arrogant. He stated the probation has been a humbling experience for him. He stated he also plans to continue with the duplicate copies of all CS prescriptions.

Dr. James Pingree asked if Dr. Aune took the Board Examinations again in order to become Board Certified again.

Dr. Aune responded he has not taken the Boards again due to his current probation status.

Dr. Babitz commented that the Utah Board

responsibility is to protect the public. He stated Dr. Aune will not receive a response regarding the examinations and Board certification until he is off probation with Utah.

Dr. James Pingree made a motion to terminate Dr. Aune's probation based on his successful completion of all probation requirements except the time period and his consistent compliance with his Stipulation and Order.

Dr. George Pingree seconded the motion.

The Board vote was unanimous.

Ms. Taxin explained the termination process for Dr. Aune.

9:45 am

Dr. David M. Pope, Probationary Interview

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

Dr. Byrd was introduced.

Dr. Ries conducted the interview

Dr. Ries asked Dr. Pope to update the Board regarding how he is doing, review his CS database list as it appears he is increasing his pain management practice.

Dr. Pope responded his practice is running smoothly. He stated he is seeing between 20 to 30 patients a day and the pain management portion is about 5% of his practice. He stated he has not increased the pain management practice. Dr. Pope reviewed the CS database list and stated he only sees most of the pain management patients every 3 months. He stated there are no pain specialists in the Richfield area and he refers patients to Provo or other locations. He stated he does see a lot of acute pain patients.

Dr. Ries stated Dr. Pope's supervisor has written a positive report. She asked if Dr. Pope is comfortable with the medications he is prescribing and if he will be comfortable with his prescribing practice when he is released from probation or if he

has any concerns.

Dr. Pope responded most pain patients are patients he has had for many years. He stated he is comfortable with his prescribing practice and will continue to be comfortable with it after probation is complete.

Dr. Byrd asked Dr. Pope to explain the reason for writing a CS and non-CS prescription on the same prescription as that is unlawful.

Dr. Pope reviewed the CS triplicate prescriptions and responded one was an order for the hospital.

Dr. Babitz suggested Dr. Pope write on the prescription it is an order for the hospital for clarification when the Board reviews the triplicate prescriptions.

Dr. Byrd then requested Dr. Pope to explain one prescription with an extremely high dosage of morphine.

Dr. Pope explained it is a patient with severe health issues. He stated the patient is scheduled for back surgery soon and Dr. Pope is hoping it will help the patient.

Dr. Pope stated he uses electronic prescriptions and it would be helpful if he could submit a copy of that electronic prescription instead of having to use the electronic prescription system and then write on the triplicate for the Divisions Order.

Ms. Taxin responded he may submit copies of the electronic prescriptions.

Dr. Howell stated he must stamp “copy” so they cannot be used and submit them to the Division.

Dr. Ries made a motion to accept the electronic prescription copies unless Dr. Pope writes any schedule 2 prescriptions and then submit the triplicate copies of the schedule 2 prescriptions.

Dr. James Pingree seconded the motion.

The Board vote was unanimous.

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

An appointment was made for Dr. Pope to meet November 4, 2009.

10:15 am

Dr. Terrell L. Sellers, Probationary Interview

Dr. Sellers met for his probationary interview.

Dr. Byrd was introduced.

Dr. Lamb conducted the interview.

Dr. Sellers stated he is still employed as the Medical Director at Steps Recovery Center which is a 15 bed residential facility. He stated he does not have a DEA license yet but there are no CS's prescribed in the facility. Dr. Sellers stated occasionally a patient will bring a CS with them and they self administer the CS. He explained the CS is kept in a safe and someone else gets it out of the safe for the patient. He stated he likes his position.

Dr. Lamb asked if Dr. Sellers is still affiliated with Michael Dusoe's A & D Counseling program.

Dr. Sellers responded he is affiliated with A & D Counseling program and does the evening support group program only.

Dr. Lamb stated Dr. Sellers has been consistently out of compliance with his Stipulation and Order as his paperwork is consistently late.

Dr. Sellers responded he realized he has been faxing his paperwork to the wrong fax number and was informed yesterday that the information has not been received.

Ms. Harry reminded Dr. Sellers that his supervision reports are due monthly and must be written on the correct form. She gave Dr. Sellers a current form. She stated he has never been

incompliance with his paperwork and reminded him it is due at the Division by the 28th of each month in order for the Board to review it at their meeting.

Dr. Sellers stated he understood reports were due quarterly.

Ms. Taxin clarified the reports are due monthly for 6 months and then quarterly because of his new employment. She stated Dr. Sellers should contact Ms. Harry to be sure she has received his paperwork.

Dr. Lamb commented he noticed Dr. Sellers has cut back on his nightly medication.

Dr. Sellers stated he has been sleeping better so he does not use the medication as frequently.

Dr. Howell stated she does not recommend addicts use the medication prescribed to Dr. Sellers as it is too risky for them to become addicted to that medication. She recommended he talk with his prescriber regarding other options.

Ms. Taxin asked if Dr. Sellers supervisor has given him any feedback regarding his performance.

Dr. Sellers responded his supervisor is the owner of the facility and is a recovering alcoholic. He stated he manages the facility and the supervisor is satisfied with the way it is being managed.

Dr. Lamb stated the Board applauds Dr. Sellers for his progress with probation but the paperwork is an important part of the probation.

Dr. Howell stated the Board is reluctant to recommend termination of probation if Dr. Sellers has not been in compliance for at least a year with his paperwork.

Dr. Sellers thanked Dr. Lamb and Dr. Howell for their comments. He then asked if he still needs to fax the supervisor reports monthly and mail in the signature

cards for attendance at PIR and 12-Step.

Ms. Harry responded Dr. Sellers is correct, he must fax or mail monthly supervision reports. She stated the Division is no longer using attendance cards. Ms. Harry gave Dr. Sellers the new attendance form and stated it must be sent or faxed on a quarterly basis.

The Board determined Dr. Sellers is out of compliance with his Stipulation and Order due to not submitting the required paperwork.

An appointment was made for Dr. Sellers to meet November 4, 2009.

10:30 am

Dr. Nathan Currier, Initial Probationary Interview

Dr. Currier met for his initial probationary interview.

Dr. Currier's wife, Marianne Currier, and his proposed supervisor, Radd Berrett, also met with the Board.

Board members and Division staff were introduced.

Dr. Howell conducted the interview.

Dr. Howell requested Dr. Currier to briefly explain his situation and the reason he is on probation.

Dr. Currier explained he was initially on probation for unprofessional conduct. He stated his license was revoked as he was not in compliance with the Stipulation and Order requirements.

Dr. Howell asked what Dr. Currier has been doing since 2006 when his licenses were revoked.

Dr. Currier responded he tried to get his license reinstated right away but was denied. He stated he attended a real estate school and passed all the requirements but had his application denied based on the revoked Physician license. Dr. Currier stated he then sold cars and when the economy failed he was let go. He stated he went to work in a grocery store and has now been hired by BiWater Surgical Services. Dr. Currier explained he will be monitoring surgical cases

remotely at BiWater.

Mr. Berrett then explained he is the owner of BiWater Surgical Services and is willing to be Dr. Currier's supervisor. He stated he is the owner of the company and started the company in 2004. Mr. Berrett stated they monitor spine and cranial cases. He stated they have the ability to send an electrical current to the piece of hardware (a screw) and the response will give the nerve integrity. He stated the company saves time and money in the health care system. Mr. Berrett explained the surgeon is the first set of eyes in the surgery and the technician is the second set of eyes and Dr. Currier at BiWater is the third set. Mr. Berrett stated the monitoring increases the standard of care for patients. He stated there is no direct patient care with Dr. Currier.

Dr. Howell asked what type of training is required for the position.

Mr. Berrett stated in the past a medical assistant could monitor. He stated the process has advanced so much that it needs an MD to monitor. He stated Dr. Currier's office is next to his office. Mr. Berrett stated Dr. Currier will be going to San Diego in October to attend a training course beyond the in-house training he has received.

Dr. Currier stated he would eventually like to become a certified monitor.

Dr. Howell asked Mrs. Currier if she had any comments for the Board.

Mrs. Currier responded her husband has had a difficult time but now is getting happier and is himself again.

Dr. Howell asked Dr. Currier what he has learned from the process.

Dr. Currier responded he has learned he must stay in compliance with his Stipulation and Order.

Ms. Taxin stated Dr. Currier completed some education courses.

Dr. Currier stated Ms. Taxin is correct. He stated he completed several courses in boundaries, prescribing and medical ethics. He stated his eyes were opened to a lot of information he did not learn in school or in his internships.

Ms. Taxin asked Mr. Bennett to address in his reports that Dr. Currier is monitoring and documenting appropriately and with the guidelines of his expectations. She stated Mr. Bennett's job does not fit the mold exactly but the Board needs to make sure Dr. Currier is safe to practice and maintain proper boundaries with patients and staff.

Mr. Bennett responded he will address issues in the report. He stated a woman named Barb will also train and supervise Dr. Currier.

Ms. Taxin suggested Barb be considered the employer and Mr. Bennett the supervisor. She stated any physician they are working with could also write a letter saying Dr. Currier is appropriate and following protocol ethically to help verify he is a safe practitioner.

Ms. Taxin stated the Board could accept the courses Dr. Currier has completed as meeting the requirement of completing a boundaries course. She stated he is not prescribing right now and could take an update course when he is prescribing.

Dr. Currier stated he did complete another course after talking with Ms. Taxin.

Dr. Howell summarized today's appointment:

- 1. The Board needs to review and approve the practice plan.**
- 2. Mr. Barrett needs to submit supervisor monthly reports for 6 months and then move to quarterly upon Board approval.**
- 3. Barbara needs to submit employer reports bi-annually.**
- 4. Mr. Barrett will review 20% of patients monitored.**

- 5. If working with any female patients, Dr. Currier is required to have a chaperone present.**
- 6. Submit a report from his therapist.**

Ms. Taxin stated that any interaction with females could be reported by Mr. Barrett as feedback which will assist the Board in reviewing his performance/compliance.

Dr. Currier stated he submitted one report from his therapist and will submit another after his next appointment.

Dr. Howell stated if he is meeting with his therapist on a regular basis then quarterly reports will be required.

Ms. Taxin stated Dr. Currier's therapist can report his assessment of Dr. Currier to the Board.

Dr. Howell requested Dr. Currier to write a clear summary regarding what he learned from the CE courses and include what procedures he would do differently in his practice for the future. The Board will review at Dr. Currier's next appointment.

Dr. Howell commented that the Board struggles with the fact that so many probationers cannot find employment. She stated she believes there are other types of positions related to the medical field that are not in the full scope of the practice of medicine. She thanked Mr. Berrett for helping Dr. Currier and the Board.

Dr. James Pingree asked if Mr. Barrett had a reason for interviewing probationers.

Mr. Barrett responded he has a personal reason.

Dr. James Pingree made a motion to approve Dr. Currier's practice plan.

Dr. Ries seconded the motion.

The Board vote was unanimous.

Dr. Babitz made a motion to approve Mr. Berrett as Dr. Currier's supervisor.

Dr. Ries seconded the motion.

The Board vote was unanimous.

An appointment was made for Dr. Currier to meet November 4, 2009.

12:00 pm to 1:00 pm

FSMB Presentation and Working Lunch with
Osteopathic Physicians Board

Cheryl Vaught, JD, and David Johnson, MA, from the Federation of State Medical Boards met with the Board. They discussed FSMB's organization and mission statement, the Utah Board's questions regarding re-entry to practice guidelines, ethical code for physicians, advisory status for Medical Boards and FSMB resources, products and services.

The Physicians Board, the Osteopathic Physicians Board and Division staff thanked Ms. Vaught and Mr. Johnson for the presentation.

1:20 pm

Mark Steinagel, Division Director, Update on
Consent Agreement

Ms. Taxin was absent from this discussion.

Mr. Steinagel met with the Board to discuss the consent agreements for on-line prescribing issues. He stated there is a provision under the Utah Code that allows for on-line prescribing. Mr. Steinagel stated it is a flawed process that needs to be discussed and adjusted. He stated Ms. Taxin and Ms. Poe have informed him that Utah is the only State to allow for on-line prescribing. Mr. Steinagel stated the new proposed Rules were sent out to the Physicians Board, the Osteopathic Physicians Board and the Pharmacy Board to review. He stated the new amendments give the authority to a practitioner and not an internet company if the practitioner meets specific requirements. He stated a meeting has been scheduled for public comment but input and direction are still needed from the Boards. Mr. Steinagel stated there were 5 CS's in the original document and another 2 were added due to a request. He stated the Division is

attempting to tighten up the regulation and need input.

Ms. Poe stated the concern is situations where there is belief that there is no type of relationship between patient and physician.

Mr. Steinagel stated the Division has no position on this issue but do have a responsibility to be sure it is done correctly and the Division is attempting to do a better job of regulating. Mr. Steinagel referred Board members to 58-1-501(4)(2)(m) and (1)(f).

Dr. Lamb asked if there is any indication people have misused the on-line prescribing.

Ms. Poe responded there is no indication it has been misused.

Mr. Steinagel stated there is no legal authority to take any action if the process has been misused. He stated there are currently some applications that have not yet been reviewed or approved due to the uncertainty of the language in the Law. He stated the Division needs to be consistent.

Dr. Peterson requested the Physicians Board and Osteopathic Physicians Board meet together for discussion.

Dr. Ramsey asked if the companies presenting at a meeting can be limited on their time to present.

Mr. Steinagel responded the Boards will have the control of time each company presents.

Dr. Howell commented the Boards need to be sure the Rules address the issues with appropriate language.

Mr. Steinagel stated the Boards will be contacted regarding the date and time of the meeting.

DISCUSSION ITEMS:

Non-Working Probationers

Ms. Taxin stated there are several non-working probationers who want to work but are unable to get

employment. She asked how long the Board wants them on the books and not working. She stated they are still required to submit the paperwork, any completed CE documentation and complete any other requirements they can complete. Ms. Taxin voiced concern if a probationer is making an effort to obtain employment but is out of work for 3 or more months.

Dr. Lamb responded there should be a category for probationers who are unable to obtain employment so they do not have to meet with the Board.

Dr. Babitz asked Ms. Taxin to define “making an effort”. He stated that one person may define it very different than another and he recommended the AG’s office interpret.

Ms. Taxin responded she has not had probationers meet with the Board if they are not working but has told them they will need to meet in 6 months whether they are working or not.

Tentative Board Meeting Schedule and Flexibility on Tentative Board Meeting Schedule for 2010

Ms. Taxin referred the Board to the tentative 2010 Board meeting schedule. She stated there are about 3 other large Boards that also meet on Wednesdays and asked the Board if they could be flexible to change weeks if necessary.

Board members stated they could change the week if they are notified early enough but Wednesdays are their best days for Board meetings.

Ms. Taxin responded the Board would be notified as soon as possible if there was a change.

The Board noted the following 2010 Tentative Board Meeting Schedule: Wednesdays, January 13, February 10, March 10, April 14, May 5, June 9, July 14, August 11, September 8, October 13, November 10 and December 8, 2010.

FYI

Ms. Taxin stated Dr. Fowler asked her to explain what is going on with the use of lasers. She stated a bill passed in the 2009 Legislative session that allows basic Estheticians to perform laser treatments with direct and immediate supervision of a Physician. She

stated Master Estheticians and Physician Assistants may perform laser treatments with general supervision of a Physician which requires the Physician to be aware the Master Esthetician and Physician Assistant is doing the laser treatment. Ms. Taxin stated the Physician should always assess the patient to be sure laser treatments are appropriate. She voiced some concerns as the Law does not specifically address some issues. Ms. Taxin stated the Cosmetology Board will have a Rule Hearing soon.

Dr. Babitz requested Ms. Taxin inform the Bureau Manager and Cosmetology Board that the Physicians Board would like to be notified of the Rules Hearing.

Ms. Taxin stated the use of Botox and injectables is also a concern. She stated Botox and injectables is not addressed in the last Legislative session.

Ms. Taxin stated another issue is teeth whitening and laser bleaching. She stated she has received several calls from Physician's regarding them doing teeth/laser whitening as it is a quick money maker. She stated she believes the Dental Association is opening up the Law to define teeth bleaching and some other procedures as the practice of Dentistry. Ms. Taxin stated there have been some people hurt by the teeth/laser whitening.

Board members voiced concern in harming the public.

FYI

Ms. Taxin informed the Board that Dr. Goates has signed an amended Stipulation and Order.

Ms. Taxin stated Dr. Heap is in the process of signing a new Stipulation and Order. She stated he wants to drug test in Tooele only and it presents a problem as he frequently goes up to Huntsville, Utah to the Monastery and he does not drive. She stated she is working on the problem.

Ms. Taxin stated she is hoping Dr. Anderson's health will improve so he can work, start his probation and meet with the Board.

The Board thanked Ms. Taxin for the update.

Correspondence:

SAMHSA

Ms. Taxin distributed an announcement from SAMHSA regarding the development of Treatment Improvement Protocol 49: Incorporating Alcohol Pharmacotherapies Into Medical Practice.

Board members thanked Ms. Taxin for the information.

FSMB Correspondence

The Board reviewed the FSMB notification regarding Accreditation of Undergraduate Medical Education in the Caribbean: Report on the Caribbean Accreditation Authority for Education in Medicine and Other Health Professions.

No Board action was taken.

NEXT MEETING SCHEDULED FOR:

September 9, 2009

ADJOURN:

The time is 2:05 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.

September 9, 2009
Date Approved

(ss) John W. Bennion, Ph.D.
Chairperson, Utah Physicians Licensing Board

August 24, 2009
Date Approved

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