

**MINUTES**  
**UTAH**  
**PHYSICIANS**  
**LICENSING BOARD MEETING**

**November 10, 2010**

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

**CONVENED:** 9:06 A.M.

**ADJOURNED:** 12:35 pm

**Bureau Manager:**

Noel Taxin

**Board Secretary:**

Karen McCall

**Compliance Specialist:**

Debbie Harry

**Board Members Present:**

Elizabeth F. Howell, MD, Chairperson  
Lori G. Buhler  
James H. Pingree, MD, Acting Chairperson  
Richard W. Chapa, MD  
Kenneth L. Schaecher, MD  
David D. Byrd, MD  
Kristen Ries, MD  
John W. Bennion, PhD  
Marc E. Babitz, MD

**Board Members Absent:**

Daniel J. Parker, MD  
James R. Fowler, MD

**Guests:**

Miles Millard, Medical Student  
Spencer Naser, Attorney

**TOPICS FOR DISCUSSION**

**DECISIONS AND RECOMMENDATIONS**

**ADMINISTRATIVE BUSINESS:**

Board Chairperson

Dr. Howell explained she has lost her voice and requested Dr. Pingree to act as chairperson for today's meeting.

**Dr. Pingree accepted.**

Swearing in of Dr. Richard W. Chapa as a

Ms. Taxin conducted the swearing in of Dr. Chapa.

Board Member

**He was welcomed by the Board.**

**MINUTES:**

The minutes from the September 8, 2010 Board meeting were read.

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

**BUSINESS FROM PREVIOUS MEETING:**

Dr. Bennion – Continued Discussion  
Regarding Incompetent Practitioners and  
Gathering Information

Dr. Bennion briefly explained he attended the FSMB national conference last year and sat in on a talk about the medical quality of care issues dealing with the lack of competency, skills of practitioners and care in the best interest of the patient. He stated upon reflecting on his years on the Board he could only think of about two times where the quality of patient care was the main issue and the patterns of care being potentially harmful to the public were in question. He stated he contacted Ms. Taxin's equivalent in Arizona who stated over half of their probationary problems deal with quality of care. He stated in Utah it is about 1% and he cannot believe Arizona is that different from Utah. Dr. Bennion stated he has found when hospital privileges are denied it is not reported to DOPL as there is no state statute requirement to report in Utah but some states do require reporting. Dr. Bennion stated if information was reported to DOPL the Board could evaluate as the Board is responsible to protect the public.

**Dr. Chapa responded medical malpractice payments are reported to the National Databank and they provide a report to each state where the Physician is licensed.**

Dr. Bennion stated notifying the National Databank is spotty.

**Dr. Schaecher commented if a Physician is suspended for less than 14 days and then resigns the hospital does not report to the National Databank as the requirement for reporting is suspension longer than 14 days. He stated there**

**are also cases where a Physician will be suspended, resign and leave the state without being reported. Dr. Schaecher stated health plans are suspending insurance rights for quality related issues and they are not required to report to DOPL. He stated if someone calls the hospital or clinic for a specific Physician who has left; the hospital or clinic will only say the provider is no longer there.**

**Dr. Babitz commented the Health Department has tackled wrong site surgery as they found the way patients were marked was different at each hospital. He stated the State of Utah came out with a uniform marking system and they also use the time out before surgery to mark the site after they talk with the patient and prior to putting the patient under anesthesia. He stated there has been a dramatic drop in wrong site surgery since these procedures were put in place. Dr. Babitz stated he believes the Board could and should have a role in improving systems where they see there are problems.**

**Dr. Schaecher stated there are also consequences in reporting as hospitals, clinics, co-workers and Physicians do not want to be responsible for someone losing their license. He stated there reporting should be anonymous for people to voice concerns. Dr. Schaecher stated he received a call recently regarding a Physician who inherited a patient and the Physician wanted the original Physician taken off the insurance panels. He stated he advised the Physician to call DOPL and was informed the Physician does not want to contact DOPL as he might get the original Physician in trouble.**

Dr. Bennion commented the issue of reporting was the same when he was in the school system as everyone wanted someone to do something about bad teachers but not them. He stated this Board has bent over backwards to try to salvage probationers and it has not always worked.

**Dr. Schaecher stated the perception of**

**probationers is probation and meeting with the Board is to punish them. He stated they also believe they are above following the Laws and Rules, their circumstances are different and they are special.**

**Dr. Byrd stated he has not seen probationers with incompetent practice since he has served on the Board.**

**Ms. Taxin responded she believes there have been practitioners with quality of care issues who have met with the Board but she also believes there are a lot more who are not reported. She stated she also talked with the Arizona Director who said most of their probationers have quality of care issues, but not some of the issues we deal with our probationers, i.e.: boundaries, substance use, etc.**

**Dr. Babitz asked who would investigate these cases.**

Dr. Bennion responded if the Board identifies the issues they could make a case before the legislature for funding to investigate. He stated the fees would support investigations.

**Dr. Ries reminded the Board that the Board is advisory to the Division.**

**Ms. Taxin asked if Board members would have time in their schedules for additional duties if they were not advisory. She stated some autonomous Boards meet all day on Friday, Saturday and Sunday for 10 hour days to review all applications, investigate and conduct all other Board business.**

Dr. Bennion asked if anyone with a medical background investigates for Physicians.

**Ms. Taxin responded yes.**

**Dr. Pingree suggested there be further discussion on this subject at the December Board meeting.**

**Ms. Taxin stated the subject will be put on the**

**December agenda. She then stated she reviewed Arizona's numbers and Utah's numbers. She reported Utah had 25 people surrender their license this year rather than go through the probationary or hearing process and she then reported there have been three applications denied this year.**

**Dr. Schaecher asked if the Board should be informed of that information.**

**Ms. Taxin responded when a practitioner surrenders their license there are no facts of the case reported. She stated the investigator just asks for her signature on the Surrender Order. Ms. Taxin stated depending on the case she might be able to give a general overview to the Board.**

Dr. Bennion stated it would be good if Ms. Taxin could inform the Board regarding which cases are quality care issues, which are substance abuse, denied, surrendered, etc.

**Dr. Byrd stated California sends the information out in a newsletter.**

**Ms. Taxin responded Utah has the information online in the disciplinary newsletter.**

**The Board stated it would be easier for them if the Division provided the statistics to them in the Board meeting so they don't have to read the newsletter.**

**Dr. Pingree thanked Ms. Taxin for the report and stated he believes the more information the Board has the better as there are only six probationers right now but there are all these other practitioners no one knew about.**

Following additional discussion, Dr. Bennion suggested the Board or Division initiate legislative action to require hospitals to share information of reporting egregious issues.

**Ms. Taxin reminded the Board that the Board or Division would not sponsor legislation as it is out of their scope of duties. She stated the Board could request the UMA to address the issue as they are opening the Law for other issues. She stated the UMA will meet with the Board in December to present the Law changes for the Board to review and that might be a good time to address this issue.**

Dr. Bennion responded he has talked with the Arizona Board representative and they require reporting. He suggested the Board review language from other States and maybe use the language for Utah's model.

**Ms. Taxin asked if Board members should take specific states to review their Laws.**

**Board members responded they did not want the assignment.**

Dr. Bennion requested Ms. Taxin to contact the Federation and ask them to provide the information as they should serve the states.

**Ms. Taxin agreed to ask the Federation and report back at the December meeting.**

#### **APPOINTMENTS:**

**9:15 am**

Debbie Harry, Compliance Update

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

Ms. Harry reported **Dr. Terrell L. Sellers** is currently in compliance with his Stipulation and Order. She stated Dr. Sellers requested early termination of his probation last March and his probation is scheduled to terminate November 22, 2011. She stated he has sent a formal request for the Board to review. She reminded the Board Dr. Sellers' Order was amended to discontinue drug testing at his last appointment. Ms. Harry stated the compliance unit would recommend early termination.

**Dr. Bennion stated the notes from Dr. Sellers last**

**meeting indicate the Board agreed to consider early termination today.**

Ms. Harry reported **Dr. Michael S. Roundy** is currently in compliance Stipulation and Order as much as he can be for his first meeting. She read the conditions of Dr. Roundy's probation for the Board.

**Ms. Taxin read the facts of the case for the Board.**

**Dr. Babitz asked what Dr. Roundy's specialty is.**

**Ms. Taxin responded psychiatry.**

**The Board discussed treating co-workers.**

**Ms. Taxin stated Medicare and Medicaid dropped Dr. Roundy off their panels so she wrote a letter to the insurance company for him. She stated she believes Dr. Roundy is a little frustrated with the insurance process.**

**Ms. Buhler asked if there is a reason Dr. Roundy's probation is for three years as she has noticed most are for five years.**

**Ms. Taxin responded for his behavior she believed three years was adequate as behavior should be corrected within that time frame. She stated she believes the probationer should understand the concept and fix the problem within a year. Ms. Taxin stated over the past years five year stipulations have been for substance use or more egregious violations.**

**Dr. Babitz commented Dr. Roundy is not required to obtain a psychological evaluation or to attend counseling. He stated that is how the Board usually monitors.**

**Ms. Taxin responded she understands and agrees with Dr. Babitz concerns.**

Ms. Harry stated she does not know if Dr. Roundy is

self employed or is employed by someone else but the employer reports or self employed reports will be required.

**Dr. Schaecher commented Dr. Roundy's probation started September 16, 2010. He stated he was on the Board at that time and this is the first time he has heard about Dr. Roundy. He asked why he was not informed and when the Board met for the hearing.**

**Ms. Taxin responded there was no hearing as Dr. Roundy agreed to stipulate in lieu of a hearing. She stated if he had not agreed to the Stipulation and Order there would have been a hearing. Ms. Taxin explained the Board is not informed of investigations or possible probationers because if it goes to a hearing the Board is the jury and cannot have heard the facts beforehand.**

**Dr. Babitz explained a Stipulation and Order is a kind of plea bargain.**

**Dr. Bennion asked would it be acceptable for the Board to make a recommendation to Ms. Taxin for additional conditions if they disagree with the Order and want it to be stronger.**

**Ms. Taxin responded the Board could make a recommendation for an amendment if there is something not in the Order but they would have to ask the probationer if he/she agrees to sign an amendment. She stated if the probationer does not agree then the Board could request a hearing, but that the signed Order is final unless the probationer agrees.**

**Dr. Babitz responded his experience is if the probation is near the end and the Board believes the probationer has not proven to the Board that they have made changes the Board could request a hearing and add additional conditions.**

**Dr. Schaecher asked which came first, the treating and prescribing or the relationship.**

**Ms. Taxin responded she does not know which came first. She stated Dr. Roundy prescribed but did not have a chart on the employee/patient. She stated if a practitioner prescribes they must have a chart on the patient. She stated there have been several doctors who are having relationships with patients. Ms. Taxin stated she has discussed with the UMA this ongoing common issue. She stated during brainstorming ideas on how to address this, she proposed an idea regarding when a Physician recognizes emotional feelings are occurring with a patient that he/she should terminate the patient relationship, both parties sign a termination document for the chart which identifies the implications of engaging in the romantic relationship and then if both patient and practitioner agree to terms they can maintain romance. She stated one exception would be psychiatrists.**

**Dr. Schaecher stated the reality is that many prescriptions are written with no charting. He stated he believes Ms. Taxin's comment is saying it is ok to have a relationship with a patient. Dr. Schaecher stated students in medical training are told boundaries are boundaries and should not be crossed. He stated it appears Dr. Roundy is now living with the individual but it is no less a boundary violation. He stated Physicians are held to a different standard and there are some lines that should never be crossed.**

**Dr. Howell commented no psychiatrist should ever have a relationship with a patient or former patient.**

**Ms. Taxin requested Ms. Woodford, the investigator, to address Dr. Roundy's issues.**

**Ms. Woodford responded the complaint came from IHC for writing a CS prescription for himself. She stated Dr. Roundy disclosed he and a nurse were both going through nasty divorces and began their relationship. She stated Dr. Roundy will probably**

**tell the Board the relationship started after he stopped prescribing to her but a neighbor had confirmed this nurse was staying nights with him during that time. She stated the hospital also disclosed Dr. Roundy and the nurse were disruptive at work due to arguing all the time. Ms. Woodford stated Dr. Roundy and his attorney requested some changes to the original Order, those changes were made and Dr. Roundy signed the Order. Ms. Woodford stated her understanding of the profession is there should be no relationship with a patient ever.**

**Dr. Ries requested clarification of Dr. Roundy writing prescriptions for himself.**

**Ms. Woodford responded yes, he wrote mostly for Lortab.**

**Dr. Byrd asked if Dr. Roundy was treating the nurse as a patient in therapy.**

**Ms. Woodford responded no, Dr. Roundy was treating her for pain and he had no patient chart on her.**

**Dr. Ries stated it is well known that Physicians have written prescriptions and not kept any records. She stated medicine has changed but Physicians should not treat people who are friends or co-workers. She stated a practitioner can do more harm than good when writing prescriptions without a full physical.**

**Ms. Taxin stated she will step out for a minute and ask what the procedure is if the Board believes more restrictions should be included in the Stipulation and Order.**

Ms. Taxin returned to the meeting and stated she spoke with Mr. Steinagel regarding making amendments to Dr. Roundy's Order. She stated Mr. Steinagel confirmed the Board could recommend amendments but would need to be sure Dr. Roundy agrees to the amendments or the Order stands as

written and signed.

**9:30 am**

Dr. Terrell L. Sellers, Probationary Interview

Dr. Sellers met for his probationary interview.

Dr. Bennion conducted the interview.

Dr. Schaecher and Dr. Chapa were introduced.

**Dr. Bennion stated the Board received Dr. Sellers letter requesting early termination of his probation. He request Dr. Sellers to briefly explain what brought him before the Board.**

Dr. explained he is in his eighth year of a five year probation. He stated he was having migraine headaches, started taking Morphine and became addicted to it. Dr. Sellers stated when he starts having thoughts of using again he thinks of the policemen picking him up again and has no issue with wanting to use again.

**Dr. Schaecher asked if the headaches are better.**

Dr. Sellers responded yes. He stated he also was not sleeping well and when he is over tired he gets more headaches. Dr. Sellers stated he does not want to ever deliver babies again as he does not want to be up all night any more.

**Dr. Babitz asked if Dr. Sellers realized his overwork and lifestyle added to his condition.**

Dr. Sellers responded yes.

**Dr. Bennion asked what Dr. Sellers work schedule is now.**

Dr. Sellers responded he is no longer with Steps and works at the Medical Detox only on Thursday, Friday and Saturday with three to five patients at a time. He stated it is not too rigorous.

**Ms. Taxin asked why Dr. Sellers left Steps.**

Dr. Sellers responded there was a disagreement regarding how employees should be treated.

**Dr. Bennion asked if Dr. Sellers is still considering taking the Boards.**

Dr. Sellers responded yes, he will take them next year.

**Dr. Babitz commented he believes leaving Steps was a positive thing for Dr. Sellers. He stated there are times when a person needs to stand up for what is right.**

Dr. Sellers stated he believed it needed to be done.

**Dr. Bennion made a motion to terminate probation early based on Dr. Sellers being in compliance with his Stipulation and Order and having consistent negative drug testing. Dr. Bennion stated he has been impressed with the progress Dr. Sellers's has made as the Board has seen a change in attitude over the years.**

**Dr. Babitz seconded the motion. He stated he previously saw a different Dr. Sellers than he has sees now.**

**Dr. Bennion, Dr. Babitz, Ms. Buhler, Dr. Ries, Dr. Byrd, Dr. Chapa, Dr. Pingree voted in favor of the motion. Dr. Schaecher abstained from voting and explained he is too new to make a decision. Dr. Howell abstained from voting.**

**The motion passed with 7 voting in favor of the motion.**

Dr. Sellers thanked the Board and stated he is happier with himself today. He stated he plans to continue attending his AA group meeting. Dr. Sellers stated the Board made him do things he did not want to do but those things have helped him to be where he is now and will continue to help him.

**Ms. Taxin explained the process and stated the Board and Division are here as a support if Dr.**

**Sellers has any questions. She stated it is good to see the positive change Dr. Sellers has made.**

**9:50 am**

Dr. Michael S. Roundy, Initial Probationary Interview

Dr. Roundy met for his initial probationary interview and introduced Miles Miller, his attorney.

Dr. Pingree welcomed Dr. Roundy and Mr. Miller.

Board members and Division staff were introduced.

Dr. Babitz conducted the interview.

**Dr. Babitz requested Dr. Roundy to briefly explain what brought him before the Board.**

Dr. Roundy explained he wrote several prescriptions for himself and then was informed by the Pharmacist that it is not ok to write for himself. He stated he was somewhat cavalier in writing prescriptions at that time and wrote some for a friend for pain. Dr. Roundy stated he had left his wife during that period and became involved with the friend for whom he had written the prescriptions but he did not keep any records or a patient chart as she was not really a patient. He stated this woman had surgery, he took care of her and then their relationship became closer.

**Dr. Babitz stated the Order states the woman was a patient and co-worker. He stated he would assume Dr. Roundy was also working with this person.**

Dr. Roundy stated Dr. Babitz was correct. He stated he made some bad, painful and expensive mistakes during that time and he wants to be responsible for his actions. He stated in his mind he did not violate the patient/doctor relationship as she was not really a patient. Dr. Roundy stated he did have an office romance and was cavalier which was inappropriate but he was not a predator with a patient. He stated when he signed the Stipulation and Order the term doctor/patient relationship meant something different to him and he signed as he wanted to go back to work. Dr. Roundy stated the woman was a nurse he worked with who was a leader on her unit and he understands

there were boundary issues between himself and the woman. He stated their relationship started with office flirtation but as their marriages deteriorated they were on a slipper slope and their togetherness blossomed. He stated the woman worked on his unit and their relationship was very disruptive to the unit. Dr. Roundy stated he believes he mismanaged their relationship but he was vulnerable at time due to his divorce issues. He stated the relationship with this woman has worked out well for him.

**Dr. Babitz asked if Dr. Roundy is still with the woman.**

Dr. Roundy responded yes.

**Dr. Babitz suggested Dr. Roundy review the Code of Medical Ethics as there are guidelines in there to help Dr. Roundy not to get caught up again in a situation where he is unaware. Dr. Babitz asked if Dr. Roundy completed the prescribing course and the boundaries course as required by his Order.**

Dr. Roundy responded he completed the boundaries course and is taking the prescribing course. He asked if the Board would approve Dr. Dennis Smith as his supervisor.

**Following discussion, Dr. Babitz made a motion to approve Dr. Dennis Smith as Dr. Roundy's supervisor.**

**Dr. Ries seconded the motion.**

**The Board vote was unanimous.**

**Dr. Babitz explained the purpose of meeting with the supervisor is for the supervisor to randomly review 20% of Dr. Roundy's charts, to review and discuss medical ethics, boundaries, prescribing practices and professionalism. He stated it would be reviewing approximately 10 to 12 charts per week.**

Dr. Roundy responded he has been suspended from

MacKay-Dee as he has been disempanelled from Medicaid for inappropriate sexual behavior with a female patient.

Mr. Miles responded the case has been assigned to the AG's office and the hearing has been rescheduled.

**Dr. Pingree asked if the hearing is to hopefully reverse the decision of disempanelling.**

Dr. Roundy commented yes, but he is off the insurance panels. He stated since the Stipulation and Order says he had sex with a patient Medicare drops them off the panels. He stated he does not believe DOPL wanted to destroy his career and his punishment has been a very painful experience.

Mr. Miles stated Dr. Roundy has worked with DOPL and has always shown contrition. He stated Dr. Roundy signed the Stipulation and Order and is now seeing additional consequences as being dropped from insurance panels ultimately prohibits Dr. Rounding from practicing. He asked if the word "patient" could be removed from the Stipulation and Order as Dr. Roundy did not treat the woman as if she were a patient.

**Dr. Babitz stated the two issues need to be reviewed separately. He stated Physicians are only authorized to prescribe to patients and if a prescription is written for someone they are a patient. Dr. Babitz stated the second issue is the insurance issue and DOPL has no control over the insurance paneling. He stated there are probationers dropped from different panels but some are not dropped from any panels.**

Dr. Roundy disagreed with Dr. Babitz in regard to writing a prescription for someone makes them a patient.

**Dr. Babitz responded it is the Law and a Physician should not write prescriptions for anyone who they do not have the patient relationship with as they need to know the person's health issues before**

**prescribing. He stated he believes the patient/Physician roles became blended for Dr. Roundy as he wrote prescriptions without examinations or charting.**

**Dr. Schaecher requested clarification and asked how many prescriptions were written and the timeframe.**

Dr. Roundy responded there were 6 or 7 prescriptions for Lortab for himself from 2008 to 2009 and then about 23 prescriptions from 2007 through 2010 for the co-worker.

**Dr. Schaecher clarified 23 prescriptions written for a coworker and Dr. Roundy denies there was a patient/Physician relationship and kept no record of the prescriptions. He asked when the romantic relationship began.**

Dr. Roundy responded the romantic relationship began in 2008.

**Dr. Schaecher commented the dates of writing prescriptions and being in a romantic relationship overlap. He stated Dr. Roundy is a psychiatrist and should be aware of boundaries. He asked if Dr. Roundy has had any training in pain management and how many tablets he was prescribing.**

Dr. Roundy responded he has had no training in pain management. He stated he was prescribing 30 to 40 tablets per month to the woman.

**Dr. Babitz stated most probationers are non-compliant with their Order due to information being submitted late or not at all. He stated if the supervisor forgets to submit the report the probationer suffers. He suggested Dr. Roundy contact his supervisor to confirm reports have been submitted when they should be.**

**Ms. Harry stated paperwork is due by the 28<sup>th</sup> of each month. She stated if Dr. Roundy is**

**unemployed he should write “unemployed” on the employment form.**

**Dr. Bennion asked if Dr. Roundy’s probation starts when he starts seeing patients.**

**Ms. Taxin responded Dr. Roundy just started his probation and the Board may count probation time for the course he has taken and the PACE course when it is completed.**

**Dr. Schaecher asked when the probation clock stops.**

**Ms. Taxin responded if Dr. Roundy completes some of the conditions of his Order and is looking for employment within six months then the time will count, but if no efforts are made and no job comes through then the clock will stop.**

**Dr. Schaecher stated the Order states if Dr. Roundy does not work for 60 days the time does not count. He asked if day 61 the Board/Division says the time no longer counts.**

**Dr. Babitz explained as long as Dr. Roundy is completing conditions of his Order the time will count but the clock may stop if he completes all his conditions and is not working. He stated there are many ways a probationer may work. He stated there are probationers who have a practice based on pay as you go. He stated the Board/Division would encourage a practitioner to continue working and take those patients who pay.**

**Ms. Taxin explained sometimes if a probationer is trying hard to obtain employment the Board/Division may consider counting the time. She stated another probationer changed his specialty a little, received additional training and was able to work interpreting medical tests. She stated the intent is for Dr. Roundy to continue working.**

**Dr. Roundy stated MacKay was following the**

procedure in their by-laws which excludes anyone as an employee who is not insurance paneled.

**Dr. Babitz reminded Dr. Roundy to have his supervisor submit a resume and letter stating he has read Dr. Roundy's Stipulation and Order and is willing to assist him in being successful in his probation.**

**Ms. Taxin stated Dr. Roundy's supervisor may call her if he has any questions.**

Dr. Roundy voiced understanding. He then stated the patient/Physician relationship is a question of semantics.

**Dr. Babitz responded writing that many prescriptions for a person makes the relationship a Physician/patient relationship. He stated treating someone on a regular basis makes that person a patient. He stated it is a violation of the Code of Medical Ethics.**

**Dr. Ries asked if the current Order could be amended.**

**Ms. Taxin responded the Board may recommend an amendment if they want to make the Order stronger and add some things but Dr. Roundy would have to agree to the amendment. She stated if Dr. Roundy wants to request any amendments then the Board will also have to agree.**

**Dr. Bennion commented past Orders have required an evaluation and he believes an evaluation might be helpful. He stated it was wrong for Dr. Roundy to prescribe for himself, it was wrong to prescribe consistently for a period of time to someone without documentation of them being a patient and it was wrong to have a sexual relationship with a person who was a patient.**

Dr. Roundy commented he saw Dr. Crookston for a substance use evaluation but the Board might want more of a psychological evaluation. He stated IHC did

their own investigation in May and he could provide that information to the Board to review. He stated IHC determined he did not inappropriately prescribe to someone he should not have prescribed to. Dr. Roundy stated he had an office romance which never affected his patient care and IHC has determined his patients were well taken care of.

**Dr. Babitz commented Dr. Roundy has used the work predator in his comments. He stated an evaluation lets the Board know the individual does not have any predatory tendencies.**

**Dr. Babitz stated there was probably turmoil and prejudices in the unit where Dr. Roundy worked due to his treating a co-worker and having a relationship.**

**Dr. Byrd commented he is aware of many people who met their spouses at work.**

**Dr. Schaecher commented the work place is where you spend your most time but it does not take away from the boundary issues. He stated the position of power a Physician holds is substantive over all co-workers.**

**Dr. Pingree stated he would support removing the word "patient" from the Stipulation and Order.**

**Dr. Schaecher responded he would strongly disagree in removing the word "patient" as Dr. Roundy wrote 23 prescriptions to the woman and then while treating her with prescriptions he started a romantic relationship.**

**Dr. Babitz stated he believes Dr. Roundy should have his hearing with Medicaid with the Stipulation and Order as it is written. He stated if Dr. Roundy comes back to the Board and is able to show the Board how the word "patient" is the reason for being unempanelled then he would be willing to discuss amending the Order.**

**Dr. Bennion asked the Board for comments**

**regarding asking Dr. Roundy to agree to having a psychological evaluation and going to therapy.**

**Dr. Babitz responded he would like to have Dr. Roundy agree to a psychological evaluation and therapy. He stated one of the jobs of the Board is to see Dr. Roundy meets all requirements of his Order but also to be sure he is safe to practice without putting the public at risk and without an evaluation he is not convinced Dr. Roundy would not do the same thing again. Dr. Babitz requested Dr. Roundy think about the request of a psychological evaluation and maybe at a future meeting discuss further and make a motion for Dr. Roundy to obtain one.**

Mr. Miller responded there was an evaluation and a report submitted. He asked if the Board would consider amending the Order by the end of the year so it does not say “sex with a patient” so the public does not see the harsh language.

**Ms. Taxin responded if the Board believes the word “patient” is a problem she could make an amendment now to remove the word. She stated the Board could recommend the Order say “co-worker” and add the requirements of a psychological evaluation and therapy. Ms. Taxin stated she has heard if the word patient is not in the Order then sometimes Medicare/Medicaid do not drop practitioners from insurance panels. She stated maybe there should be further discussion at another Board meeting instead of putting Dr. Roundy and the Board on the spot to make a decision right now regarding an evaluation.**

**Dr. Babitz requested further discussion at the February Board meeting.**

**Ms. Taxin responded she may not be able to amend the word “patient” in the Order in February as she would need to justify that there was an error in filing the current Order. She stated the intent is not to have practitioners/probationers dropped from insurance panels but for them to learn from**

**their mistake and become a better practitioner.**

**Dr. Schaecher commented he does not know if there were any CS dependency issues as Dr. Roundy was prescribing Lortab and Prilosec to the woman. He stated the Board does know some practitioners prescribe these medications for sexual favors but do not know if that was the case with Dr. Roundy. He stated the Medicaid rule is no sexual relationship with a patient, it does not say if you are a psychiatrist and have an alliance with a co-worker you may have a relationship. He stated Dr. Roundy wrote the prescriptions and had a sexual relationship with the woman and that meets the Medicaid definition.**

**Ms. Buhler asked if the prescribing went on for a period of two years then the person became a patient.**

**Dr. Schaecher responded yes. He asked Ms. Woodford when the prescriptions started and when they ended for the woman.**

Ms. Woodford responded Dr. Roundy started writing prescriptions for the woman in November 2007 and the last prescription he wrote for her was April 10, 2010. She stated Lortab and Prilosec were not the only medications prescribed. She stated he also wrote prescriptions for Oxycodone, Xanax, Phentermine and Ambien.

**Ms. Buhler clarified the prescriptions were written over a two and a half year period.**

**Dr. Babitz commented he would still recommend leaving in the word “patient” as the timeline made her a patient prior to the sexual relationship.**

Mr. Miller stated Medicare/Medicaid rely on the DOPL document as they do not conduct their own investigation. He stated they are against high risk prescribers, relationships with patients and fraud.

Dr. Roundy commented the wording in the Order has

affected his employment as a Medicare/Medicaid provider.

**Dr. Pingree asked if a Board member would make a motion to amend the Order by removing the word “patient”.**

**There was no response from Board members.**

**Ms. Taxin stated once an Order is signed the Board never has this type of conversation. She stated the Board has been very generous with Dr. Roundy by discussing this issue. She stated the Order will remain as signed but if Dr. Roundy does not get back on the insurance panel he should contact her as she has written letters in the past on behalf of practitioners. She stated he may also inform the Medicare/Medicaid committee that they may contact her if they have any questions.**

**Dr. Schaecher asked to return to the issue of therapy. He made a motion to amend the Order to include requiring a psychological evaluation and therapy.**

**Dr. Babitz requested the motion be amended to requiring a psychological evaluation with on-going therapy if it is recommended.**

**Dr. Schaecher accepted the amendment to his motion.**

**Dr. Babitz seconded the motion.**

**Following discussion, the Board vote was unanimous.**

**Dr. Babitz suggested the Board make the recommendation and then let Dr. Roundy think about it as it is inappropriate to request him to make a decision at this time.**

Mr. Miller stated Dr. Roundy agreed to what is currently written in the Order and it should stand as written.

Dr. Roundy stated Dr. Crookston did an evaluation and did not make any recommendation for therapy. He requested the Board to review that evaluation.

**Dr. Pingree requested Dr. Crookston's evaluation be submitted for the Board to review at their next Board meeting.**

Mr. Miller responded a copy of Dr. Crookston's evaluation was submitted to DOPL.

**Ms. Taxin commented she has not seen a copy of the evaluation.**

**Ms. Woodford stated she has the copy.**

**The Board determined Dr. Roundy is in compliance with his Stipulation and Order as much as he can be at this time.**

**An appointment will be made for Dr. Roundy to meet again when he is working.**

#### **DISCUSSION ITEMS:**

Controlled Substance Database Registration Update

Ms. Taxin explained the Legislature passed a bill requiring all practitioners who have a CS to register for the DOPL CS database. She stated DOPL has been educating practitioners on what the database offers and there are a lot more practitioners now using the database.

**Dr. Schaecher asked how many practitioners are really using the database and how many are repeat users. He stated he writes so few CS's that he does not need to search the database.**

Ms. Taxin responded she does not know the numbers but will try to obtain the information.

**Dr. Byrd asked if there are any recommendations regarding searching prior to prescribing a CS. He stated he uses the database and has found many patients each week who are doctor shopping. He**

**stated he believes it is in the public's health interest for all prescribing practitioners to review the database on a regular basis. He stated he also believes Pharmacists have some responsibility and should be checking the database. He stated if there are multiple checks on each prescription it would cut down on some of the drug abuse. He asked what Utah is doing to connect our CS database with other States as there is currently no way for other States to check in Utah.**

**Dr. Schaecher responded most other States do not currently have as good a CS database system as Utah.**

**Dr. Chapa commented he would think it would be difficult to check each patient each time a Physician writes a prescription but the mechanism is in place and if used properly could assist Physicians and Pharmacists.**

**Dr. Byrd stated he checks each patient he writes a prescription for. He stated patients scam practitioners all the time and he has been able to catch several.**

**Dr. Babitz stated methadone clinics are not required to document within the database and when the patients come to him for a problem he does not know they have been to the methadone clinic.**

**Dr. Howell stated practitioners who work for the Veterans Administration are not allowed to use the database.**

**Dr. Schaecher stated if Board members or Ms. Taxin is interested in Legislative updates to let him know.**

Ms. Taxin thanked Dr. Schaecher. She stated she believes there are plans to open the Law again this year to address these issues and ideas and help from the Board would be appreciated. She stated she will keep the Board informed.

#### Board Meeting Dates

Ms. Taxin stated she believes the Board should meet again December 8, 2010, as there are a couple of new probationers who will need to meet and the January meeting will be a hearing only.

#### **The Board concurred.**

#### Board Meeting Schedule

The Board noted the following dates for the remainder of 2010 and for 2011 for Board meetings with the quarterly dates highlighted.

December 8, 2010

**January 12, 2011, All Day Hearing**

February 9, March 9,

**April 13, 2010,**

May 18, June 8,

**July 13,**

August 10, September 14,

**October 12,**

November 9 and December 14, 2011

Ms. Taxin stated as per the Board request, meeting dates were scheduled for each month of 2011 with the plan to meet quarterly and the other dates to be cancelled if there is no Board business to conduct.

Ms. Taxin suggest the Board plan to meet February 9, 2011, and then assess for future meetings.

**Dr. Bennion commented how disruptive it is to plan for a hearing and then be notified the day before that the hearing has been cancelled.**

Ms. Taxin responded she has discussed the issue with the AG's office.

#### **CORRESPONDENCE:**

American Society of Bariatric Physicians  
Letter regarding reevaluating the ruling on  
Anorectic Class III Medications

Ms. Taxin requested the Board to review the information and give her feedback for responding.

**Following the review the Board recommended Ms. Taxin respond the Utah Board is comfortable with current policies and will not be making any changes to the ruling on Anorectic Class III**

**medications.**

**NEXT MEETING SCHEDULED FOR:** December 8, 2010

**ADJOURN:** The time is 12:35 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 8, 2010  
Date Approved

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

December 6, 2010  
Date Approved

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