

MINUTES

**UTAH
PHYSICIANS LICENSING
BOARD MEETING**

July 11, 2012

**Room 210 – 2nd Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:06 A.M.

ADJOURNED: 3:04 P.M.

Bureau Manager:
Board Secretary:
Compliance Assistant:

Noël Taxin
Karen McCall
Debra Troxel

Board Members Present:

Elizabeth F. Howell, MD, Chairperson
John W. Bennion, Ph.D.
Kristen Ries, MD
Paul J. Affleck, MD, Met Telephonically
Kenneth L. Schaecher, MD
Gary A. Hale, R. Ph.
David D. Byrd, MD
James R. Fowler, MD
Daniel J. Parker, MD
Marc E. Babitz, MD

Board Members Absent:

Richard W. Chapa, MD

Guests:

Misoo Abele, MD
Daniel Villella, PA Student
Tyna-Minet Anderson, Attorney
Casey Hill, UMA
Mark Brinton, UMA

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes from the May 16, 2012 Board meeting were read.

Dr. Babitz made a motion to approve the minutes as read. Dr. Ries seconded the motion. **The Board vote**

was unanimous.

APPOINTMENTS:

9:20 am

Debra Troxel, Compliance Update

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

Ms. Troxel reported **Dr. Daniel J. Albertson** is currently in compliance with his Stipulation and Order as much as possible for his first meeting and is in compliance with the Nebraska Order.

Ms. Taxin briefly explained the facts of the case.

Dr. Howell commented the Nebraska probation is scheduled to terminate in August 2013.

Ms. Troxel reported **Dr. John R. Corkery** is currently out of compliance with his Stipulation and Order. She stated Dr. Corkery is not working for the ski resort as ski season has ended. She reminded the Board that Dr. Corkery requested a reduction in the number of hours he is required to work for the time to count and the Board agreed to reduce the hours. She stated Dr. Corkery was looking into working at the Maliheh Clinic but needs to find a supervisor.

Ms. Troxel stated by talking with Dr. Corkery several times he disclosed he has gone back to First Med to work and has not notified the Division of his working at Meliheh or First Med, he has not submitted a practice plan for either location and does not have an approved supervisor for either location.

Ms. Troxel stated she explained the importance of Dr. Corkery understanding the requirements of his Order and how he needs to read the Order to be familiar with his requirements to complete the requirements as outlined.

Dr. Howell asked if the Board could request a psychological evaluation.

Ms. Taxin read the Order and responded yes but

she believes Dr. Corkery should be given the opportunity to do things right as he has only met one time with the Board and if he does not understand then require him to obtain a psychological evaluation. She stated she would probably recommend Pine Grove as they do a thorough evaluation and make recommendations.

Dr. Schaecher stated if a psychological evaluation is request then the Board needs to be very clear regarding whom he should contact as Dr. Corkery has continued to do things he should not be doing without Board/Division approval.

Ms. Taxin recommended the Board interview Dr. Corkery and review the Order requirements with him. She stated the Board should let him know their concerns if he does not understand and follow the conditions then the Board will request he go to Pine Grove for a psychological evaluation.

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

Ms. Taxin stated she received a couple of comments of concern from two Board members regarding the revised practice plan, a few comments saying the practice plan should be approved and no comments from some Board members. Ms. Taxin stated Mr. Davis's report was very thorough. She stated Mr. Marshall talked with Dr. Sadiq and asked him to do more supervision and provide more information on the report, which he did. She stated Dr. Sadiq was very clear that he believes Dr. Chowdhury is competent in doing spinal taps. She asked if the Board will accept Dr. Sadiq's report and recommendation or if they want him to observe more spinal taps.

The Board responded they would accept Dr. Sadiq's report but reserve the right to later request he observe if they believe it to be necessary.

Dr. Byrd commented he knew Mr. Davis at St. Mark's and he has no medical training to be able to

review charts appropriately.

Ms. Troxel commented she believes Mr. Davis attended several appointments with Dr. Chowdhury and then reviewed the chart notes after to be sure they were appropriate.

Dr. Schaecher voiced concern regarding someone reviewing charts who has no medical background to understand or know what should be in the charts.

Ms. Taxin suggested the Board inform Dr. Chowdhury, Mr. Marshall and Mr. Davis that they are comfortable in terminating the spinal tap observations but recommend a physician come in to review the charts and Mr. Davis continue to work on communications.

Dr. Ries asked why Dr. Sadiq is not reviewing the charts.

Ms. Troxel responded she believes it is the time commitment required to review 20% of Dr. Chowdhury's charts.

Dr. Byrd asked if the 20% chart review requirement could be reduced to 10% and ask Dr. Sadiq if he would be willing to review.

Ms. Taxin responded the Board could make that recommendation and suggest Mr. Davis continue to work on evaluation and education of the communications issues.

Ms. Troxel reported **Dr. Donald N. Harline** is currently in compliance with his Stipulation and Order but the chaperone log had a few errors.

Dr. Byrd asked what is meant by computer monitoring in Dr. Harline's Order.

Ms. Taxin explained it was recommended in his evaluation Dr. Harline install a program to filter/monitor internet programs. She stated it was

recommended Dr. Harline attend recovery meetings so the Board should clarify if he is attending any support groups. She clarified it is not required he attend but it would assist in his recovery.

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

Ms. Taxin stated Dr. Pickens mentioned he and Dr. Youngblood were going into a partnership. She stated the Board should clarify that partnership and if they believe there is a conflict he may need to have a different supervisor. She stated the Board should also ask for an update regarding the Florida criminal issue.

Ms. Troxel reported **Dr. Robert I. Simpson** is currently in compliance with his Stipulation and Order. She stated his father recently passed away and it was on the one year anniversary of Dr. Simpson's sobriety. Ms. Troxel stated Dr. Simpson will bring the supervisor report with him.

Mr. Hale asked if Dr. Simpson still has some legal issues through the drug court.

Ms. Taxin responded she is not sure and Mr. Hale should clarify with Dr. Simpson.

Ms. Troxel reported **Dr. David M. Anderson** is currently in compliance with his Stipulation and Order. She stated there are no controlled substance prescriptions on the CSD report this quarter.

Ms. Taxin stated Dr. Anderson has met with the Dental Board and disclosed he was charged criminally which was a huge stressor for him but he has maintained his sobriety. She stated he also disclosed he was dropped from more insurance panels and his business has been slow but he has been spending more time with his family. Ms.

Taxin asked if the Physicians Board wants to continue monitoring Dr. Anderson or let the Dental Board monitor as his practice is more in the Dentistry realm.

Dr. Fowler commented Dr. Anderson wants to retain his Physicians license so he should meet with the Physicians Board or he could surrender that license.

Other Board members agreed with Dr. Fowler.

Ms. Taxin suggested the Board inform Dr. Anderson that they want him to meet with this Board as he has a Physicians license.

Ms. Troxel reported **Dr. Ludmil K. Manov** is currently in compliance as much as possible for his first appointment. She briefly explained what brought Dr. Manov before the Board.

9:50 am

Dr. Daniel J. Albertson, Initial Probationary Interview

Dr. Albertson met for his initial probationary interview.

Dr. Howell conducted the interview.

Board members and Division staff were introduced.

Dr. Albertson commented his supervisor, Dr. Lu, is available to meet telephonically.

Ms. Taxin asked if Dr. Lu could meet by cell phone as Dr. Affleck is attending the meeting telephonically. She then went out into the hall and spoke with Dr. Lu.

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

Dr. Albertson responded he is a recovering alcoholic and drug addict. He stated his recovery was not constant and he left medicine after completing medical school. Dr. Albertson stated he has gone back into practicing medicine and entered into an Order with

Nebraska and had a positive drug/alcohol test. He stated was given the choice of surrendering his license or to get some help and he chose to get some help by going to an inpatient treatment facility. He stated he has been doing ok since and has had the same sponsor in Nebraska for four years and today, July 11, 2012, is his four year anniversary of sobriety. Dr. Albertson stated he is now in Utah for a 12 month fellowship and is considering a second 12 month fellowship.

Dr. Howell thanked Dr. Albertson for the explanation and asked if the Nebraska monitoring is scheduled to be completed in August 2013.

Dr. Albertson responded yes. He stated he has learned that if he attends AA, works with his sponsor and stays in touch spiritually, he does not have the urge to drink. He stated moving was very stressful but he has not had any thoughts of drinking enter his mind and as soon as he arrived in this area he started attending AA meetings.

Dr. Howell asked how Dr. Albertson is building his support system in this area.

Dr. Albertson responded he was honest on his applications for his license and fellowships and those that offered him positions were supportive. He stated he is now developing his employment relationships and relationships with his AA program.

Dr. Howell suggested Dr. Albertson also look into International Doctors in Alcoholics Anonymous (IDAA). She stated the IDAA has a conference every June and it is a good resource for alcoholics and drug addicts. She asked what else Dr. Albertson thinks will be challenging now that he is in Utah.

Dr. Albertson responded he believes his next challenge will be to find a job after he has completed the fellowship as he has to go over the same disciplinary information with each application. Dr. Albertson stated when he receives his Board Certification he will then decide if he wants to stay in Utah or move. He stated his Nebraska sponsor has encouraged him to

find a sponsor in this area and that will be one of his goals.

Dr. Howell stated Dr. Albertson can go anywhere in the world to attend AA meetings and have an instant support system. She stated since his recovery is established it is a good thing for him to continue attending AA meetings.

Ms. Taxin stated she talked with Dr. Lu, Dr. Albertson's supervisor, and she stated the program is very supportive of him as they believe he has much to offer. She stated Dr. Lu will supervise Dr. Albertson in addition to another hands on direct supervisor. Ms. Taxin stated Dr. Albertson will need to request Dr. Lu and the additional supervisor to submit their Vita's for his file. She stated they may coordinate their reports as one monthly report and they are due monthly for the first six months and then Dr. Albertson may request the reports be due quarterly.

Ms. Troxel commented Dr. Albertson has already signed up with the drug/alcohol testing company and has tested. She stated the results have not yet been posted.

Dr. Schaecher discussed social stresses and cautioned Dr. Albertson to be in tune with himself so as not to relapse.

Dr. Howell asked if Dr. Albertson is planning to apply for a Controlled Substance license and DEA registration.

Dr. Albertson responded no as it will not be needed for his fellowship. He explained he will do the work and his supervisor will review everything he does and sign off.

The Board determined Dr. Albertson is in compliance as much as possible for his first appointment.

An appointment was made for Dr. Albertson to meet again September 12, 2012.

10:45 am

Dr. John R. Corkery, Probationary Interview

Dr. Corkery met for his probationary interview.

Dr. Byrd conducted the interview.

Dr. Byrd requested Dr. Corkery to update the Board regarding his work since he last met.

Dr. Corkery responded he met with the Maliheh Clinic and First Med.

Dr. Byrd asked if Dr. Corkery is working at both clinics.

Dr. Corkery responded he left the last meeting with the understanding the Board wanted him to start working right away so he gave a copy of his Order to the Maliheh Clinic and worked there for one week. He stated he has not worked since as he was informed he was to submit information to the Division prior to working. Dr. Corkery stated he also submitted a copy of his Order to First Med and then started working there. He stated he is not sure what the Board wants him to do.

Dr. Howell responded Dr. Corkery needs to be working for his probationary time to count. She stated prior to approval to work, Dr. Corkery must submit a practice plan for each location and a Vita and letter from the proposed supervisors at each location for the Board/Division to review and approve.

Dr. Byrd asked again if Dr. Corkery has been working at First Med.

Dr. Corkery responded yes, he worked one shift. He stated he was of the understanding that he only needed one supervisor but now understands he needs a supervisor for each work location.

Ms. Taxin asked if Dr. Corkery plans to work at the Maliheh Clinic and First Med.

Dr. Corkery responded yes, if the Board approves.

Ms. Taxin stated he will need a supervisor for each location, both will need to submit supervision reports and he will need to submit a practice plan for each location for the Board to review.

Dr. Corkery responded he is in the process of obtaining a supervisor for the Meliheh Clinic. He stated the Director is new and a nervous about supervising. He stated the proposed supervisor for First Med is the only Physician who works there on a regular basis and there is another Physician who works there once a month.

Ms. Taxin offered to contact First Med and speak with the proposed supervisor to discuss the responsibilities of supervision and her role and then decide if approval is appropriate. She stated Dr. Corkery has prescribed to that proposed supervisor and if she is approved then he can no longer prescribe to her. She then stated the Director at the Meliheh Clinic is welcome to call her for clarification on supervision.

Dr. Babitz clarified if the practice plans are approved Dr. Corkery may start working but he must work a minimum of 10 hours a week for his probationary time to count.

Dr. Byrd stated Dr. Corkery always needs to let the Board/Division know if he plans to work anywhere else as the Board/Division must pre-approve the clinic as well as the supervisor and practice plan prior to his working.

Dr. Bennion made a motion to tentatively approve Dr. Corkery's practice plan for First Med pending approval of a supervising Physician.

Dr. Schaecher seconded the motion.

The Board vote was unanimous.

Dr. Byrd asked if Dr. Corkery has worked with athletic events where he has given patients medications since he met with the Board in May

and if he will still be the doctor at the outdoor summer sporting events.

Dr. Corkery responded no. He explained he was not going out to the sporting events to give out medications. He stated he only gave medications to patients who were going to have an x-ray.

Dr. Byrd asked if Dr. Corkery now understands why he should not have practiced medicine the way he did at sporting events.

Dr. Corkery responded he believes he should have been documenting with a patient chart and should not have dispensed medications. He stated he only gave out medications about six times a year and it was medically justified.

Dr. Babitz commented Dr. Corkery has said he only gave out medications about six times a year but the DEA has said over 1300 pill were unaccounted for. He asked for an explanation.

Dr. Corkery explained he had some patient charts and medications at his house and some in his vehicle. He stated he is providing his full explanation to the DEA and they will either provide that information to the Division or he will then provide it to the Division.

Ms. Taxin requested Dr. Corkery to make a copy for the Division of the information he submits to the DEA.

Dr. Byrd asked if Dr. Corkery is now clear on what he needs to do regarding working, his supervision and the practice plans.

Dr. Corkery responded yes.

Ms. Taxin told Dr. Corkery to contact Ms. Troxel if he had any questions.

The Board determined Dr. Corkery is out of compliance with his Stipulation and Order based on the lack of a pre-approved supervisor and failing to submit practice plans for pre-approval.

An appointment was made for Dr. Corkery to meet again September 12, 2012.

Dr. Corkery left the meeting.

Dr. Byrd asked Board members if they had concerns regarding Dr. Corkery's competency. He stated Dr. Corkery has had issues with clinical judgment in the past and that is why he is on probation.

Dr. Schaecher responded he was somewhat stern with Dr. Corkery at the May meeting so maybe Dr. Corkery was a little guarded today.

Ms. Troxel responded she had been very direct with him for not following his Order.

Ms. Taxin recommended the Board give Dr. Corkery some time and see what the supervision reports say before making a decision that he should obtain a competency evaluation. She reminded them this was his second meeting.

Dr. Schaecher asked the factors in approving a supervisor.

Ms. Taxin responded when she considers a proposed supervisor she looks for an active licensee with no complaints, letters of concern or probation but if she sees something that could be a concern she recommends the probationer choose a different person to supervise them. She stated if she determines the proposed supervisor would work then she will request the proposed supervisor to meet with the Board at the next meeting.

11:10 am

Dr. Arif Chowdhury, Probationary Interview

Dr. Chowdhury, Mr. Marshall and Mr. Davis met for his probationary interview.

Dr. Schaecher conducted the interview.

Dr. Schaecher commented it appears there has only been one spinal tap in the last two months

according to Dr. Sadiq's report. He stated Mr. Davis's report was also received.

Dr. Chowdhury responded he has done everything the Board has requested.

Ms. Taxin asked if Dr. Chowdhury has learned anything, what the difference is between before probation and now and to explain if anything has changed.

Dr. Chowdhury responded there are always learning opportunities. He stated his patients come first and he takes time to answer questions as appropriately as he can.

Dr. Schaecher stated Mr. Davis's report notes he and Dr. Chowdhury have discussed the value of apologizing to patients if he gets behind on his time. He stated one of Dr. Chowdhury's issues was communications and questioned if by improving his communications has apologizing helped to alleviate issues in getting behind on appointments.

Dr. Chowdhury responded he does now apologize if he is late or he asks a staff member to notify patients.

Ms. Taxin asked how Dr. Chowdhury has changed his practice in regard to releasing patient information.

Dr. Chowdhury responded he now requires everything that goes out of the office to come through him first to initial, date, review, etc.

Dr. Schaecher asked what volume of medical information is requested.

Dr. Chowdhury responded he seldom has anyone request their records. He stated he now makes sure all referrals are given out within 24 hours of the request by printing the records, checking, initialing, dating and releasing the records.

Dr. Schaecher commented the Board has concern regarding Mr. Davis not being a clinician and

reviewing technical charts. He stated the Board believes the chart review should be by another clinician. He asked if Dr. Sadiq would be willing to review charts.

Mr. Marshall responded he would ask Dr. Sadiq if that is the Board recommendation and find a way to make it work.

Dr. Byrd commented the Board is satisfied with Dr. Sadiq's observations of the spinal taps but if he would review the charts and write reports it would give the Board a better idea of Dr. Chowdhury's charting skills.

Dr. Schaecher stated Mr. Davis's report should only include what has occurred during their meetings, what they are working on and how it is being resolved.

Ms. Taxin commented Mr. Davis's report was thorough but if Dr. Sadiq could review the charts to be sure Dr. Chowdhury is offering the proper clinical services it would be helpful. She stated if Dr. Sadiq sees a concern after looking at the whole picture then the Board can address the concern. She stated Dr. Sadiq should talk with Dr. Chowdhury to coordinate all the services being offered by Dr. Chowdhury. She suggested Dr. Schaecher or Dr. Byrd contact Dr. Sadiq to explain the Board's request and position.

Dr. Babitz commented after Dr. Sadiq reviews ten charts a month he should have a discussion with Dr. Chowdhury.

Mr. Marshall asked if the Board is anticipating the chart review to be a two year process.

Dr. Schaecher responded he believes six months is reasonable at this time.

Dr. Howell stated if at the end of six months the Board believes the review needs to continue then they will address it again.

Mr. Marshall asked if Mr. Davis would also need to continue reviewing charts and would Dr. Sadiq be required to meet with the Board.

Ms. Taxin responded Mr. Davis would not need to continue reviewing charts as Dr. Sadiq would review and report on the chart review but that Mr. Davis and Dr. Sadiq could coordinate as Mr. Davis is working on the communication piece. She stated Dr. Sadiq would not need to meet with the Board unless an issue comes up.

Mr. Marshall requested he be given time to speak with Dr. Sadiq before Dr. Byrd contacts him.

Ms. Taxin requested Mr. Marshall to notify Ms. Troxel after he speaks with Dr. Sadiq and then she will contact Dr. Byrd.

Dr. Babitz again stated Mr. Davis's report only needs to address the communications issues and not try to convince the Board Dr. Chowdhury is a good man because he donates his services and treats the under served.

Mr. Davis responded he included insurance and population type information as part of the requirement was to address the ethical part of Dr. Chowdhury's practice.

Dr. Babitz thanked Mr. Davis for being conscientious but for the future reports he will only need to address the communications issues regarding what the issues are and how they are being worked on.

Dr. Schaecher made a motion to discontinue observation of lumbar punctures.

Dr. Bennion seconded the motion.

The Board vote was unanimous.

Dr. Schaecher made a motion for a clinical review of ten of Dr. Chowdhury's charts be reviewed each month by a Physician supervisor with a report

being submitted to the Division.

Dr. Bennion seconded the motion.

The Board vote was unanimous.

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

An appointment was made for Dr. Chowdhury to meet again September 12, 2012.

11:30 am

Dr. Donald N. Harline, Probationary Interview

Dr. Harline met for his probationary interview.

Dr. Byrd conducted the interview.

Dr. Harline reported he has been quite busy the last two months and averages about 14 patients per day now.

Dr. Byrd asked if Dr. Harline is seeing both male and female patients.

Dr. Harline responded yes. He stated he is doing primary care practice as well as pain management.

Dr. Byrd asked Dr. Harline to report on Dr. Oakey's feedback.

Dr. Harline responded he and Dr. Oakey review and discuss the DOPL reports, the urinalysis reports, etc. and Dr. Oakey gives feedback at that time.

Dr. Byrd stated there were some errors on the chaperone log.

Ms. Taxin explained some things were left off the chaperone log. She stated Dr. Harline needs to be sure to review the log prior to submitting it to be sure all areas of the log have been filled in appropriately.

Dr. Harline responded he will start reviewing the log.

Dr. Byrd asked if Dr. Harline has had any

encounters with female patients that were of concern.

Dr. Harline responded no. He stated patients ask about the chaperone and he just says it is the clinic policy.

Dr. Byrd stated Pine Grove recommended blocks be put on all computers. He asked if Dr. Harline has done that.

Dr. Harline responded the clinic is in the process of obtaining a new server and the computer person has not yet installed the blocks on the new system but will be installing the block when the program installation is complete.

Dr. Howell requested Dr. Harline to ask the computer person to write a short note when the block has been installed for Dr. Harline's file.

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

Dr. Harline responded he has been doing other things. He stated the last meeting he attended was about five months ago as he has had a busy summer with his work and family activities.

Dr. Howell recommended he return to attending his meetings before he needs to attend. She recommended he attend at least one meeting a week as it is an easy way to keep tabs on himself and is a preventative program.

Dr. Byrd stated the Board recommendation is to attend at least one meeting a week. He asked if that would be possible.

Dr. Harline responded yes.

Dr. Schaecher commented if Dr. Harline does not make it part of his routine then it does not happen.

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

An appointment was made for Dr. Harline to meet again September 12, 2012.

11:45 am

Dr. James E. Pickens, Probationary Interview

Dr. Pickens met for his probationary interview.

Dr. Ries conducted the interview.

Dr. Ries asked Dr. Pickens to explain his relationship with Dr. Youngblood.

Dr. Pickens responded he has moved his office to Dr. Youngblood's building as he had some extra space and it is an area where he can get more exposure.

Dr. Ries asked if Dr. Pickens is renting the space.

Dr. Pickens responded no. He stated Dr. Youngblood is letting him use the space for now and if he starts making an income then he will pay rent.

Dr. Ries stated Dr. Pickens needs to be careful with the relationship as Dr. Youngblood is his supervisor. She asked Dr. Pickens to explain what is happening with the Florida case.

Dr. Pickens responded his appeal was denied and he is going through the Supreme Court. He stated he will report to the Board as soon as he knows something.

Dr. Ries asked if moving to Sandy has helped with the number of patients Dr. Pickens sees.

Dr. Pickens responded he has not seen any patients yet at this new location as he only moved last Sunday but he sometimes has ten patients in a day and sometimes he has two or three in a day.

Dr. Ries asked if Dr. Pickens is still interested in treating weight loss.

Dr. Pickens responded yes.

Ms. Troxel asked if the Florida Courts gave Dr. Pickens a date to report to prison.

Dr. Pickens responded he was told he is out on probation but he had to put his house up for the bond. He stated he was told the courts will contact him and give him up to 6 weeks to report but he has not been contacted with any date.

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

An appointment was made for Dr. Pickens to meet again September 12, 2012.

12:00 pm

Dr. Robert I. Simpson, Probationary Interview

Dr. Simpson met for his probationary interview.

Dr. Howell conducted the interview.

Dr. Simpson reported his work at the 4th Street Clinic is going well and he is enjoying it. He stated when he first came back to medicine he was wondering if he really wanted to continue being a doctor but the 4th Street Clinic has a lot going on all the time and is a fun place to work. He stated the employees are special and the patients are special with real medical problems. He stated he is working Monday through Friday now for about 10 hour days and he no longer takes work home with him which makes a good balance for him. Dr. Simpson stated his father passed away a few weeks ago which was on the anniversary of his sobriety. He stated he was able to resolve the long standing issues with his father and heal some wounds. Dr. Simpson stated he attends between three and five meetings a week and talks with his sponsor nearly daily. He stated he is on Step 9 and he is still working on setting up a new program.

Ms. Taxin stated the Division received the reports and the supervisor provided an audit of the legend drugs Dr. Simpson is prescribing.

Dr. Howell commented the report was very positive. She stated she talked with Dr. Simpson's supervisor and she reported he is doing well at the clinic. She asked if everyone at the clinic is aware of his recovery.

Dr. Simpson responded yes.

Dr. Howell asked if Dr. Simpson is still doing the drug court.

Dr. Simpson responded yes. He stated he goes in on Thursdays every three weeks and has support group activities. He stated they do not do the drug testing as they have agreed to allow him to test through Affinity and submit the reports to them.

Dr. Howell asked how much longer Dr. Simpson will be going to the drug court.

Dr. Simpson responded about a year. He stated he has had no cravings for about nine months now.

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

An appointment was made for Dr. Simpson to meet again September 12, 2012.

Dr. Schaecher asked when Dr. Simpson's probation started.

Ms. Taxin responded it started in March 2012.

Dr. Schaecher asked if it is about time to think about reducing the chart review percentage.

Ms. Taxin responded September would be a good time to discuss it.

12:15 pm

Dr. David M. Anderson, Probationary
Interview

Dr. Anderson met for his probationary Interview.

Dr. Byrd conducted the interview.

Dr. Anderson reported he went to court on the possession charges and did a plea in abeyance. He stated the plea is held for a year and if he does not do what he should he could go to jail and the charges go back to a felony. He stated he sees about ten patients each week but is starting to do more advertising. Dr.

Anderson stated he has the patient load but they are going to his partner as he is still on the insurance panels. He stated he also believes the economy has something to do with the cash flow patients.

Dr. Byrd asked if Dr. Anderson has any access to drugs or writing of prescriptions.

Dr. Anderson responded no. He stated the office manager and Dr. Brown have the only keys to the medications and they also control the nitrous oxide. He stated if a patient needs medication he contacts Dr. Brown who comes in to give the medication to the patient.

Dr. Byrd stated the supervision reports have been positive. He then asked if the interaction with Dr. Crookston and Mr. Dusoe have been productive.

Dr. Anderson responded yes.

Dr. Howell commented Dr. Anderson does not appear as stressed or depressed as he was at the last meeting.

Dr. Anderson responded he was very stressed and depressed at the last meeting. He stated his wife's family has been very supportive and he also receives support from attending the group meeting and from some colleagues. He reported he has had no cravings to relapse.

Dr. Byrd asked how Dr. Anderson spends his spare time.

Dr. Anderson responded he reads a lot, takes the family to the Bear Lake property and spends time with his kids. He stated he is still trying to sell the property at Bear Lake.

Dr. Byrd asked Dr. Anderson to report on his meeting with the Dental Board.

Dr. Anderson responded he is still meeting with the Dental Board and it has been a positive experience for him.

Ms. Taxin reminded Dr. Anderson of his question regarding if he should meet with the Physicians Board or the Dental Board. She stated the Physicians Board wants him to continue meeting with them as long as he has a Physicians license.

Dr. Anderson responded he will continue to meet with both Boards.

Dr. Bennion asked if the Physicians Board and Dental Board have the same expectations.

Dr. Anderson responded yes.

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

An appointment was made for Dr. Anderson to meet again September 12, 2012.

12:30 to 1:00 pm

WORKING LUNCH

1:00 pm

Dr. Ludmil K. Manov, Initial Probationary Interview

Dr. Manov and Tyna-Minet Anderson, his attorney, met for Dr. Manov's probationary interview.

Board members and Division staff were introduced.

Mr. Hale conducted the interview.

Mr. Hale requested Dr. Manov to briefly explain what brought him before the Board.

Dr. Manov explained he is a Psychiatrist and a co-worker complained to the Division. He stated they had a professional relationship which became more personal over time. Dr. Manov stated he has never had this type of relationship before. He explained the other party opened her Social Work practice and offered to share the office with him. He stated they shared the office for a year and then he moved into another building. Dr. Manov stated they became close at a residential treatment center they both worked at and would discuss personal issues but nothing romantic happened. He stated when he obtained his

own office he suggested they do lunch or dinner and she suggested dinner. He stated a few months later he was cleaning out his old office and they met while he was taking out some garbage. He stated she went over to see the new office where he gave her a kiss on the cheek and she pushed him away and asked him to behave himself. He stated he thought she was teasing so he tried again and again she asked him to behave. He stated he then asked if they were still having dinner and she said yes if he would behave. Dr. Manov stated they did not have dinner but she called the police with a complaint of sexual harassment.

Dr. Schaecher asked if the civil charges were dropped as the Board was curious as to why this was not legal action rather than DOPL action.

Ms. Anderson answered that the extent of the civil investigation was a phone call and then the civil charges were dropped.

Dr. Manov responded he received a phone call from a DOPL Investigator in March which was about 7 ½ months after the incident.

Dr. Schaecher asked if Dr. Manov has had any contact with the individual since.

Dr. Manov responded no.

Dr. Byrd asked if he has had any comparable situations before.

Dr. Manov responded no.

Ms. Taxin commented the complaint was for more physical contact than Dr. Manov disclosed.

Dr. Manov responded yes, that was the complaint.

Dr. Schaecher asked how long Dr. Manov had known the individual.

Dr. Manov responded he had known her about 3 1/2 years.

Dr. Schaecher clarified Dr. Manov and the individual had social engagements where they had personal conversations. He then asked if the individual shared anything that would have suggested she had sensitivity toward intimate intrusions.

Dr. Manov responded no. He stated when she left him on the night of the incident she did not appear particularly upset as he watched her walk slowly to her car across the parking lot.

Dr. Bennion asked if they shared hugging affection during the time he knew her.

Dr. Manov responded yes.

Dr. Schaecher commented the civil investigators would have had to give an explanation regarding why they dismissed the complaint.

Dr. Babitz responded if the Police cannot find enough evidence they cannot file charges.

Dr. Byrd asked if there was any additional interaction after the incident.

Dr. Manov responded no.

Dr. Byrd asked if Dr. Manov believed at the time the individual was interested in pursuing a relationship with him.

Dr. Manov responded yes.

Dr. Schaecher asked if Dr. Manov retained legal counsel when he was presented with the DOPL investigation.

Dr. Manov responded no. He stated he did seek legal counsel after.

Dr. Schaecher asked if he had his attorney present when he signed the Stipulation and Order.

Dr. Manov responded yes. He stated he signed as he

did not want any confrontation and did not want any interruption of his work which could have happened if there was a hearing.

Ms. Taxin commented the Investigator had reported there were other people who testified regarding the incident and it was much more physical than Dr. Manov has presented today. She stated Dr. Manov has agreed and signed the Stipulation and Order and questioned why the Board was questioning the investigation, the complainant and the situation. She stated the investigative file lists some very graphic inappropriate behavior and those things were taken out of the final Order during negotiations but that if all parties want the graphic information presented that it will become public record. Ms. Taxin stated Dr. Manov signed the Order and if there was information in the Order that was not true then he should not have signed it. She stated the Board needs to deal with the Order as it is written.

Dr. Byrd asked Dr. Manov to explain what he believes he did wrong in the situation.

Dr. Manov responded he hugged and kissed the individual and then tried to do it again. He stated he has now changed his practice from a solo practice to a group practice in order to prevent similar conditions.

Dr. Schaecher commented the Board is struggling to try to understand the full context of the incident in order to know how to monitor.

Dr. Parker stated he would recommend a comprehensive evaluation.

Dr. Ries responded the Order is for two years only. She stated she does not believe a comprehensive evaluation is necessary. Dr. Ries noted the Order does require Dr. Manov to have a chaperone when treating female patients. She further stated Dr. Manov is a Physician/Psychiatrist and the other party is a Social Worker. She stated there is a great difference in power between the two

professions and even with a relationship the power is still there.

Dr. Bennion asked if it would be possible to obtain a written statement from the investigator regarding the full incident.

Ms. Taxin responded if the Board wants to hear the full information then there should be a hearing. She stated there was a lot of detail in the investigation and investigators do not settle with a Stipulation and Order casually. Ms. Taxin again stated Dr. Manov signed the Order and the Board needs to monitor as recommended in the Order.

Dr. Hale asked if Dr. Manov brought a practice plan for the Board to review.

Dr. Manov responded yes and submitted his practice plan. He stated he would like to propose Steven Szykula, Ph.D., a Psychologist, to be his supervisor.

Dr. Howell commented Dr. Szykula is not a Psychiatrist.

Dr. Babitz suggested Dr. Manov ask one of his Physician/Psychiatry colleagues and then submit the name and resume as a proposal.

Mr. Hale asked if Dr. Manov had any questions regarding his Order.

Dr. Manov responded no. He stated he has reviewed the Order already.

Ms. Taxin recommended Dr. Manov register and attend the required PACE course as soon as possible. She stated he should also get the proposed supervisor information submitted soon and when the supervisor has been approved then Ms. Troxel will contact Dr. Manov and give him the required forms for the supervisor to submit.

After review of the proposed practice plan, Mr. Hale made a motion to approve the practice plan.

There was Board discussion and Mr. Hale then revised his proposal to approve the proposed practice with the amendment of the supervisor.

Dr. Babitz seconded the motion.

The Board vote was unanimous.

The Board determined Dr. Manov is in compliance with his Stipulation and Order as much as possible for his first appointment with the Board.

An appointment was made for Dr. Manov to meet again September 12, 2012.

Ms. Anderson asked if the Board was going to decide if Dr. Manov needs to go to Pine Grove.

Ms. Taxin responded the Pine Grove requirement is on hold for now. She stated Dr. Manov made a very poor decision and it was not a pattern of behavior. Ms. Taxin stated she would expect a Psychiatrist to be more aware of the boundaries.

1:45 pm

Jeffrey V. Wright, ND, Discussion Regarding Proposed Rules for Naturopathic Physicians Prescriptive Practice

Dr. Wright was unable to attend the meeting.

Ms. Taxin explained that Sally Stewart, the Bureau Manager for the Naturopathic Physicians Board, requested the proposed Rules be reviewed by the Physicians Board and to give feedback prior to her filing.

Ms. Stewart met with the Board and explained the education, examinations and internships for the Board. She stated most States now have licensure for Naturopathic Physicians. Ms. Stewart stated Dr. Wright and Dr. Bramwell have written comments for the Board to review.

Mr. Brinton commented he did some research and found the accredited program Dr. Wright refers to in his letter is one out of six accredited programs in the United States and the website listed 13 States that have licensure with 12 giving prescriptive authority.

Following discussion, Dr. Byrd made a motion to oppose the proposed Rules which would expand the prescriptive authority of Naturopathic Physicians as it would put the public at risk.

The motion died for lack of a second.

Dr. Byrd then made a motion to oppose the proposed Rules as written.

Dr. Babitz seconded the motion.

Dr. Howell, Dr. Bennion, Dr. Ries, Dr. Byrd, Mr. Hale, Dr. Fowler, Dr. Parker and Dr. Babitz voted in favor of the motion.

Dr. Schaecher did not vote as he believes there is not enough information to fully evaluate and/or justify the proposed Rules.

Dr. Howell's Comments

Dr. Howell requested, in the future, for the Board needs to stay on task with probationers and be sure they are in compliance with their Stipulation's and Order's as they are written. She stated investigations have already taken place and with the negotiations the Order's before the Board are the final negotiated Orders.

Dr. Babitz voiced agreement with Dr. Howell. He stated the Board has an obligation to protect the public and does not need to hear about each case.

Dr. Byrd commented he finds it difficult to proceed with requirements in the Orders when he does not have all the facts.

Ms. Taxin stated Physicians are expected to behave at a higher standard and should know better than to make some of the poor decisions that have come before the Board recently. She stated a case that comes before the Board is usually either not a one time incident or is egregious. Ms. Taxin stated that the Division has many different ways to deal with violations and errors and most of the time smaller sanctions are implemented so if a case comes before

the Board she would hope that they entrust in the system and not think the Division is being punitive or unethical. She stated the Board needs to look at public safety and is charged with protecting the public. She stated when a Order is offered she always informs the licensee that they do not have to sign the Order if they do not agree to all facts and conditions but once they sign they are then expected to meet the conditions of the Order. She stated she usually recommends they take the proposed Order to review and then gives a deadline for them to submit the signed Order. Ms. Taxin stated if the Board wants to go to hearings for each case she could make the recommendation to the Director.

Dr. Howell concluded the discussion by stating the Board needs to look at probationers and the Orders more objectively and not be so concerned about the specifics of each case.

DISCUSSION ITEMS:

FYI

Ms. Taxin reminded the Board of the scheduled hearing on August 15, 2012, for Dr. Gary D. Slavens. She explained Dr. Slavens license was revoked in another State and, based on the information received, she determined the license application for Utah should be denied.

The Board noted the date.

FYI

Ms. Taxin read and informed the Board of the Surrender Stipulation and Order for Dr. Morgan K. Grant. She stated Dr. Grant's specialty is anesthesiology.

Dr. Howell commented Ms. Taxin may want to include in new Orders the recommendation that practitioners who have drug and/or alcohol issues consider doing a different type of practice.

Dr. Babitz responded if a practitioner has not practiced for a period of time they may need to complete some competency examinations as well as additional training.

FYI

Ms. Taxin reviewed a SB 40 Summary for the Board. She stated the Division developed the summary to assist in the reading of the language. Ms. Taxin stated the summary is on the DOPL website for practitioners and the public to read.

The Board noted the information and thanked Ms. Taxin for her explanation.

Dr. Fowler Question

Dr. Fowler asked if he and Dr. Babitz had been replaced yet as Board members.

Ms. Taxin responded names have been submitted but no one has been appointed yet. She requested Dr. Babitz and Dr. Fowler to continue to serve until the new Board members have been appointed.

Dr. Babitz requested he and Dr. Fowler be notified when they are replaced.

CORRESPONDENCE:

Lloyd B. Morgan, New Interim Chief Executive, Letter Regarding ABMS Board Certification and Maintenance of Certification Programs

Dr. Howell read the letter to the Board. **No Board action was taken.**

NEXT MEETING SCHEDULED FOR:

August 15, 2012, Hearing
September 12, 2012 Board Meeting

ADJOURN:

The time is 3:04 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.

September 12, 2012
Date Approved

(ss) Elizabeth F. Howell, MD
Chairperson, Utah Physicians Licensing Board

August 14, 2012
Date Approved

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