

MINUTES

**UTAH
BOARD OF NURSING
MEETING**

April 11, 2013

**Room 474 – 4th Floor – 8:30 a.m.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 8:30 a.m.

ADJOURNED: 4:58 p.m.

**Bureau Manager:
Board Secretary:**

Debra Hobbins
Shirlene Kimball

Conducting:

Peggy Brown, Chair

Board Members Present:

Peggy Brown
Cescilee Rall
Diana Parrish
Ralph Pittman
Marie Partridge
Alisa Bangerter
Barbara Jeffries

Board Members Excused:

Sheri Palmer
John Killpack
Sue Kirby

Division Staff:

Irene Woodford, Division Investigator
Connie Call, Compliance Specialist

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS

February 14, 2013 Minutes:

The February 14, 2013 minutes were approved with corrections.

March 14, 2013 Minutes:

The March 14, 2013 minutes were tabled.

Lori Wright,
Boards request:

Board members requested a meeting with Ms. Wright to see how she is doing this month. Board members expressed concern after the last meeting because Ms. Wright was not able to communicate effectively and

appeared to be confused. Ms. Wright stated she did not feel she was impaired, she stated she was unable to sleep and physically exhausted. At that meeting, Ms. Wright was requested to provide a urine sample for drug testing. The urine screen came back positive for her prescribed medications; however, the test results were at a significantly higher level than they should have been for the reported dose of those medications. Dr. Hobbins expressed concern that Ms. Wright's physician may not be aware of the affect the medications are having. Ms. Brown stated she is also concerned that the medications may not be metabolizing correctly and suggested the physician reevaluate the medications. Dr. Hobbins stated the Board was concerned that she was significantly impaired and may be a threat to the safety of the public. Ms. Wright stated she was not impaired at the last meeting; however, she was fearful that something was wrong, was unable to sleep and did not want to come to the meeting. She stated she felt attacked and intimidated by Board members. Ms. Parrish indicated it was very clear something was wrong and that she appeared to be impaired. Ms. Brown stated if she had been pulled-over while driving with such a high level in her system, she would have received a DUI.

Dr. Hobbins indicted to Ms. Wright the Board has several options at this point. The Board can request an expert look at the urine screen, and if it is not consistent with the medications she reported taking, schedule a Notice of Agency Action for an Informal Proceeding. Another option would be to have her sign an amended Stipulation and require her to see the physician for a medication reevaluation; submit copies of all medications to the Board; have a single prescriber, and issue a \$100.00 fine for being out of compliance with her Order for the months of February and March. Ms. Parrish made a motion to prepare an amended Stipulation for Ms. Wright's signature and include the following: follow-up with the prescribing practitioner for a medication evaluation within 60 days of signing the amendment; have the physician submit a letter to the Board indicating she has been seen and provide the Board with his/her recommendations; have a single prescriber; submit a list of medications monthly to the Division; fill prescriptions at only one pharmacy; and issue a \$100.00 fine for non-

compliance. Ms. Bangerter seconded the Motion. Ms. Jeffries was out of the room during the discussion and abstained. All other Board members voted in favor of the motion.

Discussion regarding Stipulation and Order and limitation on employment setting:

Dr. Hobbins reported on a meeting she had with Intermountain Medical Center representatives. Ms. Linda Hofmann, Intermountain Medical Center, indicated she feels Stipulations and Orders should also limit/restrict a probationer from practicing in the ER, Recovery, Surgery, ICU, and like areas where controlled substances are more easily obtained. She indicated these settings would not have the appropriate supervision.

Discussion regarding Stipulation and Orders and time not working:

Dr. Hobbins indicated the Division is discussing those individuals on probation who have not worked for a period and the time toward probation has stopped. The Division is considering placing in the Stipulation and Order that if a probationer has not worked for a specific period, the license will automatically be suspended. Ms. Parrish indicated her concern would be that the individual will find employment, but will not be allowed to accept the job due to the length of time it would take to get the license back. It was suggested adding a clause that states at the time employment is contemplated, the probationer contact the Division and request the suspension be lifted and the probation would continue until all prior terms and conditions are met. Ms. Woodford stated the Orders could include that after one year of unemployment, automatically suspended the license until the probationer has demonstrated six months of clean urines directly prior to the request to lift suspension and return to work.

Environmental Scan,
Dr. Hobbins:

Dr. Hobbins indicated that by law, a list of licensees with addresses could be purchased by those agencies offering continuing education. However, a list cannot be obtained for the purposes of recruiting.

Dr. Hobbins indicated that Telemedicine is still an ongoing process.

Dr. Hobbins reminded Board members that Hearings have been scheduled and we need to make sure we have a quorum.

Review letter from the Department of Veterans Affairs regarding Advance Practice Registered Nurses:

The letter from the VA indicated they are looking at a national policy that will recognize the full practice status of all VA Advanced Practice Registered Nurses and the ability of VA nurses to use protocols in the delivery of patient care.

Break at 9:50 a.m.
Reconvened at 10:00 a.m.

Discussion regarding psychiatric nurse practitioner licensure,
Laura Bailey,
Sheila Bittle, Ph.D, APRN:

Ms. Bailey and Dr. Bittle met with the Board to discuss the Nurse Practice Act and Rule related to the practice as a psychiatric nurse practitioner. Ms. Bailey indicated that there are several issues taking place regarding the Statute and Rule. She indicated that an individual must currently receive an intern license in order to complete the 3000 hours of supervised experience. However, the intern license has created problems because employers are no longer hiring APRN's with an intern license. She indicated in her case, she had been employed at the University of Utah for a period as an RN. Once she received her master's degree and obtained the APRN intern license, the University of Utah terminated her employment because they do not hire individuals with an intern license. Ms. Bailey stated that since there are so many barriers for licensees with the intern designation, there is a group of individuals looking for a way to change the Statute. Ms. Bailey indicated that other states issue a license once the APRN receives national certification. Ms. Bailey indicated a lot of APRN psychiatric nurses are being educated in Utah and then leaving the state for employment due to these intern issues.

Dr. Bittle indicated there is also an issue with prescriptive practice. She stated the rule was not intended to require the APRN to contact the supervisor prior to writing a prescription. She indicated this was changed fairly recently. Dr. Bittle stated the intent was for supervision of therapy, not supervision for prescribing. Ms. Bailey stated she would like to change the Statute and allow licensure once an individual has received certification. Then, by the time the license is up for renewal, require documentation of supervised hours. Dr. Hobbins indicated once the individual is licensed, they have the

ability to practice that profession and would have to have met all requirements prior to licensure. Ms. Bailey stated that other mental health profession call the initial license an associate license or residence license, and therefore are allowed to work under the license without further issues. Ms. Brown stated we would want to leave the temporary license in Rule for those individuals who want to practice between the period of graduation and the period of receiving the certification. Ms. Bailey stated they have a sponsor for the next legislative session and they will work on proposed language. Dr. Hobbins requested they provide the Board with any updates.

Danielle Stephen,
Application review:

Ms. Stephen submitted an application for review. Ms. Stephen indicated she was married to an abusive man, then diagnosed with cancer and had expected to live for only five years. She indicated she turned to drugs and diverted the medications from the hospital where she was working. She indicated she self reported to her director of nursing, who informed the Colorado Board. She indicated she left her husband, but continued to abuse the medications. She stated she then decided not to continue with the Diversion program in Colorado. Ms. Stephen stated she sought treatment in 2006 and completed an Inpatient Treatment program at that time. She reported she has maintained her recovery, went back to school, attends AA meetings and speaks with her sponsor frequently. Ms. Stephen indicated since she is living in Utah, she contacted the Utah Board of Nursing and was told to completed six months of urine screens with Affinity. Ms. Stephen stated she has completed the six months and the urine screens have been negative. Ms. Jeffries made a motion to issue the full license with no restrictions. Ms. Parrish seconded the motion. All Board members voted in favor of the motion.

Christine Bailey,
Informal Agency Action:

Mr. Jones indicated that notice of the informal agency action was sent to Ms. Bailey and to her attorney, Ed Brass on February 26, 2013. They were requested to file a response; however, no response has been received. Ms. Bailey did not appear for the Informal Agency Action. Mr. Jones reported Ms. Bailey was charged with two counts of theft and was alleged to have taken 4 Xanax without authorization from an automated drug-dispensing machine. Ms. Bailey

initially denied taking the medications, however, after a review of a video tape, admitted to taking the medications because she had trouble sleeping. She was terminated from employment, charged in court, plead guilty to theft and entered into a Plea in Abeyance for 364 days.

Board members reviewed the information provided. Ms. Parrish made a motion to revoke the license for five years based on the documentation and history provided and due to her no show to the Informal Agency Action Proceeding. Ms. Rall seconded the motion. All Board members in voted in favor of the motion.

Complaints of Unlawful or Unprofessional Conduct:

Dr. Hobbins provided a document regarding information on what happens to complaints of unlawful or unprofessional conduct when received by the Division's Bureau of Investigations. The information will be posted to the Divisions web site and outlines the steps taken by investigators regarding complaints. Dr. Hobbins indicated that the complaints are prioritized and placed into the following categories: no violation; violation which does not meet DOPL's criteria for investigation; or violation which does meet DOPL's criteria for investigation. It also outlines how cases are resolved, either formally or informally

S.B. 77:

Dr. Hobbins reported that SB 77 passed the last Legislative session and will go into effect May 14, 2013. This bill requires the Division to be in compliance with the Open and Public Meetings Act. Recordings of the meeting will be posted to the Utah Public Notice Website no later than three business days following the meeting; and "approved" minutes will be posted no later than three business days after approval. Dr. Hobbins indicated that due to this bill, some Boards are opting to close the probation interviews. Board members indicated at this time they would prefer to leave the probationary meetings open. If there is information that needs to be discussed in a closed meeting, the meeting can be closed in accordance with the Open and Public Meetings Act.

Open and Public Meeting Act Training:

Open and Public meetings information was reviewed.

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Break for lunch at 11:45 a.m.
Reconvened at 12:28 p.m.

Connie Call,
Compliance Report:

Ms. Call reported the following probationers are out of compliance:

- Christopher Singer needs to submit paperwork due April 1, 2013 and clarification from the employer, Mike Jensen and supervisor Val Jones, that they have read the Stipulation and Order.
- Michael Gearheart was late submitting his paperwork.
- Synthia Carter was late submitting her paperwork.
- Michael Ross was late submitting his paperwork.
- Monica Murdock was late submitting her paperwork.
- Karrie Larson was late submitting her paperwork.

Ms. Call reported the following probationers have requests to modify their Orders:

- Tige Hazelton** is requesting access to controlled substances. Ms. Parrish made a motion to deny the request because he has only been on probation for one month. Ms. Jeffries seconded the motion. All Board members voted in favor of denying the request.
- Sam Bellacomo** is requesting he be allowed to work in home health. Mr. Pittman made a motion to allow Mr. Bellacomo to work in home care agency with the condition that he provide the Board with a job description and duties prior to accepting the position and receive approval from the Board/Division. He must provide a copy of the Stipulation to the director of nursing and have the director of nursing submit notification of having seen and read the Stipulation and submit monthly reports to the Board. The Board will reevaluate him in 6 months and the Board will make the determination whether to allow him to continue to practice in the home health setting. Ms. Rall seconded the motion. All Board members voted in favor of the motion.
- Julie Willardson** requested she be allowed to do clinical rotations with students. Ms. Partridge stated she would like to give her the opportunity to succeed. Ms. Brown stated she would not be supervised. Ms. Jeffries made a motion to deny the request because she would not be under supervision while in clinical rotation. Ms. Rall seconded the motion. All Board members voted in favor of the motion.

Group 1

Board members present: Cescilee Rall, Marie

Partridge and Ralph Pittman.

Lyndi Slack,
New Order:

Ms. Slack explained the circumstances that brought her before the Board. She indicated she missed her scheduled appointment last month because her baby was sick and she forgot to call. Committee members reminded her she needs to be in compliance at all times. She stated she is not currently employed in nursing. She reported her sobriety date is January 9, 2013. She reported she has no thoughts of relapse and has not relapsed. She indicated her family is now aware of her problem and have been a good support.

Christopher Singer,
Non-compliance;

Mr. Singer needs to submit therapy recommendations, fitness for duty, and a new substance use disorder evaluation. The evaluation received is prior to his last DUI and the evaluator must be aware of the DUI. He was informed he had a dilute urine sample. Committee members questioned what brings him before the Board today. Mr. Singer stated he had a DUI, was pulled over again, but that issue has not been resolved. He reported the DUI happened in June of last year. He stated that the August date reported in the Stipulation and Order is actually the June DUI. He reported he was not drinking and the attorney and the district attorney continue to work on the issues. He stated he would have the attorney submit a letter to the Board explaining the circumstances and clarify that there is only one DUI. Mr. Singer stated there was misunderstanding with the police report and the case is ongoing.

He stated his employer has seen the Order. He indicated the confusion came because his supervisor, Dr. Val Jones, and the COO, Mike Jensen were both aware of the Order; however, the human resource director was not aware of the Order until he was checking employee licenses. Mr. Singer stated Dr. Jones is his direct supervisor and signs the reports. Board members requested he have Dr. Jones and Mr. Jensen submit a letter clarifying and stating they have both seen the Order.

Mr. Pittman stated the Stipulation and Order does not allow him to consume alcohol. We are asking him to complete, within 90 days, a substance abuse

evaluation and have the attorney submit a letter clarifying the actual charges. He also needs a letter from Indian Health Services that both Mike Jensen and Dr. Val Jones are aware of the Stipulation and Order and have read the Order. Mr. Singer stated he does not have an issue with alcohol. Mr. Pittman stated that based on the information received, and until we receive further clarification, Mr. Singer would benefit from attending 12-Step meetings. Mr. Singer reported his sobriety date is July 7, 2012. He reported at that time he spent two days in jail due to a misunderstanding on his part because he was not aware he needed to complete a Court required class by June 1, 2012. He reported he completed the Prime for Life course suggested after the evaluation. Mr. Singer reported no stressors and indicated work is going well. He stated he has not relapsed and has no thoughts of relapse. Committee members indicated he must complete another substance use disorder evaluation. He was reminded to provide the evaluator with a copy of the Stipulation and Order and to have the evaluator recommend fitness for duty. He has had one dilute urine screen and was late submitting paperwork. **Mr. Singer is out of compliance with the terms and conditions of his Order.**

Lori Laird,
Probation interview,
Requesting termination of probation:

Ms. Laird stated she has been sober since August 21, 2007 and feels she is at a good place in her recovery. She stated she has learned to face her problems. She stated she understands she will always be an addict and keeps in close contact with her sponsor. She stated she has no thoughts of relapse and has not relapsed. Ms. Laird requested termination of probation. Committee members will recommend to the Board to terminate probation. **Ms. Laird is in compliance with the terms and conditions of her Order.**

Diane Crossley,
Her request:

Ms. Crossley questioned what the Board wants from her at this point. She stated her evaluations indicate she does not have a substance use disorder. She does not need to submit urine screens or attend any meetings. She stated the only thing the Stipulation is doing is holding her back from getting a job. Mr. Pittman made a motion to close the meeting in accordance with 52-4-205(1)(a) to discuss the character, professional competence, or physical or

mental health of an individual. Ms. Rall seconded the motion. All Committee members voted in favor of closing the meeting. The meeting was closed at 2:46 p.m. The meeting was opened at 2:53 p.m. Ms. Crossley explained the circumstances that brought her before the Board. Dr. Hobbins read the charges set forth in the Stipulation and Order and indicated that at this time, the Order does not allow her to work in home health. She was not required to do urine screens because she was in a setting that did not have access to controlled substances. If she goes back to a setting where she has access to controlled substances, she would need to do drug testing. She cannot work in home health.

Dr. Hobbins indicated there are two options she can request: she can have access to controlled substances, call in prescriptions for her employer, however, she would then be required to submit to urine screens. After six months of clean urine screens, she could request the urine screens be terminated. Or, if the employer sends in a letter that states she will be supervised at all times, the Board could consider allowing her to work in home health for admitting/intake only. She could come back in six months and if the reports are good, she could request access to controlled substances. She indicated she will go with the second option at this point. Committee members indicated they would present this option to the Board. **Ms. Crossley is in compliance with the terms and conditions of her Order.**

Destine Banta,
New Order:

Ms. Banta explained the circumstances that brought her before the Board. Ms. Banta reported her sobriety date is November 26, 2007. She reported she feels like she is in a good place in her recovery. She stated she completed a refresher program, completed the substance use disorder evaluation and stated she has several avenues she can pursue regarding a nursing position. She requested she be allowed to fill her prescriptions at more than one Walgreens Pharmacy, and fill a prescription at a compounding pharmacy. She indicated she has two prescribers, one for the hormone replacement therapy, and the second for all other prescriptions. Committee members will recommend she be allowed to have two prescribing practitioners and fill prescriptions at one Walgreens

Group 2
Minute taker: Connie Call

Betsy Ross,
New Order:

and one compounding pharmacy.

Board members present: Peggy Brown, Diane Parrish,
Barbara Jeffries and Alisa Bangerter.

Ms. Ross explained the circumstances that brought her before the Board. Ms. Ross requested she not be required to submit to urine screens because she is Court ordered to have an intoxilyzer on her care. She is also requesting she be allowed to work in home health with an additional patient. Committee members indicated her supervisor will need to submit information on additional patients and she would need to be approved before seeing a new patient. She also indicated there are no PIR meetings in Roosevelt and requested she be allowed to attend 12-Step meetings in lieu of the PIR meetings. She reported her sobriety date is January 2013, however, she could not remember the exact date. She stated she has no thought of relapse and has not relapsed. Ms. Ross stated she understands the terms and conditions of her Stipulation. **Ms. Ross is in compliance with the terms and conditions of her Order.**

Jill Smith,
Her request:

Ms. Smith is requesting early termination of probation. She is current will all paperwork and has completed the Thinking Errors Course. Committee members will recommend early termination of probation. **Ms. Smith is in compliance with the terms and conditions of her Order.**

Michael Gearheart,
Probation interview:

Mr. Gearheart submitted his prescription late. He stated in the future, he would fax the prescriptions and will follow-up with Ms. Call to make sure all paperwork has been received. **Mr. Gearheart is out of compliance with the terms and conditions of his Order.**

Synthia Carter,
Probation interview:

Ms. Carter reported her sobriety date is May 24, 2009. She reported no thoughts of relapse and stated she has not relapsed. Ms. Carter is requesting that her access to controlled substances be returned and to allow her to work in home health under general supervision. **Ms. Carter is out of compliance with the terms and conditions of her Order for submitting paperwork late.**

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Katie Blackham,
Her request:

Ms. Blackham requested her suspension be terminated. Ms. Blackham needs to renew the suspended license. She is late submitting paperwork and was reminded to submit her paperwork on the first day of the month. Committee members will recommend to the Board to lift the suspension once she has renewed her license, allow access to controlled substances, terminate the requirement for attendance at therapy, aftercare, 12-Step and PIR meetings. **Ms. Blackham is out of compliance due to not renewing the license.**

Meeting closed in accordance with the Open meetings Act 52-4-205(1)(a) to discuss the character, professional competence, or physical or mental health of an individual:

Ms. Parrish made a motion to close the meeting to discuss the character, professional competence, or physical or mental health of an individual. The meeting was closed at 3:32 p.m. The meeting was reopened at 3:46 p.m.

Michael Ross,
Probation interview:

Mr. Ross reported he submitted his application to sit for the NCLEX-RN examination. He indicated he has graduated from his paramedic program. He stated he has had thoughts regarding having a glass of beer but has not relapsed. Committee members will recommend he be allowed to have two prescribers. If Mr. Ross submits his paperwork late again, he will be issued a fine. **Mr. Ross is out of compliance with the terms and conditions of his Order.**

Reconvened to full Board at 4:05 p.m.

Probationer requests:

Vai Panter is requesting access to controlled substances. Ms. Jeffries made a motion to lift the restriction and return her access to controlled substances for a period of six months. After the six-month period, the request would be reevaluated. Mr. Pittman seconded the motion. All Board members voted in favor of the motion.

Probation Committee reports:

-Chris Singer has 90 days to provide the Board with clarification from the attorney regarding the DUI charges for June and/or August. Mr. Singer had indicated he only had one DUI, which was in June. Mr. Singer also needs to submit a substance use disorder evaluation; provide a BCI report and attend 12-step meetings once a week. He also needs to submit clarification from the supervisor and manager of his place of employment that they both have seen and read his Order. Mr. Singer's essay was accepted

and he has completed the Prime for Life program recommended by the therapist.

-Lori Laird requested termination of probation. Ms. Laird has been in complete compliance and is doing well in recovery. Committee members recommend approval of the request to terminate probation. All Board members voted in favor of the recommendation.

-Diane Crossley: Ms. Crossley works for home health in marketing. She is requesting she be allowed to go into the homes with another nurse and do intakes. Committee members recommended approval of the request upon receipt of a job description and documentation that the nurse is willing to do the supervision. Board members voted in favor of the recommendation.

-Destine Banta requested two prescribers, one for hormone therapy and the second for all other prescriptions. She also requested two pharmacies, one compounding pharmacy for the hormone therapy and the second in North Ogden for all other prescriptions. All Board members voted in favor of the recommendation.

-Betsy Ross requested she be allowed to discontinue urine screens because she is required by the Court to have an intoxilyzer on her car; requested she be allowed to attend 12-Step meetings in lieu of PIR because there are no PIR meetings in her area; and to work the day shift in a home health care setting. Committee members recommended the request for the discontinuance of urine screens be denied. However, recommend allowing her to attend one 12-Step meeting per week in lieu of attendance at PIR meetings and allow her to work the day shift in the home health setting as long as she submits notification of the additional home health patients, the initials of the patient to be seen, and how supervision will occur. All Board members voted in favor of the recommendation.

-Jill Smith has completed one year of probation and requested termination of probation and indicated she needs to be licensed in other states for her job and feels she may lose the chance to obtain a higher position if her probation is not terminated. She has been in compliance and doing very well. Committee members recommended termination of probation. Board members discussed the recommendation and voiced concern that she had not been on probation for

a long enough period and feel she needs to be monitored longer. There were no Board members in favor of the recommendation. A motion was made to deny her request for termination of probation. The motion was seconded. All Board members voted in favor of the motion.

-Michael Gearheart was reported to be out of compliance for late paperwork. Mr. Gearheart indicated since the Affinity due date was the 5th of the month; he thought he had until the 5th. Ms. Call indicated she notified all probations the due date is the 1st of the month. Ms. Parrish stated she has a hard time recommending a fine when Affinity has indicated the 5th of the month as the due date and we should not be fining until after the 5th day. Ms. Call will follow up with Affinity to get the date changed to the 1st. Mr. Gearheart requested two prescribers, one for pain and the second for all other prescriptions. Committee members recommended he be allowed to have two prescribers. All Board members voted in favor of the recommendation.

-Synthia Carter submitted her paperwork late and is out of compliance with the terms and conditions of her Order.

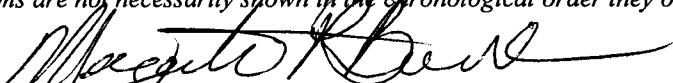
-Katie Blackham: Committee members recommend the suspension be lifted upon renewal of the license. Committee members also recommend the Order be amended to allow access to controlled substances; and to terminate the requirement to attend aftercare, PIR and 12-Step meetings. All Board members voted in favor of the recommendation.

-Michael Ross: Committee members recommend allowing two prescribers, a general practitioner and the rheumatologist. All Board members voted in favor of the recommendation.

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

May 9, 2013
Date Approved

May 9, 2013
Date Approved


Peggy Brown, Chair, Utah Board of Nursing



Debra Hobbins, Bureau Manager, Division of Occupational
& Professional Licensing