

MINUTES

**UTAH BOARD OF NURSING
MEETING**

June 12, 2014

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

CONVENED: 8:35 a.m.

ADJOURNED: 5:13 p.m.

Bureau Manager:

Debra Hobbins, DNP, APRN

Board Secretary:

Shirlene Kimball

Compliance Specialist:

Connie Call

Conducting:

Peggy Brown, MS, RN

Board Members Present:

Peggy Brown, MS, RN

Alisa Bangerter, BS, RN

Ralph Pittman, LPN

Diana Parrish, BS, public member

Cescilee Rall, BSN, RN

Megan Christensen, BS, public member

Board Members Excused:

Jaime Clinton Lont, MSN, APRN

Calvin Kremin, MSN, CRNA

Guests:

Morgan Silva, Student, Everest College

Brittany Lucatero, Student, Everest College

Sunnie Barton, Student, Everest College

Natasha Richards, Student, Everest College

Amber Silva, Student, Everest College

Taisha Corbet, Student, Everest College

Katie Larsen, Student, DATC

Camille Barnes, Student, Everest College

Lorena Jimenet, Student, Everest College

Amy Mayfield, Rocky Mountain University

Miranda Lamb, Student, Everest College

Sharon Dingman, Rocky Mountain University

Mark Davis, for Rebecca Davis

Jolene Meltzer, Student, Everest College

Audrey Elliott, for Rachel Zimmermann

Andrew Savas, Student, Everest College

Robyn Secondine, Student, Everest College

Mary Beth Patton, Student, Everest College

Che Arguello, Division Chief, AG's Office

Carol Huntington, for Lori Wright

Todd Carter, for Cindy Carter

ADMINISTRATIVE BUSINESS:

April 10, 2014 Minutes:

The April 10, 2014 minutes were approved with corrections.

Connie Call,
Compliance Report:

Mr. Pittman made a motion to close the meeting in accordance with 52-4-204(1)(a) to discuss the character, professional competence, or physical or mental health of an individual. Ms. Christensen seconded the motion. All Board members voted in favor of the motion. The meeting was closed at 8:34 a.m. Ms. Rall made a motion to open the meeting. Ms. Parrish seconded the motion. All Board members voted in favor of the motion. The meeting was opened at 9:28 a.m.

William Schwartz,
Evaluation review:

Mr. Schwartz met with the Board to review his evaluations and practice plan. Ms. Brown conducted the interview and indicated that the Board has not yet received the neuropsychiatric evaluation. Mr. Schwartz's license will remain suspended until the Board has reviewed the evaluation. Mr. Schwartz stated he has arranged for the neuropsychiatric evaluation. Mr. Schwartz stated there was some confusion regarding the evaluation and he had submitted a psychological evaluation in error. Mr. Schwartz suggested that in the future, it would be helpful to let people know the difference between a psychological evaluation and neuropsychiatric evaluation. Mr. Schwartz also needs to submit the fitness for duty letters.

Ms. Brown indicated that a review of the psychological evaluation indicates that if Mr. Schwartz practices as an APRN, Mr. Schwartz would need to have ongoing peer supervision, which would include peer review of records. Ms. Brown stated there is no APRN peer group established, so this requirement would be impossible to meet unless he was affiliated with a group practice. Mr. Schwartz stated his understanding was that the peer group was not looking at charts, but was more informal, such as a group of practitioner meeting together over drinks to discuss cases. Mr. Pittman stated someone has to be physically present. Mr. Schwartz questioned

if this means he will need to have a formal group providing direct supervision for the duration of his career. Mr. Schwartz stated that Dr. Yelsa suggested informal supervision.

Ms. Brown stated Mr. Schwartz needs to complete the neuropsychiatric evaluation, fitness for duty evaluation, and any new requirements that are recommended by the neuropsychiatric evaluation. Once the Board has received the information, then he can request that the suspension be terminated.

Mr. Schwartz stated that he was initially confused on what the practice plan should entail. Ms. Brown indicated the practice plan is what he plans to do to help him safely practice and be in compliance with the Order. Ms. Brown stated the practice plan is a set of guidelines that he plans to follow when he practices. Mr. Schwartz stated the original practice plan he submitted was helpful for him and it fulfilled the requirements. He stated he does not think shortening it would be helpful.

Mr. Schwartz submitted a request to have the suspension lifted. He stated he now understands it was premature and will resubmit the request after the evaluation is completed. Mr. Schwartz stated he understands he needs to complete a neuropsychiatric evaluation and provide a fitness for duty letter. Mr. Schwartz stated that it is not necessary to send him a letter with these requirements since he has acknowledged them. However, he requested notification in writing if there are more requirements put in place after the Board reviews the neuropsychiatric evaluation. Mr. Schwartz requested that his access to controlled substances be returned. Mr. Schwartz stated his actions did not involve controlled substances. Ms. Parrish made a motion that the request to lift suspension and return access to controlled substances cannot be addressed at this time, and that Mr. Schwartz will be sent a letter with any further requirements after review of the neuropsychiatric evaluation. Mr. Pittman seconded the motion. All Board members in favor of the motion.

Nurse Practice Act Rule Hearing
Administrative Law Judge, Jennie
Jonsson conducting:

Judge Jonsson conducted the Rule Hearing. Judge Jonsson indicated that the Nurse Practice Act rules were repealed and reenacted. Judge Jonsson read into the record comments that were received by the Division. Visitors present offered no comments regarding the Rule. The rules could go into effect June 23, 2014.

Discussion regarding email comments
on school nursing received relative to
the Rule Hearing:

Ms. Rall indicated the only change in this section of the Rule was from nurse to RN. Ms. Rall provided a flow chart regarding RN delegation of nursing functions to the LPN in school health services. It is clear that the LPN is under the direction of an RN. The RN writes the health care plan. Ms. Rall indicated that if an invasive procedure were required, the RN, not the LPN would do the training. Ms. Rall stated that the national association of school nurses (NSNA) recommends a BSN with three to five years of experience for practice as a school nurse. The LPN may have the experience, but it would be outside of the LPN scope of practice. Ms. Dingman, a member of the public, indicated she supports the national organization and the professional practice of the RN. Mr. Pittman stated the rules do not define what the LPN can and cannot do other than the individual must be competent to perform the action and that the facility allows the practice. Ms. Parrish indicated that a school is not a health care facility. Ms. Rall indicated requested that the discussion regarding school nurses and the letter from Laura Bell be tabled until a more in depth discussion could be scheduled.

Report on NCSBN Discipline
Conference:

Ms. Parrish, Ms. Brown and Dr. Hobbins reported on the NCSBN Discipline Conference. Ms. Parrish indicated all sessions exceptional; however, her favorite was the Addictive Disease session. Ms. Parrish indicated that one item of interest was in regards to the urine screens and the frequency of testing. The speaker suggested that as the probationer progresses in his/her recovery the frequency of urine screens be decreased. The speaker also indicated that the panels and screens need to be specific and careful attention to the

temperature of the specimen is important. Ms. Parrish indicated that the section regarding vaccines was also interesting and there was a variety of opinions regarding vaccinations. Ms. Brown reported on unlicensed individuals and unregulated individuals. She indicated that Canada is at the forefront with language in place so that action can be taken and a case put together when an unlicensed individual places the public at harm. Ms. Brown also indicated that the individual nurse should take responsibility and report impaired, incompetent or other practice that places the public at risk. It appears that nationwide agencies are terminating the nurse from employment and not reporting any type of action to licensing authorities. This allows an impaired or incompetent employee to move from agency to agency without the licensure authority aware there is a problem. Ms. Brown cited a case in New Jersey and Pennsylvania where a nurse was allowed to move from facility to facility. By the time the licensing authorities became aware of the situation and law enforcement agencies took action, the nurse had cause the death of hundreds of patients. This nurse is recorded as being the most prolific serial killer in US History.

Environmental Scan:

Dr. Hobbins discussed NCSBN's International Nurse Regulatory Collaborative Project Risk Factors for Recidivism in Nursing Practice.

Break for lunch at 11:20 am
Reconvened to Committees at 12:30 pm

Group 1
Shirlene Kimball, Secretary

Members present: Cescilee Rall, Megan Christensen and Ralph Pittman. Debra Hobbins, Bureau Manager.

Sara Swearingen,
Non-compliance:

Ms. Swearingen met with the Board to explain her non-compliance with the terms and conditions of her Stipulation and Order. Ms. Swearingen stated her license is currently suspended because she cannot afford to pay for a psychological evaluation. She stated she is currently employed at a recycling facility just to pay bills and to afford food. She completed the substance use disorder evaluation. She indicated she needs to attend 52-group

meeting, 26 individual therapy sessions. She indicated Ms. Call approved the individual who provided the Substance Use Disorder Evaluation, and the office where the evaluator works also provides psychological evaluations. Ms. Swearingen indicated that the person who would be doing the evaluation has been trying to contact Ms. Call for approval because the individual is an LCSW. Ms. Swearingen stated once she has the money for the evaluation, she will contact Ms. Call to see if the evaluator is approved. Dr. Hobbins reminded Ms. Swearingen she needs to provide the approved evaluator with her BCI report, court documents, the Stipulation and Order and include methods used to determine the recommendations. The evaluator's report must reflect each document she has provided the evaluator for review. Ms. Swearingen stated she wants to work as a nurse, but just cannot afford the evaluation at this time. She stated she is frustrated, she has submitted documentation, but it is not good enough for the board. Board members indicated it is not that the information is not good enough, it is just because it did not contain what we require. Board members also indicated that Ms. Swearingen's urine screen was positive for Tramadol and she has not provided a prescription. Mr. Pittman informed Ms. Swearingen the only way the Board can determine compliance is by paperwork. Ms. Swearingen stated she will hand deliver all paperwork.

Julie Porter,
Non-compliance:

Ms. Porter missed checking-in with Affinity, had a dilute urine screen and has not submitted copies of her prescriptions for Ms. Call to verify. Ms. Porter reported she had gone to the ER and did not have a phone to check-in with Affinity. Committee members questioned whether she contacted Ms. Call to let her know she had missed checking-in. Ms. Porter stated she had not contacted Ms. Call.

Ms. Porter stated she understands that hours worked outside of nursing will not count toward her probation. Ms. Porter stated she has worked for 10 weeks in nursing, the rest have been non-nursing positions. Committee members questioned when she last read her Order. Ms. Porter stated she last

read her Order in February 2014. She indicated her family is supportive; she has a sponsor and contacts the sponsor when she feels it is necessary. She stated she has thoughts of relapse but has not had a relapse. Ms. Porter reported her sobriety date is August 2008. Ms. Porter questioned whether her drug treatment program could count for attendance at the University of Utah Drug and Alcohol School. Committee members indicated the treatment program would not be accepted and she will be required to attend the Drug and Alcohol School. She stated she has two part time jobs, one at House of Hope and a new job at DeNovo, a clinic that dispenses methadone. Committee members indicated that she has not been approved to work at DeNovo. Committee members again questioned if she provided the employer with a copy of her Order. She indicated she showed them her license, but not the Order. Ms. Porter also indicated she did not notify Ms. Call of the new position. Committee members indicated she is in total violation of her Stipulation and Order due to not providing a copy of the Stipulation and Order to her employer, not notifying Ms. Call of her new employment, and working in a setting that was not allowed by her Order. Committee members indicated Ms. Porter could not work at the clinic; however, since there would be no coverage tomorrow, she could work for that day. Ms. Porter stated she is scheduled to work to fill in for an individual going on vacation. Committee members indicated she would not be allowed to work for that individual. Ms. Porter stated she thought that as long as she had supervision, she could work at the clinic. Committee members indicated she was in Diversion for 4 ½ years and should know what is in her Order. Mr. Pittman indicated the full Board would need to determine further action.

Rachel Zimmermann,
New Order:

Ms. Zimmerman explained the circumstances that brought her before the Board. She indicated she is not currently employed in nursing, but is working a non-nursing position. Committee members reviewed the Order with Ms. Zimmermann and Ms. Zimmermann stated she understands the terms and conditions of the Order. Ms. Zimmermann stated

she has completed the evaluation. 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. Christensen seconded the motion. All Committee members voted in favor of the motion. The meeting was closed at 1:45 p.m. The meeting was opened at 1:50 p.m. Committee members indicated Ms. Zimmermann needs to follow the recommendations of the evaluator, enter a treatment program for a minimum of three months, attend individual and group meetings, and complete the cognitive restructuring course. Ms. Zimmermann must contact the treatment program and or enter the program within the next week. Committee members discussed with Ms. Zimmermann the possibility of a limited license that would allow her to keep the license, but not work or meet the requirements of her Stipulation and Order until she is ready to go back to work. Committee members suggested she receive the treatment while under the limited license, and then when ready to return to probation, her license would be reinstated. Ms. Zimmermann indicated she would make a decision and contact Ms. Call.

Jamie Partridge,
New Order:

Ms. Partridge is currently in an inpatient treatment program and was excused.

Group 2
Connie Call, Minute Taker

Members present: Diana Parrish, Peggy Brown and Alisa Bangerter.

Rebecca Davis,
Her request:

Ms. Davis reported her sobriety date is June 16, 2013. Ms. Davis requested clarification regarding the termination date of her probation. Ms. Call indicated the termination date will be February 10, 2015 if she remains employed and in compliance with her Order

Kristina Withers,
Non-compliance:

Ms. Withers failed to notify her employer of her probationary status and her employment was terminated. Ms. Withers is non-compliant for failing to notify Ms. Call of the termination. Ms.

Withers indicated her sobriety date is May 20, 2010. Committee members encouraged her to do some volunteer work to get her probation started.

Kolby Andersen,
New Order:

Mr. Andersen is working at the State Hospital as an RN. He stated he understands the terms and conditions of his Stipulation and Order.

Michelle Richman,
New Order:

Ms. Richman explained the circumstances that brought her before the Board. Ms. Richman stated her sobriety date is February 28, 2014. Ms. Richman stated she completed her Master's Degree in Nursing Administration January 2014. Ms. Richman stated she understands the terms and conditions of her Order.

Synthia Carter,
Informal Adjudicative Proceeding:

Ms. Carter appeared for the Informal Adjudicative Proceeding due to violation of an existing order.

Mr. Jones reported Ms. Carter was initially licensed as an RN on March 23, 2003. Ms. Carter signed a Stipulation and Order November 16, 2009 for unprofessional conduct and possession of a controlled substance. The license was suspended for six months and placed on five-year probation, February 4, 2010. On January 11, 2013, she was issued a \$100.00 fine for violating her Order.

At the January 2014 Board meeting Ms. Carter was informed she must come into compliance and remain in 100% compliance or further action would be taken. Ms. Carter failed to meet with the Board March 27, 2014 and failed to submit a urine screen February 2014.

Ms. Carter provided a response regarding her failure to meet with the Board on March 27, 2014. Ms. Carter stated she was unaware of the meeting and did not receive notification of the meeting. Ms. Carter reported she only knew that she missed the meeting when she was going through old emails and found one from Ms. Call indicating she had a meeting with the Board. Mr. Jones stated Ms. Carter was mailed the notification letter to the address of record; she was also sent an email notice

of the meeting.

Ms. Carter addressed the Board. Ms. Carter indicated she does not check her Yahoo account very often and always receives notification through Affinity and not through her yahoo email account. Ms. Call indicated the regular routine of notification depends on the probationer. The probationer has the option of receiving notification through Affinity, email, or both depending on the individual's preference. Ms. Carter indicated her normal correspondence from the Division was thru Affinity. Mr. Jones indicated that the Division followed normal policy informing a probationer about a meeting through the mail and as a courtesy, then followed up by email.

Ms. Carter admitted to missing a urine screen; however, she indicated she had car problems and it was too late to test when she returned home. She indicated she likes to go the Murray testing site; however, had been to East Carbon to visit her son when she developed car troubles. She indicated she returned home about 11:30 p.m. and was not able to test. She stated she did not notify Ms. Call.

Mr. Jones indicated this Ms. Carter has been in violation of her Order previously. The current allegations are not egregious; however, she was told to be in 100% compliance or Division would seek further sanctions. The Division is requesting that her license be suspended for one year, then probation to start up again after the year for five years. Ms. Carter stated she would propose a fine, but not a suspension. The meeting was closed at 2:40 p.m. to discuss the recommendations. The meeting was opened at 2:50 p.m.

The Board unanimously finds that Ms. Carter engaged in unprofessional conduct by not appearing for the scheduled interview and missing a urine screen. Board members recommend a six-month suspension, with the suspension being lifted only after a psychological evaluation from a Division approved evaluator and a fitness for duty evaluation prior to the suspension being lifted. The

evaluation cannot be completed more than one month before the six-month period of suspension elapses. During the period of suspension, Ms. Carter must comply with all the terms and conditions of the Order.

McKayla Brough,
New Order:

Ms. Brough did not appear for her scheduled interview. This is the second time she has been invited to meet with the Board and has failed to appear. Mr. Pittman made a motion to refer Ms. Brough for an OSC or Informal Administrative Proceeding. Ms. Rall seconded the motion. All Board members voted in favor of the motion.

Lori Wright,
Non compliance:

Ms. Wright indicated she is doing well. She indicated she is looking for a job and has completed some volunteer hours. Committee members indicated she must volunteer at least 16 hours per week in order for the volunteer hours to count toward probation. Ms. Carter is non-compliant due to the dilute drug screen. Ms. Carter stated she has had no thoughts of relapse and she has not relapsed. Ms. Carter was reminded to submit copies of all prescriptions, including refills.

Ms. Wright questioned the date her probation will be terminated. Ms. Call indicated she worked for 18 months and will have 36 more months to work. Ms. Wright also indicated she did not realize she needed to contact Ms. Call to set up drug testing in Affinity, so she was not signed up for several months.

Review of Rebecca McInnis
Application:

Mr. Pittman made a motion to close the meeting in accordance with 52-4-204(1)(a) to discuss the character, professional competence, or physical or mental health of an individual. Ms. Parrish seconded the motion. All Board members voted in favor of the motion. The meeting was closed at 3:17 p.m. Mr. Pittman made a motion to open the meeting. Ms. Parrish seconded the motion. All Board members voted in favor of the motion. The meeting was opened at 3:46 p.m.

Board members stated there appears to be a number of errors in Ms. McInnis' judgment and Board

members expressed concern regarding public safety. Board members considered requiring a psychological evaluation, completion of an ethics course and a cognitive restructuring course. However, Board members indicated they would like to discuss the application with Ms. McInnis. Mr. Pittman made a motion that based on the discussion during the closed meeting, Ms. McInnis be invited to meet with the Board next month. Ms. Christensen seconded the motion. All Board members voted in favor of the motion.

Cindy Lynn Carter,
New Order:

Ms. Carter explained the circumstances that brought her before the Board. She reported she made two medication errors in one day. She is not currently working in nursing. Ms. Carter stated she understands the terms and conditions of her Order.

Report from Committees:

-Julie Porter recently obtained a second nursing position and is working part time in a methadone clinic without supervision. She did not provide the employer with a copy of her stipulation and order. Ms. Porter has not submitted any paperwork since February and has not submitted copies of her prescriptions. Group 1 is recommending an Informal Administrative Proceeding for Ms. Porter for total non-compliance to the terms and conditions of her Order. All Board members voted in favor of the recommendation.

-Rachel Zimmermann needs to complete three months of treatment according to the evaluation. Ms. Zimmermann was told by Committee members she needs to arrange for treatment or enter treatment by next week. Ms. Zimmermann will contact Ms. Call regarding her decision regarding a limited license. Committee members also suggested Ms. Zimmermann submit an essay after the completion of treatment.

-Kristina Withers' essay was accepted. Ms. Withers' substance use disorder evaluation indicated she does not need substance use treatment, but needs to continue in therapy for other issues. Ms. Rall made a motion to terminate the urine screen requirement, 12-step and PIR meeting

attendance in accordance with the substance use disorder evaluation. Mr. Pittman seconded the motion. All Board members voted in favor of the motion.

Kolby Anderson's essay was accepted.

Michelle Richman's essay was accepted; however, the Board may want to require another essay later to see what she has learned.

Sami Weese requested she be allowed to work at Renaissance Ranch. Ms. Rall made a motion to allow her to work at Renaissance Ranch. Mr. Pittman seconded the motion. All Board members voted in favor of the motion.

Karen Burton has requested that her narcotics restriction be lifted. Mr. Pittman made a motion to table the request to allow more time for discussion. Ms. Bangerter seconded the motion. All Board members voted in favor of the motion.

Tracy Schroeder's psychological evaluation was reviewed. Mr. Pittman made a motion to follow all recommendations of the University of Utah Alcohol and Drug Abuse Clinic evaluation. Ms. Christensen seconded the motion. All Board members voted in favor of the motion.

Mr. Pittman made a motion to table the requests for Linda Doan, Marie Gygi and Starla McRae. Ms. Bangerter seconded the motion. All Board members voted in favor of the motion.

Dusti Hall's therapist submitted a letter with a request to allow Ms. Hall to pass narcotics. Mr. Pittman stated that since the Board has already addressed the concerns expressed in the letter from the therapist at a prior Board meeting, Ms. Hall should discuss the issues with the therapist.

Tyler Bauer requested his \$800.00 fine be reduced. Mr. Pittman made a motion to reduce the fine from \$800.00 to \$250.00. Ms. Rall seconded the motion. All Board members voted in favor of the motion.

Camille Hyatt requested that her access to controlled substances be returned. Mr. Pittman made a motion to return access to controlled substances. Ms. Rall seconded the motion. All Board members voted in favor of the motion.

Brian Stokes has been very compliant with the term and conditions of his Order and the Division is recommending that Mr. Stokes' access to controlled substances be returned. Mr. Pittman made a motion to return access to controlled substances with a review in six months regarding the progress to see if he should be allowed to continue practice with access. Ms. Bangerter seconded the motion. All Board members voted in favor of the motion.

Chris Singer is requesting an additional supervisor. Board members reviewed the vita of a second supervisor, Stacie Pearce. Mr. Pittman made a motion to allow Ms. Pearce as one of the supervisors. Ms. Bangerter seconded the motion. All Board members voted in favor of the motion.

Dr. Hobbins:

Dr. Hobbins reported that Jamie Clinton-Lont has resigned from the Board. There are currently seven active members and we will need six Board members present at all meeting in order to have a quorum. Ms. Parrish will be excused from the July 10, 2014 meeting, so all other members will need to be available.

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.

Date Approved 7/10/2014


Peggy Brown, Chair
Board of Nursing

Date Approved 7/10/2014


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