

4th AGENDA

BOARD OF NURSING
September 11, 2014 – 8:00 a.m.
Room 474 (Fourth Floor)
Heber M. Wells Building
160 E. 300 S. Salt Lake City, Utah

This agenda is subject to change up to 24 hours prior to the meeting.

ADMINISTRATIVE BUSINESS:

1. Sign Per Diem
2. Call Meeting to Order.
3. Review and approve July 10, 2014 and August 21, 2014 minutes

BOARD BUSINESS:

8:00 a.m. - McKayla Brough, Informal Adjudicative Proceeding,

- Review Dispensing Medical Practitioners Rule
- Debbie Harry, Compliance report

FORMAL HEARING:

9:00 a.m. – Diana Ball CANCELED

NEXT MEETING: October 9, 2014

Meetings scheduled for the next quarter: October 23, 2014; November 6, 2014 and December 11, 2014.

Note: In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify, Dave Taylor, ADA Coordinator, at least three working days prior to the meeting. Division of Occupational & Professional Licensing, 160 East 300 South, Salt Lake City, Utah 84115, 801-530-6628 or toll-free in Utah only 866-275-3675

REVISED CHECKLIST FOR PUBLIC MEETINGS

(Fill in the blanks to correspond to each respective board, commission, or committee.)

_____ I am Peggy Brown, chairperson of the BOARD OF NURSING.

_____ I would like to call this meeting of the BOARD OF NURSING to order.

_____ It is now (time) 8:00 (am / pm) on September 11, 2014.

_____ This meeting is being held in room 474 of the HEBER WELLS BUILDING in SALT LAKE CITY UT.

_____ Notice of this meeting was provided as required under Utah's Open Meeting laws.

_____ In compliance with Utah's Open Meetings laws, this meeting is being recorded in its entirety. The recording will be posted to the Utah Public Notice Website no later than three business days following the meeting.

_____ In compliance with Utah's Open Meeting laws, minutes will also be prepared of this meeting and will be posted to the Utah Public Notice Website. Appropriately marked "pending approval" minutes will be posted no later than 30 days after the close of the meeting and "approved" minutes no later than three business days after approval.

_____ The following Board members are in attendance:

<u>PEGGY BROWN</u>	Chairperson
<u>CESCILEE RALL</u>	Chair-elect
<u>ALISA BANGERTER</u>	
<u>DIANA PARRISH</u>	
<u>RALPH PITTMAN</u>	
<u>MEGAN CHRISTENSEN</u>	
<u>CALVIN KREMIN</u>	
<u>KATHERINE OSWALD</u>	
<u>SHERYL STEADMAN</u>	
<u>STEVEN HIGGINSON II</u>	
<u>(VACANT)</u>	

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>

_____ The following Board members are absent: (Refer to the above list.)

_____ The following individuals representing DOPL and the Department of Commerce are in attendance:

<u>Mark B. Steinagel</u>	Division Director
<u>Dave Taylor</u>	Bureau Manager
<u>Shirlene Kimball</u>	Board Secretary
<u>Debbie Harry</u>	Compliance Specialist

YES	NO
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

_____ We welcome any visitors and interested persons at this time. Please be sure to sign the attendance report for the meeting and identify yourself before speaking.

As a courtesy to everyone participating in this meeting, at this time we ask for all cell phones, pagers, and other electronic devices to be turned off or changed to silent mode.

Board motions and votes will be recorded in the minutes.

_____ Let us now proceed with the agenda.

_____ (End of the Meeting) It is now (time) 11:34 (am / pm), and this meeting is adjourned.

SWORN STATEMENT
SUPPORTING CLOSURE OF BOARD MEETING

DOPL-FM-010 04/28/2006

Closed 9:06 — Open 9:25
Closed 9:45 — Open 11:05

I Marguerite Brown acted as the presiding member of the Nursing
Board, which met on Sept 11, 2014

Appropriate notice was given of the Board's meeting as required by §52-4-202.

A quorum of the Board was present at the meeting and voted by a _____
vote, as detailed in the minutes of the open meeting, to close a portion of the meeting to discuss the
following:

- the character, professional competence, or physical or mental health of an individual (52-4-205(1)(a))
- strategy regarding pending or reasonably imminent litigation (§52-4-205(1)(c))
- deployment of security personnel, devices, or systems (§52-4-205(1)(f))
- investigative proceedings regarding allegations of criminal misconduct (§52-4-205(1)(g))

The content of the closed portion of the Board meeting was restricted to a discussion of the matter(s) for which the meeting was closed.

With regard to the closed meeting, the minutes and recording of the open meeting include:

- (a) the date, time, and place of the meeting;
- (b) the names of members present and absent;
- (c) the names of all others present except where such disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting;
- (d) the reason or reasons for holding a closed meeting; and
- (e) the vote either for or against the proposition to hold such a meeting cast by each board member by name.

Pursuant to §52-4-206(5), a sworn statement is required to close a meeting under §52-4-205 (1)(a) or 52-4-205(1)(f), but a record by tape recording or detailed minutes is not required.

- A record was not made
- A record was made by: Tape Recording Detailed Written Minutes

Pursuant to §52-4-206(1), a record by tape recording is required for a meeting closed under §52-4-205(1)(c) or 52-4-205(1)(g), and was made.

- Detailed written minutes of the content of a closed meeting although not required, are permitted and were kept of the meeting.

I hereby swear or affirm under penalty of perjury that the above information is true and correct to the best of my knowledge.

Marguerite Brown
Board Chairman or other Presiding Member

Sept 11, 2014
Date of Signature

General Information Regarding SB 55

Background

Under the former law, physicians legally dispensed under certain conditions under an exemption. The exemption was limited to dispensing of cosmetic drugs, injectable weight loss drugs, and cancer regimen drugs.

During the 2014 General Legislative Session, the Utah Legislature passed SB 55 and it became effective on July 1, 2014. This bill removed the exemption and created two new license categories: dispensing medical practitioner (DMP) and dispensing medical practitioner (DMP) clinic pharmacy. Key elements of the new law include the following:

- A DMP practitioner's ability to dispense is limited to a cosmetic drug, a cancer drug treatment regimen, or a prepackaged drug at an employee sponsored clinic.
- A DMP practitioner cannot dispense at any clinic other than at a licensed DMP clinic pharmacy.
- A DMP clinic pharmacy is classified as a Class B Closed Door Pharmacy.
- Each DMP clinic pharmacy must identify a "responsible DMP" who is responsible for the activities of the pharmacy.
- A DMP practitioner may delegate the dispensing of a drug to a "licensed DMP designee" if the designee is employed by the DMP or the outpatient clinic setting in which the DMP practitioner works.
- The licensed DMP designee acts under the direction of a DMP practitioner. The DMP practitioner must be immediately available onsite to the licensed DMP designee for any necessary consultation.

Under the rules being drafted, a licensed DMP designee could, under the supervision of a DMP practitioner:

- provide counseling to patients regarding medications dispensed;
- participate in the compounding of medications;
- enter information into a medication profile system; and
- could not dispense when a DMP practitioner is not present.

The Division requests that the Board of Nursing provide input regarding the proposed rules. The proposed rules will be sent to you via email once a final draft is prepared. Any comments regarding the proposed rules can be sent to Rich Oborn at roborn@utah.gov.

R156-17b-102. Definitions.

"DMP" means a dispensing medical practitioner licensed under Section 58-17b, Part 8.

"Licensed DMP designee" means an individual, acting within their scope of practice, under the direction of a DMP who:

(a) holds an active health care professional license under one of the following chapters:

(i) Chapter 67, Utah Medical Practice Act;

(ii) Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) Chapter 70a, Physician Assistant Act;

(iv) Chapter 31b, Nurse Practice Act;

(v) Chapter 16a, Utah Optometry Practice Act; and

(vi) Chapter 44a, Nurse Midwife Practice Act; and

(b) meets requirements established in Section 58-17b-803 (4)(c).

"Responsible DMP" means a dispensing medical practitioner licensed under Section 58-17b, Part 8 that is designated by a dispensing medical practitioner clinic pharmacy to be responsible for activities of the pharmacy.

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
Heber M. Wells Building
160 East 300 South
PO Box 146741
Salt Lake City, UT 84114-6741
Telephone: (801) 530-6628

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF : NOTICE OF INFORMAL AGENCY
MCKAYLA BROUGH : ACTION
TO PRACTICE AS A :
REGISTERED NURSE : Case No. DOPL OSC 2014-161
IN THE STATE OF UTAH :

THE DIVISION OF OCCUPATION AND PROFESSIONAL LICENSING
("DIVISION") TO MCKAYLA BROUGH ("Respondent"):

MCKAYLA BROUGH
880 W. TIMBERCREEK WAY #1308
SALT LAKE CITY, UT 84119

The Division of Occupational and Professional Licensing hereby files this Notice of Agency Action to determine whether a basis exists to revoke your license as a registered nurse, and/or suspend, restrict, fine, or place probationary terms and conditions on your license due to your failure to comply with the terms of your current administrative probation.

This action is based upon Division records and an investigation, which show that you failed to comply with a Division Order, specifically the terms and conditions of your administrative probation as set forth in the Order on Motion for Default in DOPL Case No. D-699 and DOPL 2014-161. As a result, you have engaged in unprofessional conduct, in violation of Utah Code Annotated Section 58-1-501(2)(a) and (o).

ALLEGATIONS SUPPORTING THIS ACTION

1. Respondent was first licensed as a registered nurse in the State of Utah on or about June 21, 2010. Respondent was first licensed as a licensed practical nurse in the State of Utah on or about July 8, 2009.
2. On or about January 27, 2011 Respondent voluntarily entered into a diversion agreement with the Division, wherein Respondent admitted that Respondent had tested positive for marijuana and oxycodone. Respondent had obtained the oxycodone from a friend, and had smoked marijuana at a party. Respondent admitted she engaged in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals, to the extent that the conduct might reasonably impair her ability to safely practice as a nurse. Respondent was required to comply with terms and conditions contained in the diversion agreement.
3. On or about April 10, 2014 the Division entered an Order on Motion for Default in Case No. D-699 and DOPL Case No. 2012-14, wherein Respondent was found to have violated the terms and conditions of her diversion agreement by failing to provide samples for drug analysis on 29 occasions; failing to check-in with the Division on 132 occasions to find out whether Respondent was required to provide a sample for drug analysis; and failing to meet with the Diversion committee on three occasions. Respondent's diversion agreement was terminated, and Respondent's license was suspended, the suspension was stayed, and Respondent's license was placed on probation for 5 years, subject to the same terms and conditions in the diversion agreement.
4. Respondent has violated the terms and conditions of Order on Motion for Default in Case No. D-699 and DOPL Case No. 2014-161, and the diversion agreement.
5. Respondent failed to meet with the Utah Board of Nursing ("Board") on June 24, 2014 as required, in violation of paragraph 4(i) of the diversion agreement.
6. Respondent failed to complete the University of Utah's School on Alcoholism and Other Drug Dependencies within two years of the effective date of the diversion agreement, in violation of paragraph 4(m) of the diversion agreement.

7. Respondent failed to provide samples for drug and alcohol testing as required on April 17, 2014; April 24, 2014; May 11, 2014; May 22, 2014; May 29, 2014; May 30, 2014; June 4, 2014; June 11, 2014; and June 13, 2014, in violation of paragraph 4(g) of the diversion agreement.

NOTICE OF INFORMAL PROCEEDING

The adjudicative proceeding designated herein is, pursuant to Utah Administrative Code R156-46b-202(2)(c), to be conducted on an *informal basis*, which means that you are not entitled to a hearing. The decision in this matter will be based upon a review of the Division records, any response filed by you, and a brief meeting before the Utah Board of Nursing.

Within thirty (30) days of the mailing date of this notice, you are required to file a written response with the Division. Your response will be helpful in clarifying, refining or narrowing the facts and the violation alleged herein. Your written response shall be mailed to:

Division of Occupational and Professional Licensing
Attn: Dr. Debra F. Hobbins, Bureau Manager
160 East 300 South, 4th Floor
PO Box 146741
SALT LAKE CITY, UT 84114-6741

If you fail to submit to the Division a written response within thirty (30) days of the mailing date of this notice, the Division may enter an Order of Default revoking your license without any further notice to you. If an Order of Default is entered your meeting with the Utah Board of Nursing will be cancelled without any further notice to you.

You may represent yourself or legal counsel may represent you, at your own expense, while this action is pending. If you are represented by legal counsel, your attorney must file a Notice of Appearance with the Division at the address stated above. Until a Notice of Appearance is filed, the presiding officer will communicate directly with you.

A copy of the Division's relevant and non-privileged evidence supporting the allegations described above has been provided to you along with this notice.

A one hour meeting with the Utah Board of Nursing has been set to review this matter at the following date, time, and place:

Thursday, September 11, 2014 at 8:00 am

Division of Occupational and Professional Licensing
Heber Wells Building
160 South 300 East, 4th Floor
Salt Lake City, UT 84114

The meeting with the Utah Board of Nursing ("Board") is not an adversarial hearing. Following the discussion of evidence of your misconduct, you will have an opportunity to present your position to the presiding officer and the Board.

If you do not appear at the time and date set forth in this notice, the Division will proceed based upon the record before it.

If you or your attorney has any questions regarding the procedures related to this matter, Dr. Hobbins can be contacted at the above address, or via telephone at (801) 530-6789.

At the expiration of your deadline to submit a response, and after the meeting set with the Utah Board of Nursing, Mark Steinagel, the Division Director, who is the presiding officer in this matter, will make an informal review of the record in this matter and determine whether you have violated a Division Order, in violation of Utah Code Annotated Section 58-1-501(2) (a) and (o) and therefore subject you to sanctions under Utah Code Annotated Section 58-1-401(2) (a).

The maximum administrative sanction in this case is revocation of your license. Other administrative sanctions may be imposed by the Division, including suspension of your license, imposition of probationary terms and conditions, a fine consistent with Utah Administrative Code R156-31b-402, and/or a public reprimand.

Please conduct yourself accordingly.

Dated this 26 day of June, 2014.

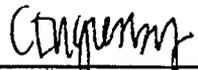


W. Ray Walker
W. Ray Walker
Regulatory and Compliance
Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 26 day of June, 2014, a true and correct copy of the foregoing NOTICE OF AGENCY ACTION was served on the parties of record in this proceeding by mailing a copy thereof, properly addressed by first class mail with postage prepaid, to the following:

MCKAYLA BROUGH
880 W. TIMBERCREEK WAY #1308
SALT LAKE CITY, UT 84119



Carol Inglesby
Administrative Assistant

September 8, 2014

STATEMENT ON MCKAYLA BROUGH FOR HER IAP ON SEPTEMBER 11, 2014

I received an Order On Motion For Default document on McKayla Brough on April 10, 2014. The document stated her diversion agreement was terminated and she was now placed on a five (5) year probation.

I attempted to contact Ms. Brough by telephone to set up an appointment with me to review her Order and give her new forms on May 9, 2014, May 12, 2014, May 13, 2014, and May 14, 2014 but there was no answer. There was no mailbox so I could not leave a message.

May 14, 2014. I received a phone call from an individual by the name of Jason. He said she didn't leave there anymore and gave me a new phone number for Ms. Brough which was 385-329-0449.

May 14, 2014 and May 19, 2014. I attempted to contact Ms. Brough at the new telephone number to meet with compliance prior to first board meeting to review her Order. There was no answer and no mailbox is set up to leave a message.

On May 20, 2014 Ms. Brough was sent a letter from Shirlene Kimball the Nursing Board Secretary inviting Ms. Brough to meet with the Board of Nursing on June 12, 2014. Ms. Brough failed to keep her appointment.

On June 4, 2014 I again attempted to contact Ms. Brough by telephone to meet with compliance prior to first board meeting to review her Order. There was no answer and no mailbox is set up to leave a message.

July 27, 2014 Debbie Harry notified me that McKayla Brough called her on July 25, 2014. Ms. Brough had told her she had been in a bad relationship and had gone to Oregon. Ms. Brough said she was in trouble for stealing but she had not used drugs and that she had been doing better for the last four months. She asked Ms. Harry what she needed to do about her license. Ms. Harry explained she didn't know if her license was revoked or on probation and that she would need to contact me or Deb Hobbins.

July 27, 2014 Debbie Harry, Deb Hobbins, Shirlene Kimball, Mitchell Jones, and myself met in Dr. Hobbins office and determined at that time to give Ms. Brough another chance by resending her Agency Action to the new address she gave Ms. Harry and we scheduled an IAP.

September 3, 2014 Mitchell Jones, our legal counsel notified me that he had talked to Ms. Brough on September 2, 2014 and explained she was on probation. Mr. Jones instructed her to call me after they hung up and to get things going if she was serious about keeping her nursing license. Ms. Brough did not call me. Ms. Brough told Mr. Mitchell that she talked to me and I told her there was nothing she could do but respond to the petition.

I reviewed my phone log back to March 1, 2014 and have no record of Ms. Brough calling me on the telephone to discuss her case.

On September 4, 2014, Ms. Brough called me and explained her current situation. I agreed to review her Order on September 5, 2014 telephonically because she was not coming back to Utah until the 10th of September. I emailed her the forms she would be required

On September 5, 2014 Ms. Brough called me and we reviewed her Diversion Agreement. I instructed her to sign up with Affinity immediately and begin checking in. I also reiterated the importance of communication and letting the Division know if she changed her address or phone number in the future. I explained if she doesn't tell me there is a problem then I can't help her. She said she understood. She did sign up with Affinity and has checked in each day.

Connie Call, Compliance Specialist
Utah Board of Nursing

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
Heber M. Wells Building
160 East 300 South - Box 146741
Salt Lake City, Utah 84114-6741
Telephone: (801) 530-6628

BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSES OF)
)
MCKAYLA BROUGH)
)
-----)
TO PRACTICE AS A) **DIVERSION AGREEMENT**
)
REGISTERED NURSE)
)
)
IN THE STATE OF UTAH)

This document is a voluntary agreement ("diversion agreement") between McKayla Brough and the **DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING** ("Division") through the Division Director. This diversion agreement has been entered into after consultation by the Division's Director with the Utah Recovery Assistance Program ("URAP") Advisory Committee ("Committee"). The Committee and the URAP manager concur with the terms of this Diversion Agreement. This diversion agreement is being entered into in accordance with the provisions of Utah Code Ann. Section 58-1-404.

In consideration of the mutual promises contained in this diversion agreement, the Division and Licensee make the representations set forth below and agree to the following terms and conditions

1 Licensee admits having an illness or condition, or having been involved in an incident, related to the misuse of alcohol, controlled substances, prescription medication, or other mood altering substances, which if left unaddressed, represents a potential threat to public health, safety, and/or welfare.

2 The Committee has reviewed the circumstances of the Licensee's conduct related to that illness, condition, or incident, and has recommended to the Division Director that the Licensee meets the criteria for referral to and inclusion in the Utah Recovery Assistance Program, a diversion program for licensees ("diversion program") set forth by Division rule.

3. Licensee admits that the following facts are true. Licensee also agrees that this diversion agreement is premised upon those facts, and that pursuant to Utah Code Ann. § 58-1-404(6)(b)(ii) those facts are a binding admission by Licensee in any future proceeding to terminate Licensee's participation in the diversion program and to impose disciplinary sanctions against Licensee, and are a binding admission in any disciplinary proceeding based on unprofessional or unlawful conduct that is not the basis of the diversion agreement.

a. On or about June 21, 2010 Licensee was first licensed as a Registered Nurse in the State of Utah.

b. On or about November 2, 2010 the Licensee called the Division to self-report that she had tested positive for marijuana, Oxycodone, and another drug (she could not remember). She had obtained her Oxycodone from a friend and smoked marijuana while at a party. She was in an auto accident 2 months ago and injured her neck & mid-back. She was given Lortab.

c. Licensee has engaged in conduct, including the use of intoxicants, drugs, narcotics, or similar chemicals; to the extent that the conduct does, or might reasonably be considered to, impair the ability of Licensee to safely engage in Licensee's occupation or profession

d. Licensee has practiced or attempted to practice Licensee's occupation or profession despite being physically or mentally unfit to do so. Licensee suffers from abuse.

4 Licensee has been provided with the statute and administrative rules which govern the diversion program, which are attached as Exhibit A. Licensee has read Exhibit A and

understands what the statute and administrative rules require of a licensee who is accepted into the diversion program. Licensee hereby requests acceptance into the diversion program and agrees to be subject to the following terms and conditions:

- a. The term of this diversion agreement shall be for a period of three years from the date the Division Director signs the diversion agreement. The term of this diversion agreement may be extended if agreed to by both parties in writing. The term of this diversion agreement may be terminated before three years by mutual agreement of the parties or if Licensee's participation in the diversion program is terminated involuntarily by the Division pursuant to the procedures set forth in Utah Code Ann. § 58-1-404
- b. Licensee shall abstain completely from the personal use and possession of all mood-altering substances, alcohol, controlled substances, illicit drugs, and prescription drugs, unless the Licensee has a current (issued within the last 45 days) lawfully obtained prescription issued by a licensed prescribing practitioner, to treat a current bona fide physical or mental condition, and the prescription drugs are taken in accordance with the prescription.
- c. Licensee shall provide the Division with a copy of all prescriptions for controlled substance and mood-altering drugs written for Licensee within 72 hours after the prescription is filled. Any drugs or medications consumed by the Licensee shall have been prescribed for a current illness or condition. The drugs shall be immediately discarded when the condition has been successfully treated.
- d. Licensee shall follow all manufacturer and/or practitioner instructions in the use of over-the-counter medications or other products. Over-the-counter medications and other products, including hand lotions, perfumes, and any other products containing alcohol shall be avoided unless specifically permitted by the Committee.
- e. Licensee shall consult with only one physician and fill prescriptions at only one pharmacy. Emergency prescriptions must be documented by the prescribing practitioner involved in their emergency care and such documentation must be forwarded to the Committee within seven days of administration or filling. Any referral practitioners prescribing mood-altering substances must document the reason and Licensee shall forward such documentation to the Committee within seven days of filling. All prescribing practitioners shall be immediately informed of Licensee's addiction/abuse problem. Licensee shall immediately provide written verification to the Division that Licensee has successfully completed this requirement. Licensee shall not obtain the same or equivalent prescription drug from more than one prescribing practitioner.
- f. Licensee shall not write, fill or otherwise order or unlawfully obtain controlled substances or mood-altering substances of any kind for themselves or their immediate family members. Licensee shall not unlawfully sell, purchase, distribute, manufacture,

prescribe, administer, or otherwise engage in any unlawful conduct with respect to controlled substances or other mood-altering substances.

g. Licensee shall provide samples (urine, blood, saliva, hair, or any other type of sample requested) for drug analysis upon the request of the Division, to be conducted by any company with which the Division has contracted to conduct drug testing. The designated company may also request such samples and Licensee shall comply with such requests. The Division or testing company shall determine when, where, and in what manner Licensee is to provide a sample for testing. Licensee shall pay for the cost of drug testing and shall accurately complete and sign any and all release forms requested by the Division or the drug testing company with respect to drug testing, including but not limited to, forms authorizing the company to send the drug test results to the Division. Any report from a drug testing company that indicates that Licensee failed to provide a sample for drug analysis as directed will be considered a positive drug test result for Licensee. Any drug test result or pattern of results that indicates that the sample provided by Licensee for drug analysis is diluted to an extent that it cannot be analyzed, will be considered a positive drug test result for Licensee. Licensee shall immediately provide a sample for drug urinalysis any time Licensee's integrity or sobriety is questioned in their professional environment.

h. Failure to pay all costs and fees associated with this diversion agreement (including costs of treatment, counseling, and drug analysis) constitutes a violation of this diversion agreement.

i. Licensee shall meet with the Committee or a designated member of the Committee monthly for the first three months, and then quarterly, or as otherwise directed by the Committee, the URAP Manager, or URAP staff.

j. Licensee shall successfully complete the following course of evaluation and treatment as part of Licensee's rehabilitation:

i. Licensee shall have successfully completed a professional evaluation from a URAP-approved rehabilitation center prior to signing this diversion agreement.
(COMPLETED AT ALPINE)

ii. Licensee shall successfully complete any psychiatric, psychological and physical evaluation either recommended by the rehabilitation center evaluator or directed by the Division or Committee any time during the term of this diversion agreement.

k. Licensee shall ensure that the following reports are submitted to the Committee at the frequency indicated as follows:

i Licensee shall attend Prime for Life.

ii. Quarterly reports from any personal counselors consulted during the quarter

iii. Reports from pain clinics or physicians as requested by the Committee.

l

m Licensee shall successfully complete the University of Utah's School on Alcoholism and Other Drug Dependencies (week-long drug school) within two years of the effective date of this diversion agreement.

n. Licensee shall immediately notify the Division of all change in employment.

p. If Licensee is a nurse, Licensee may not work for a nursing registry, travel nurse agency, nursing float pool, home health agency, temporary employment agency, or any other practice setting in which nursing supervision is not available without prior approval from the Committee.

q. If Licensee is arrested or charged with a criminal offense by any law enforcement agency; in any jurisdiction, inside or outside the State of Utah; for any reason, or should Licensee be admitted as a patient to any institution in this state or elsewhere for treatment regarding the abuse of or dependence on any chemical substance, or for treatment for any emotional or psychological disorder, Licensee agrees to cause the Division and Committee to be notified immediately. If Licensee at any time during the period of this agreement is convicted of a criminal offense of any kind, or enters a plea in abeyance to a criminal offense of any kind, or enters into a diversion agreement regarding a criminal offense of any kind, including a pending criminal charge, it shall be considered a violation of this diversion agreement and the Division may seek to terminate this diversion agreement pursuant to Utah Code Ann. § 58-1-404.

r. Licensee shall abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Licensee's licensed practice.

s. Licensee shall continue to comply with all the terms and conditions of this diversion agreement while residing and/or practicing outside the State of Utah unless Licensee enters into an identical or more stringent agreement with the gaining licensing authority or Licensee surrenders Licensee's Utah license(s) pursuant to a disciplinary surrender agreement. Licensee shall immediately notify the Division if Licensee enters into any other type of agreement, including diversion agreement, with any other state licensing authority. Licensee shall immediately provide the Division with a copy of any agreement Respondent enters into with any other state licensing authority. Nurses shall not practice nursing in any other Nurse Licensure Compact party state without prior authorization from the State of Utah and the party state. Licensee shall immediately notify the Division and Committee in writing of all dates of Licensee's departure and return from the State to Utah when Licensee leaves to reside and/or practice outside the State of Utah. The duration of this diversion agreement shall be tolled during any time period Licensee resides and/or practices outside the State of Utah for 30 consecutive days or longer, unless otherwise specified by the Division. If Licensee resides and/or practices outside of the State of Utah during the term of this diversion agreement for 30 consecutive days or longer, Licensee authorizes the

Committee or Division to provide a copy of this diversion agreement to the gaining licensing state.

t. Licensee shall provide Licensee's primary prescribing practitioner and Licensee's primary health care provider with a copy of this diversion agreement. Licensee shall immediately provide written verification to the Division that this requirement has been successfully completed. Licensee shall request that all prescribing practitioners not prescribe nor administer any mood-altering or potentially addicting drugs to Licensee unless there is no reasonable medical alternative. Pursuant to the release set forth in paragraph 18 below, Licensee gives permission to all physicians and healthcare providers to release any information about Licensee to the Committee and the Division, and to contact URAP staff if there is any concern regarding the actual or suspected use of mood altering substances by Licensee or the violation of any other condition of this Agreement by Licensee.

u. Licensee shall maintain current Utah licensure at all times during the period of this diversion agreement.

v. Licensee shall immediately notify the Division, in writing, of any changes of Licensee's residential address or telephone number

w. If Licensee works with a partner or manager, Licensee shall provide a copy of this diversion agreement to any partner or manager with whom Licensee has any formal association. Licensee shall immediately provide written verification to the Division that this requirement has been successfully completed. By the release set forth in paragraph 18 below, Licensee gives permission for partners and managers to contact URAP if they have any concerns regarding Licensee's use of mood altering substances or the violation of any condition in this diversion agreement.

y. Licensee agrees to inform Licensee's spouse or significant other, of the conditions set forth in this diversion agreement. By the release set forth in paragraph 18 below, Licensee gives permission for Licensee's spouse or significant other to contact URAP staff if they have any concerns regarding Licensee's use of mood altering substances or the violation of any condition in this diversion agreement

z. Licensee consents to having Licensee's photograph taken for administrative and identification purposes.

5. Licensee admits the jurisdiction of the Division over Licensee and over the subject matter of this diversion agreement, and agrees Licensee is subject to the procedures and remedies set forth in Utah Code Ann. Section 58-1-404

6. Licensee acknowledges that Licensee enters into this diversion agreement voluntarily, and other than what is contained in this diversion agreement, no promise or threat whatsoever has been made by the Division, or any member, officer, agent or representative of the Division, URAP, or the Committee to induce Licensee to enter into this diversion agreement.

7. Licensee acknowledges that Licensee has been informed of the right to be represented by counsel in negotiating this diversion agreement. Licensee's signature below signifies that Licensee has either consulted with an attorney or Licensee waives Licensee's right to counsel in this matter.

8. Licensee understands that if Licensee does not enter into this diversion agreement, the Division may commence an adjudicative proceeding and schedule a hearing before a licensing Board (hereinafter referred to as "Board") pursuant to Utah Code Annotated Section 58-1-108 and Utah Code Ann. Title 63G, Chapter 4, Administrative Procedures Act, at which time Licensee may present evidence on Licensee's own behalf, call witnesses, and confront adverse witnesses. Licensee understands that by signing this document Licensee hereby knowingly and intelligently waives the right to a hearing, the right to present evidence on Licensee's own behalf, the right to call witnesses, the right to confront adverse witnesses, and any other rights to which Licensee may be entitled in connection with said hearing.

9. Licensee understands that once all parties have signed this diversion agreement, the Division shall suspend action to discipline Licensee's license(s) for the conduct described in paragraph 3 above.

10. Licensee understands that, pursuant to Utah Code Ann § 58-1-404(6)(c), if the licensee makes an intentional material misrepresentation of fact in the stipulation of facts contained in paragraph 2 this diversion agreement, the director shall initiate the procedures set forth in Utah

Code Ann. Section 58-1-404(13) to terminate this diversion agreement and issue an order of license revocation.

11. Licensee understands that, pursuant to Utah Code Ann. § 58-1-404(6)(d)(i), if the licensee fails to comply with any of the terms and conditions of this diversion agreement, the Division Director shall initiate the procedures set forth in Utah Code Ann. Section 58-1-404(14) to terminate this diversion agreement and issue an order of license suspension, which shall be stayed in favor of an order of probation having the same terms and conditions as those which comprised the original unamended diversion agreement.

12. Licensee understands that pursuant to Utah Code Ann. § 58-1-404(8), upon Licensee's successful completion of this diversion agreement:

a. The Division Director shall dismiss any charges under the Director's jurisdiction of unprofessional or unlawful conduct that were filed against the licensee;

b. The Division may not thereafter subject the licensee to disciplinary action for the conduct which formed the basis of the completed diversion agreement; and

c. Neither the execution of this diversion agreement nor the dismissal of any filed charges constitutes disciplinary action, nor report of either may be made to disciplinary databases.

13. Licensee understands, pursuant to Utah Code Ann. § 58-1-404(9), that:

a. acceptance of Licensee into the diversion program does not preclude the Division from investigating or continuing to investigate Licensee for any unlawful or unprofessional conduct committed before, during, or after participation in the diversion program,

b. acceptance of Licensee into the diversion program does not preclude the Division from taking disciplinary action or continuing to take disciplinary action against Licensee for unlawful or unprofessional conduct committed before, during or after participation in the diversion program, except for that conduct which formed the basis for this diversion agreement;

c. if Licensee is terminated from the diversion program for failure to comply with this diversion agreement then Licensee is subject to disciplinary action by the Division for acts committed before, during and after participation in the diversion program, including violations identified in this diversion agreement.

14 Licensee understands that, pursuant to Utah Code Ann. § 58-1-404(11), the Division may consider the completion of a diversion program and the contents of the diversion agreement in determining the appropriate disciplinary sanction, if the licensee is charged in the future with the same or similar conduct.

15. Licensee understands that the classification, retention, and disclosure of records relating to licensee's participation in the diversion program is governed by Utah Code Title 63G, Chapter 2, the Government Records Access and Management Act (GRAMA) and the Division's own classification schedule, except that pursuant to Utah Code Ann. Section 58-1-404(10), any provision in this diversion agreement which addresses access to or release of diversion records regarding the licensee shall govern the access to and release of those records.

16. Licensee acknowledges that this diversion agreement becomes effective upon signature of the Licensee and the Director of the Division. Licensee further acknowledges that the Director of the Division is not required to approve the terms of this diversion agreement and that if this diversion agreement is not approved by the Director, it is null and void and without any force or effect whatsoever, including, but not limited to, the fact that it will not and cannot be used against Licensee in any proceeding against Licensee or used as any type of admission by Licensee of wrongdoing. If this diversion agreement is not approved by the Director, and the conduct on which this diversion agreement is premised is or becomes the subject of allegations in a disciplinary proceeding by the Division against the licensee, the licensee waives any claim of bias or prejudice which the licensee might otherwise have by virtue of the Director having reviewed this diversion agreement, and this waiver shall survive any such nullification of this diversion agreement

17. Licensee understands that, pursuant to Utah Code Ann. § 58-1-404(4)(d), the Division Director's decision not to divert a licensee is not subject to appeal or judicial review.

18. Licensee hereby agrees to consent to the release of all of Licensee's drug and alcohol treatment records pursuant to 42 United States Code § 290dd-2. Licensee has filled out, signed, and dated the Consent for Release of Alcohol and Drug Treatment Records form, which is incorporated by reference to this diversion agreement and attached hereto as Exhibit B. Licensee authorizes the Division to release Exhibit B to any drug or alcohol treatment program with which Licensee may be involved. If Licensee revokes consent for release of any drug and alcohol treatment records to the Division, such revocation will be considered a violation of this diversion agreement, and the Division may take action set forth in Utah Code Ann. § 58-1-404(14) to terminate this diversion agreement. Licensee authorizes a release of information between the individuals and/or entities set out in the above paragraphs of this diversion agreement and the Division for the purposes of ascertaining the Licensee's progress, or lack of progress in the diversion program, including the discussion of specific events which have, or may have occurred in the past, as well as those events that may occur in the future which might have import regarding the Licensee's ability to practice Licensee's profession with reasonable safety and ability. If Licensee requests that the Division provide reports to a particular individual or entity regarding Licensee's compliance with the terms and conditions of this diversion agreement, Licensee also specifically authorizes URAP personnel to notify any such individuals and entities or of Licensee's non-compliance with the terms and conditions of this diversion agreement.

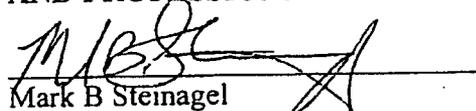
19. This diversion agreement and any exhibits, attachments or amendments hereto constitute the entire agreement between the parties and supersedes and cancels any and all prior

negotiations, representations, understandings or agreements between the parties. There are no verbal agreements, which modify, interpret, construe or affect this diversion agreement.

20. The Division may unilaterally, or upon request of Licensee, waive any requirement imposed upon Licensee by this diversion agreement that the Division does not consider necessary to protect the public or assist in the rehabilitation of Licensee. Such waiver shall become effective upon the Division sending written notice thereof to Licensee. The decision as to whether to waive such a requirement shall be left to the sole discretion of the Division and shall not be subject to agency review, agency reconsideration, or judicial review.

21. Licensee has read each and every paragraph contained in this diversion agreement. Licensee understands each and every paragraph contained in this diversion agreement. Licensee has no questions about any paragraph or provision contained in this diversion agreement. Licensee is not under the influence of drugs or alcohol and understands what Licensee is signing.

**DIVISION OF OCCUPATIONAL
AND PROFESSIONAL LICENSING**


Mark B Steinagel
Division Director

LICENSEE

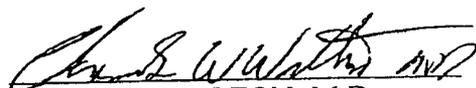


DATE: 2/3/2011

DATE: 1-27-11

I concur with the foregoing diversion agreement:

URAP MANAGER


CHARLES WALTON, M.D.

DATE: 1/27/11

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
160 East 300 South - Box 146741
Salt Lake City, Utah 84114-6741
Telephone: (801) 530-6628

BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE

OF THE STATE OF UTAH

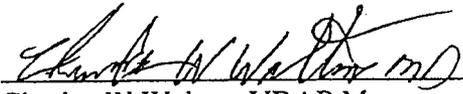
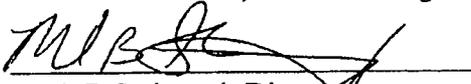
IN THE MATTER OF)
THE LICENSE OF) **AMENDMENT OF AGREEMENT**
)
McKayla Brough, RN)

BY THE DIVISION:

The Division's Diversion Agreement, dated ^{February 3, 2011} ~~August 17, 2006~~, in the above-referenced case is hereby amended as follows:

It is hereby ordered, that Licensee is voluntarily extending her Diversion Agreement until March 3, 2017 with the same terms and conditions set forth in the Diversion Agreement dated March 3, 2011. Licensee will be required to obtain a substance abuse evaluation. Licensee will also be required to attend a minimum of four (4) 12-Step meetings and four (4) PIR meetings.

Dated this 22 day of June, 2012


Charles W Walton, URAP Manager

Mark B Steinagel, Director

S E A L

Written Response

To whom it may concern:

During the time period of demonstrating non-compliance with my *diversion agreement* I was going through a very difficult period of life. I became involved in a relationship with a man who ended up controlling many aspects of my life negatively. I was mentally, physically, and emotionally abused by this man and in result made poor decisions and was unable to comply with what was expected from me in my diversion agreement. Throughout this time I did not continue to work as a nurse. The abuse continued for several months but fortunately with help from family and close friends I was able to reach out and receive help. I independently removed myself from the situation and re-located to live with family in Oregon. During this time I was able to focus on finding myself again and receiving the help and support that I needed. I recognize that I unfortunately was unable to successfully do what was expected from me with the diversion program and I am willing to do whatever it takes to save my nursing career that I have worked so hard to obtain. I accept responsibility for my actions however I ask for some understanding and compassion of my situation as well as the simple fact that I have maintained sobriety throughout this difficult time.

Sincerely,

McKayla Brough

RECEIVED

SEP - 2 2014

DIVISION OF OCCUPATIONAL
& PROFESSIONAL LICENSING



DOPL Compliance Report

Participant: Brough, McKayla

Report Date: 6/17/2014

Address:

Period From: 4/7/2014

To: 6/17/2014

Check-In

Date	Event	Status
4/7/2014	Missed Check-In	Active
4/8/2014	Missed Check-In	Active
4/9/2014	Missed Check-In	Active
4/10/2014	Missed Check-In	Active
4/11/2014	Missed Check-In	Active
4/12/2014	Missed Check-In	Active
4/13/2014	Missed Check-In	Active
4/14/2014	Missed Check-In	Active
4/15/2014	Missed Check-In	Active
4/16/2014	Missed Check-In	Active
4/17/2014	Missed Check-In and Test	Active
4/18/2014	Missed Check-In	Active
4/19/2014	Missed Check-In	Active
4/20/2014	Missed Check-In	Active
4/21/2014	Missed Check-In	Active
4/22/2014	Missed Check-In	Active
4/23/2014	Missed Check-In	Active
4/24/2014	Missed Check-In and Test	Active
4/25/2014	Missed Check-In	Active
4/26/2014	Missed Check-In	Active
4/27/2014	Missed Check-In	Active
4/28/2014	Missed Check-In	Active
4/29/2014	Missed Check-In	Active
4/30/2014	Missed Check-In	Active
5/1/2014	Missed Check-In	Active
5/2/2014	Missed Check-In	Active
5/3/2014	Missed Check-In	Active
5/4/2014	Missed Check-In	Active
5/5/2014	Missed Check-In	Active
5/6/2014	Missed Check-In	Active
5/7/2014	Missed Check-In	Active
5/8/2014	Missed Check-In	Active
5/9/2014	Missed Check-In	Active
5/10/2014	Missed Check-In	Active
5/11/2014	Missed Check-In and Test	Active
5/12/2014	Missed Check-In	Active
5/13/2014	Missed Check-In	Active
5/14/2014	Missed Check-In	Active
5/15/2014	Missed Check-In	Active
5/16/2014	Missed Check-In	Active

Affinity

Date	Event	Status
5/17/2014	Missed Check-In	Active
5/18/2014	Missed Check-In	Active
5/19/2014	Missed Check-In	Active
5/20/2014	Missed Check-In	Active
5/21/2014	Missed Check-In	Active
5/22/2014	Missed Check-In and Test	Active
5/23/2014	Missed Check-In	Active
5/24/2014	Missed Check-In	Active
5/25/2014	Missed Check-In	Active
5/26/2014	Missed Check-In	Active
5/27/2014	Missed Check-In	Active
5/28/2014	Missed Check-In	Active
5/29/2014	Missed Check-In and Test	Active
5/30/2014	Missed Check-In and Test	Active
5/31/2014	Missed Check-In	Active
6/1/2014	Missed Check-In	Active
6/2/2014	Missed Check-In	Active
6/3/2014	Missed Check-In	Active
6/4/2014	Missed Check-In and Test	Active
6/5/2014	Missed Check-In	Active
6/6/2014	Missed Check-In	Active
6/7/2014	Missed Check-In	Active
6/8/2014	Missed Check-In	Active
6/9/2014	Missed Check-In	Active
6/10/2014	Missed Check-In	Active
6/11/2014	Missed Check-In and Test	Active
6/12/2014	Missed Check-In	Active
6/13/2014	Missed Check-In and Test	Active
6/14/2014	Missed Check-In	Active
6/15/2014	Missed Check-In	Active
6/16/2014	Missed Check-In	Active

Selection

Date	Status
4/17/2014	No Show
4/24/2014	No Show
5/11/2014	No Show
5/22/2014	No Show
5/29/2014	No Show
5/30/2014	No Show
6/4/2014	No Show
6/11/2014	No Show
6/13/2014	No Show