

**MINUTES**

**BOARD OF NURSING  
MEETING**

**September 11, 2014  
Room 474 – Fourth Floor – 8:00 a.m.  
Heber Wells Building  
Salt Lake City, UT 84111**

**CONVENED: 8:00 a.m.**

**ADJOURNED: 11:40 a.m.**

**Bureau Manager:  
Board Secretary:  
Compliance Specialist:**

David Taylor  
Shirlene Kimball  
Debbie Harry

**Division Staff:**

Mitchell Jones, Assistant Attorney General

**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  
Calvin Kremin, MSN, CRNA  
Katherine Oswald, MSN, RN  
Steven Higginson, MSN, RN  
Sheryl Steadman, Ph.D., APRN

**ADMINISTRATIVE BUSINESS:**

July 10, 2014 minutes:

Mr. Pittman made a motion to approve the July 10, 2014 minutes with corrections. Ms. Rall seconded the motion. All Board members voted in favor of the motion.

August 21, 2014 minutes:

Ms. Parrish made a motion to approve the August 21, 2014 with corrections. Ms. Bangerter seconded the motion. All Board members voted in favor of the motion.

Note: Follow-up on a question from the Board regarding the amount of the fine assessed to Marie Gygi. The Division clarified that Ms. Gygi was assessed a \$200.00 fine the day of the Board meeting and Ms. Gygi paid the fine the same day.

McKayla Brough,  
Informal Adjudicative Proceeding:

Mr. Jones explained the process for the Informal Adjudicative Proceeding to new Board members.

The Informal Adjudicative Proceeding was scheduled for 8:00 a.m., September 11, 2014. Ms. Brough was not present at 8:00 a.m. and Mr. Jones began the proceeding at 8:11 a.m.

Mr. Jones handed out the following documents to Board members for review: Notice of Informal Agency Action, Ms. Brough's Diversion Agreement, Ms. Brough's written response, a probation compliance statement from Connie Call, and the DOPL compliance report from Affinity documenting missed check-ins and missed drug screens. Mr. Jones read on record the Allegations Supporting the Action. Ms. Brough was licensed as an RN in the State of Utah on or about June 21, 2010. On or about January 27, 2011 Ms. Brough voluntarily entered into a diversion agreement with the Division wherein she admitted that she had tested positive for marijuana and Oxycodone. On or about April 10, 2014, the Division entered an Order on Motion for Default wherein Ms. Brough was found to have violated the terms and conditions of her diversion agreement by failing to provide samples for drug analysis on 29 occasions and failing to check-in with the Division on 132 occasions. Ms. Brough's license was placed on probation for five years, subject to the same terms and conditions of the diversion agreement. Ms. Brough violated the terms and conditions of her probation when she failed to meet with the Board of Nursing on June 24, 2014; failed to complete the University of Utah's School on Alcoholism within two years of the effective date of the diversion agreement; failed to provide samples for drug and alcohol testing on April 17, 2014, April 24, 2014, May 2, 2014, May 22, 2014, May 30, 2014, June 4, 2014, and June 13, 2014.

Mr. Jones stated that Ms. Brough contacted the Division several months ago to find out the status of her license. Debbie Harry, Diversion Compliance, spoke with Ms. Brough and informed Ms. Brough that she had been terminated from

diversion; however, Ms. Brough was not notified at that time that she had been placed on probation. Mr. Jones stated that Ms. Brough has been out of compliance for 3 ½ years. Ms. Brough did not contact the Division until after the Notice of Agency Action was mailed to her. Mr. Jones stated that on September 4, 2014, Ms. Brough contacted him and he indicated Ms. Brough's diversion agreement had been terminated and her license had been placed on probation. Mr. Jones stated he informed Ms. Brough she needed to sign up with Affinity immediately. It took Ms. Brough two days to contact Ms. Call and sign up with Affinity. Ms. Call's statement that was submitted into the record indicated she reviewed the Order with Ms. Brough, and that Ms. Brough has been checking-in with Affinity since September 6, 2014.

Ms. Brough submitted a written response and Mr. Jones read the letter into the record. Ms. Brough appeared for the Informational Adjudicative Proceeding at 8:23 a.m.

Ms. Brough stated she was compliant with her diversion agreement and the diversion committee had indicated she was compliant the last time she met with them. Mr. Jones stated Ms. Brough has had over three years of non-compliance with diversion. Ms. Brough again stated she remained in compliance with her diversion agreement until several months ago. Mr. Jones informed Ms. Brough she missed 29 drug tests and did not check-in 132 times which put her out of compliance for more than three years. She has been on probation since April 2014 and has not complied with any of the terms of the probation. Ms. Brough also failed to keep the Division informed of any address or employment change.

Ms. Brough stated she last worked as a nurse October 2013. She indicated she quit her job, did not work for a period, moved out of state and now has returned to Utah. Mr. Jones questioned whether Ms. Brough purchased urine to pass a drug test and if she was using heroin while in diversion. Ms. Brough stated she never purchased urine to

pass a drug test, but has used heroin while on diversion. Mr. Jones informed Ms. Brough that the Division scheduled her for a drug screen today. Ms. Harry provided the necessary forms for Ms. Brough to present to the testing center.

Mr. Pittman questioned how often Ms. Brough reviewed her diversion agreement. Ms. Brough stated she reviewed the Order with Ms. Call last week, but prior to that review, has not looked at the document since she was placed on diversion. Ms. Brough stated she was not aware that if she failed diversion further action against her license would be taken. Ms. Brown indicated Ms. Brough has stated several times today that she was in full compliance with her diversion agreement. However, according to the documentation, she has been out of compliance for a long time. Ms. Brough signed her diversion agreement February 3, 2011, and was out of compliance by August 2011. She missed numerous check-ins and drug screens. Ms. Brown stated the Board has no way to know whether Ms. Brough was clean and sober because she did not submit to drug screens. She admitted to using heroin two years ago while on diversion. Ms. Brough stated she worked at four different facilities while on diversion. She indicated she quit her job because she moved around. The Board has no way of knowing whether she was terminated by the facility for any reason.

Ms. Parrish indicated that it appears that Ms. Brough's drug of choice is Oxycodone. Ms. Brough stated that Oxycodone is not an issue. Ms. Parrish stated that it is an issue and she was placed into diversion based on the positive drug screen for Oxycodone without a valid prescription. Board members questioned whether Ms. Brough feels she is an addict. Ms. Brough stated she used one time, was placed in diversion, never had an addiction problem, but knows she is an addict because she is dependent on the drugs. She stated she does not drink alcohol.

Mr. Jones indicated that the Division is recommending suspension until Ms. Brough can document four months of clean drug screens and

that the drug screens be scheduled twice a month.

Mr. Kremin 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. Mr. Pittman seconded the motion. All Board members voted in favor of the motion. The meeting was closed at 9:09 a.m. Mr. Pittman made a motion to open the meeting. Mr. Kremin seconded the motion. All Board members voted in favor of the motion. The meeting was opened at 9:28 a.m.

Ms. Parrish made a motion that Ms. Brough's license be suspended for a period of at least six months. The suspension shall only be lifted at Ms. Brough's request after she has successfully completed the following: a mental health and substance use disorder evaluation performed by an evaluator pre-approved by the division; submit a letter from the evaluator that clearly states Ms. Brough can safely practice as a RN; provide proof Ms. Brough has enrolled or completed the 2015 University of Utah School on Alcoholism and Other Drug Dependencies, if it is available; continue to check-in and undergo drug testing at a frequency determined by the Division; maintain 100% compliance with clean drug screens; and, continue weekly attendance at PIR or 12-Step meetings. Mr. Pittman seconded the motion. All Board members voted in favor of the motion. If the Drug and Alcohol School has been discontinued, Ms. Brough will need to contact the Board.

Review Dispensing Medical Practitioner Information:

Rich Oborn, Bureau Manager for the Board of Pharmacy, provided the Board with general information regarding Senate Bill 55. The old Statute had an exemption that allowed physicians too legally dispense medications under certain conditions and was limited to cosmetic drugs, injectable weight loss drugs and cancer regimen drugs. SB 55 went into effective July 1, 2014 and removed this exemption. The bill created two new license categories: dispensing medical practitioner (DMP) and dispensing medical practitioner clinic pharmacy. The Division is in the early stages of the rule making process, and will include in rule

that a licensed DMP designee under the supervision of a DMP practitioner can provide counseling to patients regarding medications dispensed; participate in the compounding of medications; enter information into a medication profile system and cannot dispense when a DMP practitioner is not present.

Mr. Oborn is requesting that the Board provide input in the development of these Rules and if there are any comments, he can be contacted at the Division.

Debbie Harry,  
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. Parrish seconded the motion. All Board members voted in favor of the motion. The meeting was closed at 9:45 a.m. Mr. Pittman made a motion to open the meeting. Mr. Kremin seconded the motion. All Board members voted in favor of the motion. The meeting was opened at 11:05 a.m.

Ms. Harry reported Michael Ross, Annette Stricklin, Sara Swearingen, Rebecca Davis, Suzanne Irish Menatti, Brett Alexander, Lori Wright, Rosalie Sloan, Julie Porter, and Alecia Hall are out of compliance with the terms and conditions of their probation. Mr. Pittman made the recommendation that the following individuals be invited to meet with the Board: Suzanne Irish Menatti, Brett Alexander, Lori Wright, Rebecca Davis, Rosalie Sloan, Julie Porter and Alecia Hall,

Sara Swearingen: Mr. Pittman made a motion to accept the evaluation. Since the evaluation indicates that Ms. Swearingen does not have a substance use disorder, she will not be required to continue with drug screens, attend 12-Step or PIR meetings. She will be allowed to have access to controlled substances and to call into the pharmacy in the capacity of her employment. However, as indicated in her Order, since she does not have a substance use disorder, she will be required to complete a cognitive restructuring course. Ms. Parrish seconded the motion. All Board members

voted in favor of the motion.

Sherrie Sutch: Ms. Bangerter made a motion to accept the essay and follow the evaluator's recommendations. Mr. Higginson seconded the motion. All Board members voted in favor of the motion.

Diane Judkins: Ms. Parrish made a motion to accept Ms. Judkins essay. Ms. Christensen seconded the motion. All Board members voted in favor of the motion.

William Schwartz: Mr. Pittman made a motion to have Mr. Schwartz follow the evaluator's recommendation and complete the second evaluation within 90 days. Mr. Kremin seconded the motion. All Board members voted in favor of the motion.

Amy Coleman: Mr. Pittman made a motion to accept the essay. Ms. Parrish seconded the motion. All Board members voted in favor of the motion.

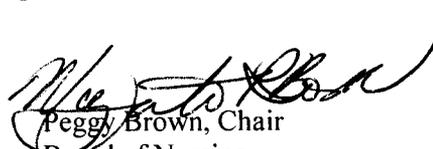
Marie Gygi: Mr. Kremin made a motion to accept Ms. Gygi's essay. Ms. Christensen seconded the motion. All Board members voted in favor of the motion. Mr. Pittman made a motion to have the psychological evaluator submit documentation that Ms. Gygi provided a copy of the Stipulation and Order and that the evaluation address the history of addiction. The evaluator will also need to submit a fitness for duty letter. The documentation will need to be submitted to the Division within the next 30 days. Mr. Higginson seconded the Motion. All Board members voted in favor of the motion.

Cindy Carter: Ms. Parrish made a motion to accept the psychological evaluation and follow the additional recommendations. The fitness for duty certification indicated that prior to a final decision recommending return to clinical practice additional evaluations must be completed. Therefore, in accordance with Ms. Carter's Stipulation and Order, paragraph 8b, Ms. Carter's license should be suspended until those additional evaluations have been completed and the recommendation from the

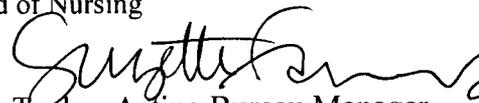
evaluator reviewed. Mr. Pittman seconded the motion was seconded. All Board members in favor of the motion.

*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.*

10/23/2014  
Date Approved

  
Peggy Brown, Chair  
Board of Nursing

Date Approved 10/24/14

  
~~Dave Taylor~~, Acting Bureau Manager, Suzzette Farmer  
Division of Occupational & Professional Licensing