Agenda

VOCATIONAL REHABILITATION COUNSELOR LICENSING BOARD MEETING

September 25, 2013 2:00 p.m.
Room 402 - 4th 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. Call the meeting to order
2. Sign the per diem
3. Introduction of Debra Hobbins, DNP, Bureau Manager
4. Administer Oath of Office to new Board member, Julio Rodriguez
5. Read and approve the minutes dated December 7, 2011

DISCUSSION ITEMS:

1. Susan Higgs, Compliance update:
   -Renee Scheering and her progress on completion of four hours of continuing professional education focusing on ethics
   -Maren Alitagtag, public reprimand
2. Environmental Scan, discussion of issues and updates regarding the vocational rehabilitation counselor profession
2. Open and Public Meetings Act Training (changes were made during the 2013 Legislative session)

NEXT SCHEDULED MEETING: To be determined

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 Posted to bulletin board

REVISED CHECKLIST FOR PUBLIC MEETINGS

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

✓ I am, Julie Smart, ~~chairperson~~ of the VOCATIONAL REHABILITATION COUNSELORS LICENSING BOARD.

✓ I would like to call this meeting of the VOCATIONAL REHABILITATION COUNSELORS LICENSING BOARD to order.

✓ It is now (time) 2:10 (am / pm) on SEPTEMBER 25, 2013.

✓ This meeting is being held in room 402 of HEBER WELLS BUILDING, 160 E 300 S 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, written minutes will also be prepared of this meeting. Appropriately marked "*pending approval*" minutes will be available to the public no later than 30 days after the close of the meeting. "*Approved*" minutes will be posted to the Utah Public Notice Website no later than three business days after approval.

___ The following Board members are in attendance:

	YES	NO
Russell J. Thelin	☐	Excused
Julie Smart	☑	☐
Joel M. Jolley	☐	Excused
Julio E. Rodriguez	☐	☐
Douglas C. Roberts	☑	☐
	☐	☑

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

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

		YES	NO
Mark B. Steinagel	Division Director	☐	☑
Debra Hobbins	Bureau Manager	☑	☐
Shirlene Kimball	Board Secretary	☑	☐
Boyce Barnes		☑	☐
		☐	☐
		☐	☐

✓ 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) 3:05 (am / pm), and this meeting is adjourned.

MINUTES

UTAH
VOCATIONAL REHABILITATION COUNSELORS LICENSING BOARD MEETING

December 7, 2011

Room 475 – 4th Floor – 2:00 P.M. – 2:40 P.M.
Heber Wells Building
Salt Lake City, UT 84111

CONVENED: 2:06 P.M.

ADJOURNED: 2:40 P.M.

Bureau Manager: Richard J. Oborn
Board Secretary: Lee Avery

Board Members Present:
Russell Thelin, Chairperson, via telephone
Julie Smart
Joel Jolley
Kimberly Nortz
Douglas Roberts

TOPICS FOR DISCUSSION	DECISIONS AND RECOMMENDATIONS
ADMINISTRATIVE BUSINESS: MINUTES:	The Board reviewed the minutes from the April 6, 2010 Board meeting. Mr. Roberts motioned to approve the minutes, seconded by Mr. Jolley. The motion carried unanimously.
DISCUSSION ITEMS: 1. Question of how to address hours of supervised experience gathered out of state under unlicensed CRC counselors.	Mr. Oborn advised the Board that the Division was contacted by an individual who is a practicing vocational rehabilitation counselor in a state that does not license vocational rehabilitation counselors. Under current Utah law, this person does not meet the requirements for a Utah LVRC license. The reason he does not meet Utah license LVRC requirements is because he has not been licensed in another state as an LVRC. Mr. Oborn noted that when this statue was created, it was not anticipated that the wording "licensed in another state" would create an inequity for individuals moving to Utah and wanting to continue their practice in vocational rehabilitation. Utah law requires that supervision be obtained under a licensed LVRC. Some believe this is an unreasonable requirement to impose on individuals coming from jurisdictions that do not currently have an LVRC

license.

The Board reviewed Utah Code 58-78-302. Qualifications for licensure.
(2) The division may issue a license under this chapter to an individual who is licensed in another state or jurisdiction to practice vocational rehabilitation counseling if the division finds that the other state or jurisdiction has substantially the same or higher licensure requirements as this state.

The Board stated that if the applicant has their CRC certification, they can work under a LVRC to gather the 4,000 hours of supervised practice needed to obtain the LVRC license in Utah.

If there is interest in amending the license by endorsement requirement, Mr. Oborn noted that the Utah State Office of Rehabilation (USOR) or the Utah Vocational Rehabilitation Association would need to contact a legislator to solicit their support for a proposal. The Board members expressed support for the current requirements for license by endorsement.

NEXT SCHEDULED MEETING:

The next Board meeting is scheduled for:
May 23, 2012

2012 Board meetings have been tentatively scheduled:
May 23, September 26.

ADJOURN:

Motion to adjourn at 2:40 P.M.

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

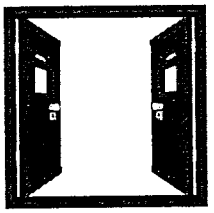
(ss)_____
Chairperson, Utah Vocational Rehabilitation Counselor Licensing Board

1/5/2012
Date Approved

(ss) Richard Oborn
Richard Oborn, Bureau Manager, Division of Occupational & Professional Licensing

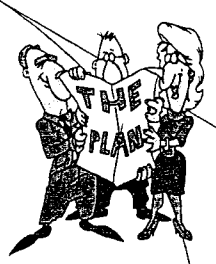
May 2013

Open and Public Meetings Act Training



Training Outline

- Background
- Public Policy
- Definitions
- General Rule
- Notice Requirements
- Minutes of Open Meetings
- Closing a Meeting
- Record of Closed Meetings
- Electronic Meetings
- Disruptive Behavior
- Litigation and Enforcement



Background - Training Requirement - §52-4-104

The presiding officer of each public body is responsible to ensure that all members of the public body are provided with annual training on the Open and Public Meetings Act.

Background: DOPL Licensing Board Structure - §58-1-201

- Typically consist of 5 members: 4 licensees and 1 public member.
- Members nominated by associations, submitted by the Division, confirmed by the Governor, and appointed by the Executive Director of the Department of Commerce.
- Members serve 4-year staggered terms.
- Duties and responsibilities set forth in Utah Code Ann. Sections 58-1-202 and 58-1-203.
- Members elect a chair annually who conducts meetings using parliamentary procedure: Robert's Rules of Order.
- Board Secretary is provided by the Division.
- Division liaison is the Bureau Manager.

Public Policy - §52-4-102

- Public bodies exist to aid in the conduct of the people's business.
- Their actions and deliberations should be taken and conducted openly.

Definitions - §52-4-103(4)

- "Meeting" means the convening of a *public body*, with a *quorum* present, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body has jurisdiction or advisory power.
- Includes a workshop or executive session of a public body.
- Does not mean a chance or social meeting.

Definitions - §52-4-103(7)

"Public body" means any administrative, advisory, executive, or legislative body of the state or its subdivisions that:

1. is created by the Utah Constitution, a statute, rule, ordinance, or resolution;
2. consists of two or more persons;
3. expends, disburses or is supported in whole or part by tax revenue; and
4. is vested with the authority to make decisions regarding the public's business.

Definitions - §52-4-103(9)(a)

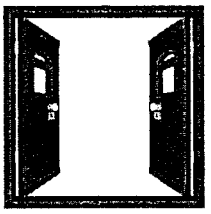
"Quorum" means a simple majority of membership of a public body, unless otherwise defined by applicable law.

Definitions - §52-4-103(8)

- "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

General Rule - §52-4-201(1)

Every meeting is open to the public unless closed under Sections 52-4-204, 52-4-205, and 52-4-206.



Notice Requirements - §52-4-202(1)-(3)

- Annual public notice of the date, time, and place of regularly scheduled board meetings.
- At least 24 hour public notice of the agenda, date, time and place of each of its meetings.
- The 24 hour public notice is satisfied by:
  - posting on a public bulletin board at the Heber M. Wells Building;
  - posting a notice on the Utah Public Notice Website created by Section 63F-1-701, provided it is set up to deliver notice to a newspaper or local media correspondent.

Emergency Meetings - §52-4-202(5)

- When due to unforeseen circumstances it is necessary for a public body to hold an emergency meeting to discuss matters of an emergency or urgent nature, the notice requirements may be disregarded and the best notice practicable given.
- Before such a meeting is held an attempt must be made to notify all of its members and a majority must vote in favor to hold such a meeting.

Notice

Agenda Requirements - §52-4-202(6)

- A public notice that is required to include an agenda must be specific enough to notify the public as to the topics to be considered at a meeting.
- Except for emergency meetings, a public body may not consider a topic that is not listed under a properly noticed agenda.
- A topic not included on an agenda that is raised by the public during an open meeting may be discussed but no final action may be taken at that meeting.

Minutes and Recordings of Open Meetings - §52-4-203

- Except for site visits and field tours, written minutes and recordings must be kept of all open meetings.
- The minutes and recordings are public records, but minutes are the official record of action taken.
- Anyone in attendance can make their own recording unless it interferes with the conduct of the meeting.

Minutes and Recordings of Open Meetings - §52-4-203(2)

Written minutes and recordings must include:

- the date, time and place of the meeting;
- the names of members present and absent;
- the substance of all matters proposed, discussed, or decided, which may include a summary of comments made by members of the public body;
- a record by individual member, of votes taken;

Minutes and Recordings of Open Meetings - §52-4-203(2)

(continued):

- the name of each person who is not a member of the public body, and upon recognition by the presiding officer of the public body, provided testimony or comments to the public body;
- the substance, in brief, of the testimony or comments provided by the public; and
- any other information that is a record of the proceedings of a meeting that any member requests be entered in the minutes or recording.

Minutes and Recordings of Open Meetings - §52-4-203(2)

Written minutes and recordings of an open and public meeting are public records as follows:

- Pending minutes that have been prepared in a form awaiting only formal approval by the public body are a public record.
- Pending minutes that have not been adopted by the public body shall be marked **"awaiting formal approval"** or **"unapproved"** or with some other similar notice that the minutes are subject to change until formally approved.
- Appropriately marked pending minutes must be posted on the Utah Public Notice Website within 30 calendar days after the end of the public meeting.

Minutes and Recordings of Open Meetings - §52-4-203(2)

(continued):

- Public bodies are required to establish and implement procedures for the public body's approval of the written minutes of each meeting.
- Written minutes are the official record of action taken at the meeting.
- Within three business days after approving written minutes of an open meeting, a public body is required to post to the Utah Public Notice Website and make available to the public at the public body's primary office a copy of the approved minutes and any public materials distributed at a meeting.
- A recording of an open meeting must be posted to the Utah Public Notice Website within three business days after the end of the meeting.
- Written minutes or recordings of an open meeting have a permanent retention schedule.

Closing a Meeting - §52-4-204

Closed meetings are never required, but may be held provided:

a. a quorum is present;

b. two-thirds of the members in a properly noticed open meeting vote to close the meeting;

c. the only matters discussed in the closed meeting are those permitted in Section 52-4-205; and

d. no ordinance, resolution, rule regulation, contract or appointment is approved in the closed meeting.

Closing a Meeting - §52-4-204(4)

The following must be publicly announced and entered on the minutes of the open meeting:

- the reason or reasons for holding a closed meeting;
- the location where the closed meeting will be held; and
- the vote by name, of each member of the public body, either for or against the motion to hold a closed meeting.

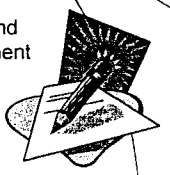
Closing a Meeting - §52-4-205

The purposes for closing a meeting include:

- discussion of the character, professional competence, or physical or mental health of an individual;
- strategy sessions to discuss pending or reasonably imminent litigation;
- deployment of security personnel, devices, or systems; and
- investigative proceedings regarding allegations of criminal misconduct.

Record of Closed Meetings - §52-4-206(1) & (2)

- Except where a sworn statement is required, a recording of the closed meeting is required and detailed written minutes may be kept.
- Recordings must be a complete and unedited record from commencement through adjournment of the closed meeting.



Record of Closed Meetings - §52-4-206(3)

The recording and any minutes of a closed meeting must contain:

- the date, time, and place of the meeting;
- the names of members present and absent; and
- the names of all others present except where the disclosure would infringe on the confidentiality necessary to fulfill the original purpose of closing the meeting.

Record of Closed Meetings - Sworn Statements - §52-4-206(6)

- Instead of a recording, a sworn statement is required from the person presiding at a meeting if a public body closes a meeting exclusively for the purpose of:
  - discussing character, professional competence, or physical or mental health of an individual; or
  - discussing the deployment of security personnel, devices, or systems.
- DOPL has prepared a sworn statement form to assist the person presiding in closing such a meeting.

Electronic Meetings - §52-4-207(2)

A public body may not hold an electronic meeting unless it has adopted a resolution, rule, or ordinance governing the use of electronic meetings. Commerce R151-1-2 provides:

- Such meetings are permitted but may be limited based on budget, public policy, or logistical considerations.
- A director or designee may establish such meetings on his or her own initiative or acting upon a timely request from a board member.
- A quorum of a board is not required to be present at a single anchor location.
- Any number of separate connections are permitted unless limited based upon available equipment, etc.

Electronic Meetings - §52-4-207(3)

A public body convening or conducting an electronic meeting must:

- give public notice under Section 52-4-202;
- post written notice at the anchor location(s);
- provide at least 24-hour notice to the public body, including how members will be connected, so members may participate in and be counted as present for all purposes;
- establish one or more anchor locations, at least one of which must be in the normal meeting location; and
- provide space and facilities at the anchor location so interested persons and the public can attend, monitor and participate.

Definitions - §52-4-103

- "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.
- "Anchor location" means the physical location from which an electronic meeting originates or the participants are connected.
- "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

Disruptive Behavior at a Meeting - §52-4-301

- A public body may remove any person who willfully disrupts a meeting to the extent that orderly conduct is seriously compromised.
- Such a removal does not constitute closing the meeting.

Voiding a Public Meeting - §52-4-302

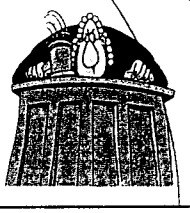
- Final action in a meeting held in violation of the requirements for open, emergency, and electronic meetings is voidable in court.
- A lawsuit to void any final action must be filed within 90 days after the date of the action.

Voiding a Public Meeting - §52-4-302

- A court may not void a final action taken by a public body for failure to comply with posting notice on the Utah Public Notice Web Site if:
  - the public body otherwise complies with the notice requirements in Section 52-4-202; and
  - the failure was the result of unforeseen Internet hosting or communication technology failure.

Criminal Penalty for Improperly Maintaining Records - §63A-12-105

Intentionally mutilating, destroying, or otherwise damaging or disposing of the record-copy of a record knowing it is in violation of the laws governing retention of the record is a class B misdemeanor and the employee involved may also be subject to disciplinary action.



Enforcement of Open and Public Meetings Act - §52-4-303

- The attorney general and county attorneys are responsible for enforcement of the Open and Public Meetings Act.
- The attorney general is required on at least a yearly basis to provide notice to all public bodies of any material changes to the Open and Public Meetings Act.
- A person denied any right under the Act may bring suit to compel compliance with or enjoin violations or determine the applicability of the Act, and may be awarded attorney fees and court costs if successful.

Action Challenging Closed Meeting - §52-4-304

- In a lawsuit brought to challenge the legality of a closed meeting a court is required to review the recording or written minutes of the closed meeting in camera, and decide the legality of the closed meeting.
- If the court determines that the public body did not violate the Act regarding closed meetings, it must dismiss the case without disclosing or revealing the information from the recording or minutes of the closed meeting.
- If the court determines the public body did violate the Act regarding closed meetings, it must publicly disclose or reveal from the recording or minutes all information about the portion of the meeting that was illegally closed.

Criminal Penalty for Closed Meeting Violation - §52-4-305

A knowing or intentional violation or aiding or advising in the violation of the closed meeting provisions of the Open and Public Meetings Act is classified as a class B misdemeanor.

Questions?