

MINUTES

UTAH SOCIAL WORKER LICENSING BOARD

February 3, 2022 | 9:00 A.M.
ELECTRONIC MEETING

No Anchor Location

MEETING OPEN: 9:01 A.M.

MEETING ADJOURNED: 1:53 P.M.

BOARD MEMBERS IN ATTENDANCE:

Rachel Stoddard, SSW, Chairperson
Marette Monson, LCSW, Vice Chair
Alan Misbach, LCSW

Jared Ferguson, LCSW
Dr. Richard Engar, Public Member
Chelnecha Lowry, CSW

BOARD MEMBERS NOT IN ATTENDANCE:

Jamie Navarrete, SSW

DOPL MEMBERS IN ATTENDANCE:

Jennifer Falkenrath, Bureau Manager
Julie Pulsipher, Board Secretary

Tracy Naff, Compliance Manager
Jennifer Johnson, Compliance Specialist

GUESTS IN ATTENDANCE:

Lori Ellis
Nicole Wharton
Chantel Harvey

Note: Others may have been in attendance but were not identified.

ADMINISTRATIVE BUSINESS:

CALL MEETING TO ORDER

Ms. Stoddard called the meeting to order at 9:01 A.M.

REVIEW AND APPROVE DECEMBER 2, 2021, MEETING MINUTES

(See Audio 1 for Specifics 00:00:02:15-00:00:02:48)

Dr. Engar motioned to approve the December 2, 2021 Meeting Minutes.

Mr. Ferguson seconded the Motion.

Motion passed unanimously.

NOMINATE A NEW CHAIRPERSON

(See Audio 1 for Specifics 00:02:48- 00:04:49)

Ms. Stoddard nominated Ms. Monson.

Ms. Monson thanked Ms. Stoddard for her exemplary service as Chairperson, and stated she is sad to see Ms. Stoddard stepping down as Chairperson. Ms. Monson stated she is glad Ms. Stoddard is going to continue to serve on the Board.

Dr. Engar accepted Ms. Stoddard's recommendation to nominate Ms. Monson.

Mr. Misbach seconded the Motion.

Motion passed unanimously for Ms. Marette Monson to be the new Chairperson.

NOMINATE VICE-CHAIRPERSON

(See Audio 1 for Specifics 00:04:50-00:08:49)

Ms. Monson stated there was now a need for a new Vice Chairperson.

Ms. Monson stated any of the Board members would do a fabulous job. Ms. Monson stated the Vice Chair would need the flexibility of time to fill the position.

Mr. Ferguson nominated Mr. Misbach.

Mr. Misbach nominated Mr. Jared Ferguson.

Nominations for Mr. Misbach and Mr. Ferguson were noted.

Dr. Engar seconded the Motion for both nominations to be considered.

Ms. Monson nominated Mr. Misbach.

Dr. Engar and Mr. Ferguson seconded it.

Majority votes were in favor of Mr. Alan Misbach to serve as Vice Chairperson.

DISCUSSION ITEMS:

INVESTIGATIVE REPORT—BEN BAKER

(See Audio 1 for Specifics 00:08:50-01:07:38)

Investigator Ben Baker presented Investigations procedures.

Investigator Baker clarified for the Board the procedures Investigations use in the investigations process.

Investigator Baker answered questions and concerns relating to the Investigations process.

Investigator Baker stated Investigations could begin offering the victim the opportunity to attend the Board meeting if they desired, or to write an impact statement. Investigator Baker stated no names or identifying information would be allowed, but Ms. Falkenrath could read it at a Board meeting. On a first-time probationary interview, Investigator Baker stated he would be willing to attend the Board meeting to listen to their response to it. Investigator Baker stated if actions are misrepresented after a Stipulation Order has

been signed, it would be a violation of the Stipulation Order. Misrepresentations would need to be taken to DOPL for action.

Ms. Monson stated Investigator Baker's comments were very helpful, and was thankful for clarification.

Ms. Monson stated respondents come to Board meetings ready to try and negotiate their sentencing. Ms. Monson stated it is very difficult because the Board did not set the Stipulation; they are simply enforcing it.

Mr. Baker stated he was thankful for the feedback from the Board that respondents are using information to skew it for their benefit. Investigator Baker stated the process with the Board is not to re-adjudicate their Stipulation Order.

Ms. Falkenrath shared on screen R156-1 General Rule of the Division of Occupational Professional Licensing regarding aggravating and mitigating circumstances.

Monitoring Elements and Timetable

Enter Probationary Agreement

Meet with Compliance Specialist

Meet with Board

Initial Evaluation

- **Recommended treatment**
- **Ongoing individual therapy**
- **Participation in professional recovery supports**

Work Supervisor

Random testing

Ms. Falkenrath stated the five-year probationary report is based upon recommendations from agencies like the Federation of State Physician Health Programs and SAMHSA. Ms. Falkenrath stated abstinence rates exceeded 70% after the 5-year probationary status. Ms. Falkenrath stated this is why DOPL goes by the 5-year probation standard.

Ms. Falkenrath stated it is the role of the Board to determine a respondent's compliance. Ms. Falkenrath stated Compliance Specialists are assigned to specific professions to monitor and document compliance of the probationer, and to report to the Board.

Ms. Monson requested an Investigations Report each Board meeting with pending investigations. Ms. Monson requested information if the victim was notified, if the victim attended the Hearing, or if there were mitigating or aggravating circumstances in determining the Stipulation Order.

Investigator Baker agreed to provide the report. Investigator Baker stated he is willing to attend the first Board meeting, and provide additional information he is able to provide.

The Board thanked Investigator Baker for his time.

PSYCHEDELIC SOMATIC INTERACTION PSYCHOTHERAPY

(See Audio 1 for Specifics 01:07:44-01:31:08)

Ms. Monson stated she received an inquiry regarding Psychedelic Somatic Interaction Psychotherapy, and asked the subject to be placed on the agenda. Ms. Monson stated it would be good to discuss this item because there may be others with this same question.

Ms. Nicole Wharton stated Psychosomatic Therapy was working with the body to help the client release trauma. Ms. Wharton stated Cannabis disrupts the secondary conscious thinking mind to allow the client to feel in the body; Cannabis then causes the autonomic nervous system to release trauma.

Comments, Questions, and Concerns were discussed.

Mr. Misbach stated he is very concerned, and to him it does seem experimental. Mr. Misbach stated it is an ethical violation to experiment—especially without a client's consent. Mr. Misbach stated he feels experimentation should always be conducted by Human Subjects Review Board, the IRB, and a full consent from subjects of experimentation.

Ms. Monson stated she wants Social Workers to stay within their scope of practice. Ms. Monson stated having someone taking medication in the office is not part of the scope of practice. Ms. Monson stated this is combining medicine with social work. Ms. Monson stated Ms. Wharton is putting herself and the public at risk.

Ms. Lowry stated she did research on the subject prior to the Board meeting. Ms. Lowry stated if the therapy were to move forward, there would have to be psychiatrists and medical professionals at the clinic to monitor clients. Ms. Lowry stated there would be need for IRB research.

Mr. Ferguson stated 5.02 of the Code of Ethics, which is specifically targeted to Evaluation and Research, should be in Social Worker best practice habits. Mr. Ferguson recommended to Ms. Wharton to use this modality with the absence of Ketamine or Cannabis. Mr. Ferguson stated as a Social Worker, Ms. Wharton would be putting herself at substantial risk at this point.

NO SURPRISE ACT

(See Audio 2 for Specifics 02:26:24-02:31:47)(Out of Order)

Ms. Monson stated the new No Surprise Act affects Social Workers--that they need to provide a good faith estimate for yearly cost within three days for the initial contract. If the cost goes greater than the initial estimate by \$400 or higher, a fine can be issued the social worker.

Ms. Monson stated the Clinical Social Workers Association is trying to get an exemption to this law. Ms. Monson stated it is a lot harder to get an exemption to the law than it is to be exempted before the bill passed. Ms. Monson stated social workers will have a year to get in compliance. If the diagnosis can't be determined, "To Be Determined" can be used. Ms. Monson stated at the moment, it is for cash only type of payment.

SOCIAL SERVICE WORKER--OPLR COMMITTEE

<https://le.utah.gov/interim/2022/html/00000552.htm>

*Occupational and Professional Licensure Review Committee
(See Audio 2 for Specifics 02:31:48-02:51:00)(Out of Order)*

Ms. Falkenrath stated this issue was presented, but there was no proposed legislation. Ms. Falkenrath stated she doesn't know the intention of NASW. Ms. Falkenrath stated she hasn't seen anything come across.

Ms. Monson stated the time for the waiver is quickly running out, and nothing has happened.

Mr. Misbach stated he plans to follow up with NASW on what they are planning. Mr. Misbach stated Utah currently issues a license to people who do not hold a degree in Social Work. Mr. Misbach stated by establishing a BSW license, it solidifies substandard practice of practicing without a degree. Mr. Misbach stated it was time Utah closes the loop and only issues licenses to those with a degree.

Ms. Monson stated the reason for the second license was to *Grandfather* in the people who work at human services—in particular DCFS. Ms. Monson stated it was left in the hands of NASW, and no meetings have occurred. Ms. Monson stated the Board protects the public; NASW protects the profession. Ms. Monson invited NASW members to attend the next Board meeting.

Ms. Falkenrath stated she had forwarded the agenda to NASW regarding the OPLR Committee meeting. Ms. Falkenrath stated it is up to their agency to fight for their agency.

Mr. Misbach stated licenses will not be taken away from anyone; steps are simply being taken for moving forward in the future.

Mr. Ferguson stated the term Social Worker—school social workers in particular—needs to be addressed by NASW. Mr. Ferguson stated the term Social Service Worker is typically defined as someone who has a degree in Social Work.

Ms. Lowry asked if other stakeholders are interested in contacting NASW, what the contact information would be.

Ms. Falkenrath stated she could invite NASW to the next Board meeting. Ms. Falkenrath stated she could invite Tiana McCall, from the Utah State Board of Education, to the next Board meeting.

APPOINTMENTS

COMPLIANCE REPORT – JENNY JOHNSON

(See Audio 1 for Specifics 01:31:25-01:40:07)(Out of Order)

Ms. Jenny Johnson presented the Compliance Report, as provided.

KIMBERLEE ST. CLAIR—PROBATIONARY INTERVIEW

(See Audio 1 for Specifics 01:40:17-01:55:04)

Ms. Stoddard conducted the interview.

Ms. Stoddard asked the progress of Ms. St. Clair's efforts in finding employment.

Ms. St. Clair stated frustration she cannot find someone to work for. She doesn't know where to go for appropriate help.

Ms. Stoddard stated it is correct the Board cannot recommend a place to go or a name for a reference.

Possible ideas and avenues to aid Ms. Clair in her efforts were discussed.

Ms. Monson stated she recognized Ms. St. Clair was continuing to try to find employment. Ms. Monson stated it is the nature of the market to have a waiting list. Ms. Monson stated Ms. St. Clair will need to be persistent and patient.

Ms. Stoddard stated at this time Ms. St. Clair is not in compliance, as the Board was waiting on the Therapy Report. Ms. Stoddard recommended the Board wants to see her again when she has a therapy report and is working in the field.

Meeting adjourned for Scheduled Break at 10:56A.M.

Meeting Resumed at 11:02 A.M.

JAMIE DIARTE—PUBLIC REPRIMAND INTERVIEW

(See Audio 2 for Specifics 00:00:06-00:33:26)

Ms. Monson conducted the interview.

Ms. Monson provided introductions, and stated this is a public meeting that would be recorded. Ms. Monson stated the meeting could be closed if character, mental competence or health were discussed.

Ms. Johnson stated Ms. Jamie Diarte's Stipulation Order was signed December of 2021. Ms. Diarte has paid the \$500 fine and completed the CE requirements. The course has been approved by the Bureau Manager. Ms. Johnson included her course summary.

Ms. Monson stated Ms. Jamie Diarte was here to meet with the Board because of a public reprimand and Stipulation Order. Ms. Monson asked what happened.

Ms. Diarte gave details leading up to her Stipulation and Order.

Ms. Monson stated Ms. Diarte was benefitting at the same time it was benefitting the client. Ms. Monson stated by putting herself in two roles, Ms. Diarte was displaying a dual relationship. Ms. Monson asked Ms. Diarte about the HIPAA violation component in her Stipulation.

Ms. Diarte stated she shared information with the client's parents without a release of information. Ms. Diarte stated she had friends participating in the same arena that told her she should have called the client to backdate a release of information. Ms. Diarte stated she did not do this because she is an honest person. Ms. Diarte stated she should have forced the issue that she could not talk to the client's parents until there was a release of information.

Ms. Monson stated she wanted her to examine herself to see how she was vulnerable to violate the law she knew she was violating. Ms. Monson recommended Ms. Diarte seek therapy for this particular issue.

Ms. Diarte stated she was too nice, and wanted other people to step up and help this client. Ms. Diarte responded she had been in therapy for years.

Mr. Misbach asked if the friends Ms. Diarte stated encouraged her to lie were Licensed Social Workers. Mr. Misbach asked if Ms. Diarte felt she had a responsibility to report them for encouraging her to engage in unethical behavior. Mr. Misbach asked if Ms. Diarte saw their behavior as unethical.

Ms. Diarte stated they were in the same arena; and no, because it was friendly conversation.

Mr. Misbach stated, “*For the record, you had a licensed Social Worker encourage you to do something unethical and you don’t think that you have any duty to act or try to remedy that?*”

Ms. Diarte stated, “No, because I don’t have any proof or any indication that they really do it themselves. It was more of...a friendly conversation of, ‘Geez you could have got out of that by just having the client backdate a release of information...’”

Mr. Misbach stated he was very concerned of what he has seen happen. Mr. Misbach stated he was further concerned on how she has responded to this reprimand. Mr. Misbach stated Ms. Diarte showed poor judgment and impulsiveness in using a client’s name when asked not to do that. Mr. Misbach stated Ms. Diarte criticized a client for using inappropriate language during a session, when she did it herself with the Board. Mr. Misbach stated this was very unprofessional and disrespectful in a public meeting that was being recorded.

Mr. Misbach implored Ms. Diarte to reconsider professional practice behaviors; he further stated he believed Ms. Diarte has acted unethically by disclosing to the State Licensing Board that she has colleagues in the profession who encouraged her to commit even further unethical acts. Mr. Misbach stated the very fact Ms. Diarte would share that with the Board shows the lack of insight into her ethical conduct as a Social Worker. Mr. Misbach

stated there were very serious concerns, and to take serious steps to improve her ability to practice safely as a social worker.

Mr. Ferguson stated if **Ms. Diarte** read the **Code of Ethics**, she does not understand it. **Mr. Ferguson** stated for **Ms. Diarte** to study the **Code of Ethics** and digest it. **Mr. Ferguson** stated **Ms. Diarte** had committed very clear ethical violations.

Ms. Lowry stated she agrees to what has been said by other Board members.

Ms. Monson stated she wants to see **Ms. Diarte** take to heart the things that have been provided. **Ms. Monson** stated the role of the Board is to protect the safety of the public.

KRISTI ROBLES—PUBLIC REPRIMAND INTERVIEW

(See Audio 2 for Specifics 00:33:31-01:16:33)

Mr. Ferguson conducted the interview.

Mr. Ferguson stated this was a public reprimand case, and that he had read over the case. **Mr. Ferguson** asked **Ms. Robles** if she had read the **Code of Ethics**. **Mr. Ferguson** asked **Ms. Robles** to tell about what brought her before the Board based on her actions. **Mr. Ferguson** asked if the facts as they are represented in the Stipulation were true and correct.

Ms. Robles stated she had read over it when she received her Stipulation Order in December. **Ms. Robles** gave details of the circumstances of her case. **Ms. Robles** stated she feels she could have handled the situation differently, but she feels she has a right to not be abused. **Ms. Robles** stated that was a source of contention with Investigations.

Mr. Ferguson stated the Board is not privy to the contents of investigative records and cannot speak to the content of that interview.

Mr. Ferguson asked if there were any other measures **Ms. Robles** could have taken other than the one she chose. **Mr. Ferguson** stated within the Stipulation, there are some things **Ms. Robles** agreed to.

Ms. Robles stated her attorney advised her that the best measure would be to file a lawsuit, but that she wasn't "into" lawsuits. **Ms. Robles** stated she needed to do her CE credits for Ethics and Thinking Errors within the next six months.

Ms. Johnson stated December 1, 2022 is the effective date, and **Ms. Robles**' timeframe to get her CE's completed is six months from that date.

Mr. Ferguson stated the Social Mental Health Licensing Act Rule clearly defines deceptive billing practice, and wanted to bring **Ms. Robles**' attention to this in Act and Rule. **Mr. Ferguson** stated there are other means of remedying a situation.

Mr. Ferguson stated there was clear violation concerning reasonable fees. Mr. Ferguson stated 5.01 Code of Ethics outlines the maintenance of integrity in the profession. Mr. Ferguson stated Ms. Robles' actions reflect on the profession as a whole. Mr. Ferguson stated a resource is the 12.0 NASW document on Technology and Social Work Practice.

Mr. Ferguson asked Ms. Robles what she had learned from all of this.

Ms. Robles stated she should have sent the verbiage to the attorney before she put the contracts in place. Ms. Robles stated she was operating from a place of fear.

Mr. Ferguson stated this was a reprimand--a violation of professional conduct.

Mr. Ferguson opened for comments from the Board.

Mr. Misbach stated he concurred with Mr. Ferguson, and that when an attorney advises her to do something, she needs to follow counsel.

Dr. Engar stated bad reviews are a common thing in all professions. People are cowardly by hiding behind their computer.

Ms. Monson stated for Ms. Robles to become familiar with the Technology Standards and Standard Code of Ethics which address things like social media and reviews.

APRIL STANGER—PROBATIONARY INTERVIEW

(See Audio 2 for Specifics 01:16:37-02:25:33)

Mr. Misbach conducted the interview.

Mr. Misbach stated this was Ms. Stanger's second interview, and that it was a public meeting which would be posted on the internet. Mr. Misbach asked how recently Ms. Stanger has read her Stipulation Order, and if there were any places she was not compliant.

Ms. Stanger stated she received two criminal charges for driving under the influence, on two occasions.

Ms. Stanger stated she had about 4 missed check-ins. Ms. Stanger stated apparently there was a UA test with traces of ethanol. Ms. Stanger stated it was unclear whether she needed to check in while she was on vacation. Ms. Stanger stated the background check had some miscommunication, and she was unable to get her fingerprints done. Ms. Stanger stated she was quarantined for three and a half weeks with children with COVID. Ms. Stanger stated she had to make a decision whether to continue with the assessment or put off the assessment in order to get the fingerprints done; and if she did that, she wouldn't be able to get the assessment until April. Ms. Stanger stated she went ahead with the assessment and now have the fingerprints done. Ms. Stanger stated she doesn't have the results from the assessment.

Mr. Misbach stated three areas are not in compliance: no BCI check before the Psych Evaluation, positive PETH test, and missed check-in's.

Mr. Misbach asked how Ms. Stanger would rectify the glitches in order to get herself in compliance. Mr. Misbach stated her conditions are very strict. Mr. Misbach stated the Board has to go by the PETH test. Mr. Misbach stated taking Nyquil is against the Stipulation.

Ms. Stanger stated she admitted she was in violation of the Stipulation, but that she wasn't drinking alcohol. Ms. Stanger stated she was looking for relief and not really thinking about it.

Ms. Stanger stated she has a good support system. Ms. Stanger stated she doesn't feel tempted in any way; she attends therapy. Ms. Stanger stated the Nyquil things was just being human. Ms. Stanger stated she would like to be tested more often to prove she is in compliance.

Mr. Misbach asked the Board for input how to resolve the issue of non-compliance.

Dr. Engar stated Ms. Stanger was early in her probation and was not doing well at all. Dr. Engar stated she needed to do better or the Board would have a reason to Show Cause.

Ms. Monson stated she is hearing a lot of justification and rationalization in her language. Ms. Monson stated there will always be another situation that will be a reason to justify or rationalize.

Ms. Monson stated she wants to see Ms. Stanger to be in a place that there does not have to be *testing more*. Ms. Monson stated she would like Ms. Stanger to take some CE courses on thinking errors as well as an essay to address the way Ms. Stanger is seeing her behavior. Ms. Monson stated she would like to see some introspection on how Ms. Stanger's thinking errors have been detrimental to her.

Mr. Ferguson stated he would have a very hard time distinguishing Ms. Stanger's language from a client in one of his facilities. Mr. Ferguson stated Ms. Stanger's dissonant thoughts were very concerning to him.

Mr. Ferguson stated a higher level of care is necessary. Mr. Ferguson stated it was Ms. Stanger's responsibility as to what she puts in her body.

Mr. Misbach stated at least three pages in Ms. Stanger's stipulation deal with substances, not just alcohol. Mr. Misbach stated the Board has to hold every single one of these to the letter of the Law.

Ms. Falkenrath stated the Board is tasked with judging compliance. Ms. Falkenrath stated if need for suspension of license is necessary, that is an option.

Ms. Stanger stated the comments were resonating with her, and it is giving her things to think about. Ms. Stanger asked if there were opportunities before having to be suspended, to please do so. Ms. Stanger stated she has a supervisor that every month is giving her good reports. She wants a different approach before suspending her license.

Mr. Ferguson stated he does not want to put additional undue burden; however, it is Ms. Stanger's license to lose. Mr. Ferguson stated perhaps amending for review and a subsequent evaluation, and participation of treatment in an outpatient program at a low level of care would be good. Mr. Ferguson stated the clear dissonance between Ms. Stanger's thinking and how she would encourage a client to think, needs to be rectified. Mr. Ferguson stated it needs to be rectified in order to feel good about Ms. Stanger working with a vulnerable population in the field of Social Work—in particular with Substance Use Disorder.

Comments, Questions, and Concerns were discussed for a plan of action.

Ms. Monson stated the Board could reject the initial assessment, then recommend treatment.

Mr. Ferguson motioned to reject the initial assessment.

Dr. Engar seconded the Motion.

Motion passed unanimously.

Mr. Ferguson motioned for reconsideration of supervision based on discrepancies that were identified.

Dr. Engar seconded the Motion.

Motion passed unanimously.

Mr. Ferguson motioned to table additional discussion until another evaluation is available for making subsequent decisions.

Dr. Engar seconded the Motion.

Motion passed unanimously.

Mr. Misbach stated to Ms. Stanger there were no vacations for check-in's.

Ms. Johnson stated from a Compliance standpoint, so Ms. Stanger was clear, the Board has rejected the current evaluation and is asking for a new one. Secondly, the Board needs a new supervisor to oversee Ms. Stanger. And last, Ms. Johnson asked the timeframe for having a new evaluation conducted.

Comments, Questions, and Concerns were discussed.

Mr. Ferguson motioned to reject the initial assessment, and obtain an assessment through referral services before the next Board meeting.

Dr. Engar seconded the Motion.

Motion passed unanimously.

Mr. Misbach stated Ms. Stanger is not in compliance. Mr. Misbach stated he wants to be able to say Ms. Stanger is in Compliance next time.

Dr. Engar motioned to adjourn the meeting.

Mr. Ferguson seconded the Motion.
Motion passed unanimously.

MEETING ADJOURNED: 1:53 P.M.

NEXT SCHEDULED MEETING: *April 7, 2022*

2022 Board meetings tentatively scheduled: April 7, June 2, August 4, October 6, December 1

Marette Monson, LCSW

Marette Monson, LCSW, Chairperson

4/7/22

Date

Larry Marx

Larry Marx, Acting Bureau Manager DOPL

4/7/2022

Date