

MINUTES

**UTAH BOARD OF NURSING
MEETING**

**March 13, 2014
Room 474 – Fourth Floor – 8:30 a.m.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 8:16 a.m.

ADJOURNED: 4:37 p.m.

Bureau Manager:
Board Secretary:

Debra Hobbins, DNP, APRN
Shirlene Kimball

Conducting:

Peggy Brown, MS, RN

Board Members Present

Peggy Brown, MS, RN
Calvin Kremin, MSN, CRNA
Barbara Jeffries, BSN, RN
Cescilee Rall, BSN, RN
Megan Christensen, BS, public member
Alisa Bangerter, BS, RN
Ralph Pittman, LPN

Board Members Excused:

Jaime Clinton Lont, MSN, APRN
Diana Parrish, BS, public member

Division Staff:

Connie Call, Compliance Specialist

Guests:

Brian Weese
Norma Weese
Annali Smith, Attorney
Lara Berthelson
Scott Fletcher

January 9, 2014 Minutes:

Ms. Rall made a motion to approve the January 9, 2014 minutes with corrections. Ms. Bangerter seconded the motion. All Board members voted in favor of the motion.

February 13, 2014 Minutes:

The February 13, 2014 minutes were tabled.

Meeting closed in accordance with the Open and Public Meetings Act, 52-4-205(1)(a) to discuss the character, professional competence, or physical or mental health of an individual.

Ms. Jeffries made a motion to close the meeting in accordance with the Open and Public Meetings Act, 52-4-205(1)(a) to discuss the character, professional competence, or physical or mental health of an individual. Ms. Bangerter seconded the motion. All Board members voted in favor of

closing the meeting. The meeting was closed at 8:24 a.m. The meeting was opened at 8:45 a.m.

Angela Thorpe,
Renewal application:

Ms. Thorpe was invited to meet with the Board to discuss the “yes” answers on her renewal application. Ms. Thorpe indicated she received a criminal trespass ticket and when searched, the police found a small packet of marijuana that she kept as a keepsake and was charged with possession of a controlled substance. Mr. Kremin questioned why she would keep marijuana as a keepsake. Ms. Thorpe indicated she understands it was not a good choice and knew it was illegal to have it in her possession but she kept it as a reminder. Ms. Thorpe also indicated she had an unopened beer in her purse. The reports also indicated that several weeks later Ms. Thorpe received another criminal trespass ticket for the same area and possession of paraphernalia (a cut straw). Mr. Kremin questioned if she has a drug or alcohol problem. Ms. Thorpe stated she does not have a drug or alcohol problem. Mr. Pittman stated the police report included a statement that indicated when asked by the police officer regarding the cut straw, she responded by saying she snorted pills with the cut-off straw. Mr. Pittman questioned why she would make this sort of a comment to the police officer. Ms. Thorpe stated her comment was made as a joke and was sarcastic because she did not feel like a criminal. Mr. Pittman questioned if she thought it could be taken in the wrong context. She stated she regretted her sarcasm afterwards.

Ms. Rall made a motion to have Ms. Thorpe attend a cognitive restructuring course and successfully complete a substance use disorder evaluation within six months. Once results are received, the Board can determine whether to place the license on probation or renew with full privileges. Ms. Jeffries seconded the motion. All Board members voted in favor of the motion. Ms. Thorpe’s license will be conditionally renewed for six months.

Cayetanna Brand,
Informal Adjudicative Proceeding:

Ms. Brand met with the Board for an Informal Adjudicative Proceeding. Mitchell Jones submitted the Notice of Informal Agency Action and the

Findings by the Oregon Board of Nursing. Oregon filed a notice of revocation, indicating misconduct for diverting dilaudid. In 2013, the Oregon Board issued a final order revoking Ms. Brand's Oregon license. Mr. Jones indicated that the Division filed a Notice of Agency action and Ms. Brand failed to file a response within 30 days. Ms. Brand indicated she submitted the response to the Division on February 1, 2014. Mr. Jones also indicated that Ms. Brand had failed to file a response with the Oregon board. Mr. Jones indicated that the Division is mirroring Oregon's Order and is asking for revocation and that she cannot reapply for a period of five years.

Ms. Brand indicated that the Oregon Board requested she not work during the investigation process and since she had a Utah license, she moved to Utah. She stated she did not respond to the Oregon Board because she had moved and did not pick up her mail until after the response period had passed. Mr. Jones stated the Oregon Board completed the investigation and made their finding. The Division recommends the Board mirror the Oregon Order because we do not have the ability to conduct an investigation in Oregon. Ms. Brand stated she accepts responsibility for not following through with the Oregon Board. She indicated she has since submitted a letter to the Oregon Board, but has had no response. Ms. Brand stated she is here today to let the Board know she is not a danger to the public. She stated she would like to keep her Utah license. Ms. Brown questioned if she had a suggested alternative to the Board revoking her license. Ms. Brand stated she feels a probationary period would be appropriate and maybe limit her ability to access narcotics. Ms. Jeffries stated she feels there is no possible recourse other than to revoke the Utah license until she can clear up her license with Oregon. If Oregon were to vacate or amend the Order, the Division would take that into account. Ms. Rall made a motion the Findings of Fact made in the Oregon Board's Final Order would constitute unprofessional conduct in accordance with 58-1-501(2)(a) and (d), in that she has been sanctioned by another jurisdiction and their

findings indicated she would have violated Utah laws. The Findings of Fact made in the Oregon Board's final Order would constitute unprofessional conduct in accordance with 58-1-501-(2)(a) and (h). Ms. Bangerter seconded the motion. All Board members voted in favor of the motion.

Ms. Jeffries made a motion to close the meeting in accordance with the Open and Public Meetings Act, 52-4-205(1)(a) to discuss the character, professional competence, or physical or mental health of an individual. Ms. Bangerter seconded the motion. All Board members voted in favor of closing the meeting. The meeting was closed at 9:34 a.m. The meeting was opened at 9:37 a.m.

Ms. Jeffries made a motion to revoke the Utah license for a period of five years with the caveat that if Oregon places Ms. Brand's license on probation and or the revocation is vacated, the Utah board would reconsider their findings. Ms. Rall seconded the motion. All Board members voted in favor of the motion.

Connie Call,
Compliance report:

Ms. Call reported the following individuals are out of compliance with the terms and conditions of their Order:

- Tyler Bauer: Mr. Bauer is a new Order and he has not contacted Ms. Call to set up an appointment.
- Michael Ross: Mr. Ross has had a number of dilute urine screens. Additional urine screens have been added because the dilute urines are treated like positive urine screens.
- Synthia Carter: Ms. Carter missed a urine screen February 7, 2014. She has been non-compliant the last five times and will be scheduled to meet with the Board March 27, 2014.

Ms. Call reported the following requests have been made:

- Corinne Kinikini: Mr. Pittman made a motion to terminate the therapy requirement based on the February 2014 recommendation from the therapist. Ms. Rall seconded the motion. All Board members voted in favor.

-Stacia Frank: Ms. Jeffries made a motion to allow Ms. Frank to attend four 12-step meetings per month in lieu of PIR meetings. Mr. Pittman seconded the motion. All Board members voted in favor of the motion.

-Katie Roach: Ms. Jeffries made a motion to approve the request for two prescribing practitioners. Mr. Pittman seconded the motion. All Board members voted in favor of the motion.

-Diana Crossley: Ms. Crossley requested that her access to controlled substances be returned and to allow her to work in home health. Ms. Bangerter made a motion to approve the requests. Mr. Pittman seconded the motion. All Board members voted in favor of the motion.

Erin Rasmussen: Ms. Rasmussen resubmitted the required essay. Ms. Jeffries made a motion to accept the essay. Mr. Pittman seconded the motion. All Board members voted in favor of the motion.

Sami Weese,
Review evaluations:

Mr. Pittman made a motion to close the meeting in accordance with the Open and Public Meetings Act, 52-4-205(1)(a) to discuss the character, professional competence, or physical or mental health of an individual. Ms. Bangerter seconded the motion. All Board members voted in favor of closing the meeting. The meeting was closed at 10:08 a.m. Mr. Pittman made a motion to open the meeting. Ms. Jeffries seconded the motion. All Board members voted in favor of the motion. The meeting was opened at 10:29 a.m.

Board members made a motion to accept the evaluations from Jennifer Cardinal. No changes were made to the Stipulation and Order; however, Ms. Weese will need to continue to attend therapy, PIR and 12-step meetings, obtain a sponsor and attend aftercare. The motion was seconded. All board members voted in favor of the motion.

Tyler Bauer,
New Order:

Mr. Bauer has failed to appear for two scheduled interviews. Ms. Brown made a motion to refer Mr. Bauer for an Informal Adjudicative Proceeding or OSC Hearing. Mr. Pittman seconded the motion. All Board members voted in favor of the motion.

Heather Deering,
Annual interview:

Ms. Deering reported probation has been stressful; however, feels the probation has been very helpful and she is grateful that she was allowed to keep her license. Ms. Deering indicated her family is supportive and she indicated she feels she is doing very well. Ms. Call stated Ms. Deering has been very compliant with the terms and conditions of her Order. Mr. Pittman made a motion to terminate probation. Ms. Jeffries seconded the motion. All Board members voted in favor of the motion.

Discussion regarding Penny Johnson,
renewal application:

Mr. Pittman made a motion to close the meeting in accordance with the Open and Public Meetings Act, 52-4-205(1)(a) to discuss the character, professional competence, or physical or mental health of an individual. Mr. Kremin seconded the motion. All Board members voted in favor of closing the meeting. The meeting was closed at 11:02 a.m. Mr. Pittman made a motion to open the meeting. Ms. Jeffries seconded the motion. All Board members voted in favor of the motion. The meeting was opened at 11:12 a.m.

Mr. Pittman made a motion to place Ms. Johnson's license on a two-year probation or until court probation has been completed, whichever is later. The following terms and conditions will apply: 1). Meet the terms of the court probation and successfully complete court probation. 2). Submit copies of drug testing from the court and all copies of court communication. 3). Meet with the Board every six months. 4). Complete the cognitive restructuring course and an ethics course. 5). Standard terms and conditions with the exception of no urine screens, no calling in, no PIR or 12-step meetings. Ms. Jeffries seconded the motion. All Board members voted in favor of the motion.

Rosalie Sloan,
Her request:

Ms. Sloan met with the Board to request her Order be amended to allow her to work more hours per week. Ms. Sloan stated she is currently working 36 hours per week and would like to pick-up additional shifts. She reported her sobriety date is September 22, 2012. Ms. Sloan also indicated she does not feel PIR meetings are beneficial for her.

Ms. Sloan stated she has no thoughts of relapse and has not relapsed. Ms. Bangerter made a motion to allow Ms. Sloan to work up to 60 hours per week and to terminate the requirement to attend PIR meetings. Ms. Rall seconded the motion. All Board members voted in favor of the motion.

Sami Weese,
Review evaluations:

Ms. Weese, her husband, mother-in-law and attorney met with the Board. Board members informed Ms. Weese that her evaluations were reviewed and accepted and no additional requirements are necessary for the probation.

Ms. Weese requested that her suspension be lifted early based on the fitness for duty letters. Ms. Weese indicated she has a job opportunity at Nightingale College as a lab instructor. Board members indicated that if the position requires a master's degree, she would need to have direct supervision. If it only requires the RN, she would be able to practice, but she must be working as an APRN in order for the hours to count toward probation. Ms. Weese also indicated she may have the opportunity to be hired by her previous employer, and if so, she would like to have her ability to prescribe testosterone returned.

Ms. Weese reported her sobriety date is September 10, 2013. She indicated she is attending 12-step meetings and has a sponsor. Ms. Jeffries made a motion lift the suspension at this time based on her accomplishments and her compliance and allow her to prescribe testosterone only. Mr. Pittman seconded the motion. All Board members voted in favor of the motion.

Lunch 12:00
Reconvened at 1:00 p.m.

Environmental Scan:

Dr. Hobbins reported the Division is working toward the potential of having an individual fill out an application online. The Division would like to remove the take home examination section of the application because it would impede the application process.

Dr. Hobbins also indicated there is a controlled substance examination in those professions that can prescribe controlled substances. Since there is the controlled substance database tutorial and exam, and the requirement for an additional 3.5 hours of continuing education for controlled substance prescribers beginning with the 2016 renewal, Dr. Hobbins indicated the Division feels it would be appropriate to remove this examination. Mr. Pittman made a motion to support the removal of section R156-37-304 from the Controlled Substance Act Rule and to eliminate the take home examinations in the application. Ms. Rall seconded the motion. All Board members voted in favor of the motion.

Review Physician Stipulation and Order:

Board members reviewed the sample physician stipulation and order. Ms. Jeffries requested a review of the Order to see if there were requirements we should be looking at for APRN's on probation. The differences appear to be that the physician stipulation and order requires the probationer to submit triplicate prescriptions, keep a drug administration log and have twenty percent of charts reviewed and they cannot practice in private practice. Mr. Kremin suggested adding to APRN stipulations the supervision required as outlined in the physician stipulation and order that indicates supervision must be pre-approved by the Division/Board.

Board members discussed whether an individual on probation should be allowed to supervise other licensees. Board members stated they do not feel that a charge nurse should be on probation. In addition, the supervisor may know that the individual is on probation, but the charge nurse may not know.

Brett Davis,
Informal Adjudicative Proceeding;

Mr. Davis did not appear for the Informal Adjudicative Proceeding scheduled for 2:00 p.m. Mr. Jones provided a packet of information to the Board that included the Notice of Agency Action. Mr. Davis failed to respond to the Notice of Agency Action. Mr. Jones stated the Notice of Agency Action document was send by regular mail

and by certified mail. The certified mail was returned unclaimed, however, the regular mailed document was not returned. The Division moved forward with the Informal Agency Action. Mr. Jones indicated Mr. Davis was placed in Diversion October 2010 for diverting dilaudid and morphine. Mr. Davis failed Diversion August 2013. Mr. Davis was then placed on probation with the same terms and conditions of the Diversion agreement. Mr. Jones indicated that the failure to complete the University of Utah Drug and Alcohol school was not part of the violation of the Diversion agreement, but he should have completed the course because it was a requirement of Diversion. Mr. Jones indicated that the Board could consider that he did not complete the course if they choose to do so. Mr. Jones indicated the Division is recommending Mr. Davis's license be suspended for at least one year. Ms. Jeffries questioned why not revoke the license. Mr. Jones stated that Diversion did not enforce the Order and he had indicated no one had informed him he was out of compliance at his Diversion meetings and this has been taken into consideration.

Ms. Jeffries made a motion that the Findings of Fact in the Agency Action as presented by the Division constituted unprofessional conduct. However, since not attending the University of Utah Drug and Alcohol School was not mentioned as part of the violation of the Diversion agreement when he was placed on probation, he will not be required to attend at this time. Ms. Bangerter seconded the motion. All Board members voted in favor of the motion. Ms. Jeffries made a motion based on the unprofessional conduct, Mr. Davis' license be suspended for a period of at least one year. During the year of suspension, Mr. Davis must meet the following requirements prior to the suspension being lifted: 1). Submit a successful physical, psychological, and substance abuse evaluation from a Division approved evaluator with a fitness for duty letter from each evaluator. The evaluations must be completed no sooner than three months prior to the request for lifting suspension. 2). Provide six months clean urines just prior to the

request to lift the suspension and meet with the Board to request the suspension be lifted. Ms. Bangerter seconded the motion. All Board members voted in favor of the motion.

Dusti Hall,
Request:

Ms. Hall has a request to be reviewed by the Board, however, it was received after the meeting began and the Board cannot make a decision because the request was received less than 24 hours prior to the beginning of the meeting. The request will be addressed at the next meeting.

Meeting Closed:

Review of information regarding the application for Mark Hender. Mr. Pittman made a motion to close the meeting in accordance with the Open and Public Meetings Act, 52-4-205(1)(a) to discuss the character, professional competence, or physical or mental health of an individual. Ms. Rall seconded the motion. All Board members voted in favor of closing the meeting. The meeting was closed at 2:50 p.m. Mr. Pittman made a motion to open the meeting. Ms. Jeffries seconded the motion. All Board members voted in favor of the motion. The meeting was opened at 3:42 p.m.

Mark Hender,
Application review:

Mr. Hender, his girlfriend and friend were present for the review. Board members indicated that the documents he submitted have been reviewed. Board members indicated that at this point, they would not be addressing the DUI that has been greater than five years. The event the Board is concerned with is the police and arrest reports of January 2013 and the discrepancies between his narrative and the police reports. Board members also indicated a concern was that only portions of some of the documents were provided. The Board would like him to explain the discrepancies between his narrative and the police reports. Mr. Hender indicated he provided copies of the reports that were provided to him. Mr. Kremin stated that the police reports indicated there were injuries to his girlfriend; he had indicated in his narrative that there were no injuries. Mr. Hender stated he had been out of town and walked in while his girlfriend was attempting to commit suicide. Ms. Berthelson stated she was not sure what to tell the police, and

indicated that Mr. Hender had inflicted the injuries.

Mr. Hender stated he was charged with aggravated assault, but it was dropped to a misdemeanor. He attended a court ordered domestic violence course. He stated he came away from the course with a better understanding of domestic violence. Ms. Berthelson stated there was no domestic violence. Board members questioned why he would agree and plead guilty. Mr. Hender stated the prosecutor was going to prosecute both of them.

Ms. Jeffries made a motion to allow Mr. Hender to sit for the NCLEX examination. Upon passing the exam, issue the license on probation for five years and require a physical, psychological and substance use disorder evaluations with a fitness for duty letter from each evaluator. Issue a standard drug and alcohol stipulation, then depending on the evaluations, the probation period may be shortened and amendments made to the Order. Mr. Hender must complete the evaluations within 90 days. Ms. Christensen seconded the motion. All Board members voted in favor of the motion.

Review handouts: 12-Steps, Four Most Common Causes of Addiction Relapse and Recovery Durability:

Dr. Hobbins shared with the Board handouts regarding the 12-Steps, the Four Most Common Causes of Addiction Relapse and Recovery Durability.

PIR Survey:

Ms. Jeffries will formulate questions to find out if requiring attendance at PIR meetings continues to be an appropriate requirement for probation.

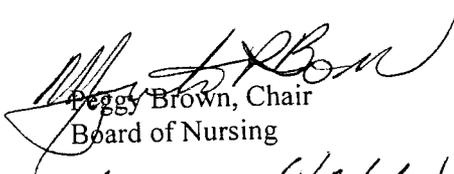
Ms. Brown and Ms. Rall:

Mr. Brown and Ms. Rall briefly reviewed with Board members the NCSBN Midyear meeting held in Kansas City, Missouri. Ms. Brown suggested the Board develop a plan on where we want to be in three years. Ms. Rall suggested having a Mission Statement, Strategic Plan and Vision Statement and have it posted in the room during the meeting. Dr. Hobbins indicated that the Division has a Mission Statement and a Strategic Plan and will provide a copy to the Board at the next meeting. Dr. Hobbins reported that since we are an umbrella agency, the Board is different from most all other

Boards of Nursing.

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.

3/27/2014
Date Approved


Peggy Brown, Chair
Board of Nursing

3/27/14
Date Approved


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