

MINUTES

**UTAH BOARD OF NURSING
MEETING**

**April 10, 2014
Room 474 – Fourth Floor – 8:30 a.m.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 8:33 a.m.

ADJOURNED: 2:38 p.m.

Bureau Manager:
Board Secretary:
Compliance Specialist:

Debra Hobbins, DNP, APRN
Shirlene Kimball
Connie Call

Conducting:

Peggy Brown, MS, RN

Board Members Present:

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

Board Members Excused:

Jaime Clinton Lont, MSN, APRN
Megan Christensen, BS, public member

ADMINISTRATIVE BUSINESS:

March 27, 2014 Minutes:

The March 27, 2014 minutes were approved with corrections.

Connie Call,
Compliance Report:

Ms. Call reported the following individuals are out of compliance with the terms of their Stipulation:
-Dusti Hall has not submitted any required paperwork or her essay. Ms. Hall also had a positive urine screen without a valid prescription.
-Chris Singer was referred for an OSC Hearing.
-Traci Lujan submitted her prescriptions late.
-Sarah Swearingen had a positive urine screen without a valid prescription.
-Michael Ludwig missed checking-in with Affinity; however, he notified Ms. Call that he had forgotten to call.
-Kristine Withers was late submitting her paperwork. Ms. Withers also failed to notify her employer that she was on probation and was

terminated from employment. Ms. Withers did not notify Ms. Call of her termination from employment and Ms. Withers will be scheduled to meet with the Board at the next meeting.

Tyler Miller,
Informal Agency Action:

Mr. Jones provided the Board with documentation substantiating the allegations contained in the Notice of Agency Action and Mr. Miller's response. Mr. Jones stated that this is Mr. Miller's fifth time before the Division for violations, beginning March 2005. Mr. Miller stated that the Board is aware of his history and he feels reviewing each case makes it appear very negative on his part. Mr. Miller requested that Mr. Jones only present the current information. Mr. Jones indicated that Mr. Miller's prior history needs to be reviewed. Mr. Jones stated that at the July 2013 Board meeting, Mr. Miller was informed he needed to be in 100% compliance with his Stipulation or the Board would move to revoke the license. Mr. Miller did not remain in compliance and has violated six different terms and conditions outlined in the Stipulation.

Mr. Miller submitted a response to the allegations and admitted he had engaged in misconduct described in paragraphs 10, 11, and 12, but denied the misconduct described in paragraph 14. He did not address paragraph 9 in the response, but stated he would like to address the allegation at this time. Mr. Miller provided the Board with a letter from the Division dated December 20, 2012. Mr. Miller indicated he did not feel the letter was scheduling him to meet with the Board, but that he could meet with the Board if he wanted a "limited license" as described in the letter. He stated he was actively seeking employment and he did not feel it was necessary for him to meet with the Board. He stated he feels this was just a misunderstanding.

In response to the allegation in paragraph 13, Mr. Miller indicated he felt he had approval to fill his prescriptions at more than one pharmacy after speaking with Ms. Call. Ms. Call stated Mr. Miller had been approved for filling prescriptions at IHC, but not at Kent's Pharmacy. Mr. Miller stated he

understands he should have had only one prescribing practitioner. Mr. Miller admitted to the amendment in paragraph 13. Mr. Miller indicated he feels this was also a misunderstanding.

Mr. Miller indicated that he did not respond to paragraph 9 because he thought the issue had been resolved with Mr. Jones, Ms. Call and Dr. Hobbins. Mr. Miller stated he had accepted a nursing position December 9, 2012 at Mt. Pleasant Academy without informing the employer of his probationary status. He indicated that several months later he responded to an advertisement for an RN position by sending a text message to Mr. Ashworth at Mt. Pleasant Academy, inquiring about the position.

Mr. Shawn Ashworth, a supervisor at Mount Pleasant Academy, was contacted by telephone during the meeting. Mr. Ashworth indicated that in the fall of 2013, Mr. Miller contacted him and said he was cleared to work. Mr. Ashworth indicated that his impression was that Mr. Miller was no longer on probation. Mr. Miller stated he sent a text, but did not call and did not indicate he was no longer on probation. Mr. Miller stated he felt that he could get approval from the Board to work in the position and that he indicated to Mr. Ashworth he would be able to work at Mt. Pleasant Academy. Mr. Miller stated he might have indicated that he wanted to return to work and that the issues were cleared. Mr. Ashworth stated based on this, he had assumed that the issues were all cleared. Mr. Miller indicated he had contacted Mr. Ashworth twice, for two different positions. Mr. Pittman questioned Mr. Ashworth how many times he was contacted. Mr. Ashworth stated twice, only one was by text.

Mr. Miller indicated he feels he has resolved many of his issues and has worked hard to comply with the Stipulation. Mr. Miller stated he understands that it appears he is trying to be deceitful, but he stated it was unintended. He stated he is not working in nursing and that he is on a structured schedule with work, little league, etc. and forgets to

call. Ms. Rall stated the Board only has the paper trail to review to see if he is in compliance. Ms. Jeffries stated she is concerned with the pattern of non-compliance. Mr. Miller indicated that the latest issues are not drug related and feels he has progressed in his recovery. He stated he no longer abuses medications. Board members indicated there is a pattern of misconduct, a history of false information, and the Board cannot determine that Mr. Miller does not have a drug problem if he does not check-in with Affinity and submit random urine screens.

Mr. Jones indicated the Division would not be seeking revocation if Mr. Miller had only violated paragraphs 10, 11, 13 and there had been no previous history. However, Mr. Miller has a long history of previous actions, there are now two instances of dishonesty, trying to get a nursing job, misleading the employer twice and based on those facts and admitting to the other allegations, the Division recommends revocation of the license.

Mr. Miller made an argument requesting that his license not be revoked, but that if his license was revoked, that he be allowed to reapply for licensure after one year.

A motion was made 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. The motion was seconded. All Board members voted in favor of closing the meeting. The meeting was opened at 10:42 a.m.

Board members found by a preponderance of the evidence that Mr. Miller engaged in unprofessional conduct as set for in paragraphs 8, 9, 10, 11, 12 and paragraph 13 as amended of the Notice of Agency Action. The Board did not find that the Division had proven misconduct alleged in paragraph 14.

A motion was made that Mr. Miller's license to practice as a registered nurse be revoked and that he can not reapply for licensure for five years from

the effective date of revocation. The motion was seconded. All Board members voted in favor of the motion.

Connie Call,
Probationer requests:

Debra Davenport: Ms. Call reported Ms. Davenport was placed on three-year probation in 2011 and she is in compliance with the terms and conditions of her Order. Ms. Rall made a motion to terminate Ms. Davenport's probation. Ms. Jeffries seconded the motion. All Board members voted in favor of the motion.

Tyler Bauer: Mr. Bauer revised his essay; however, he still did not address the issues that brought him before the Board. Ms. Jeffries stated it does not appear Mr. Bauer is in recovery. She stated that she does not feel the essay is effective at the beginning of recovery because of the fear and shock, and the essay would be more effective later in recovery. It would then be a more accurate view whether or not the individual understands recovery. Mr. Pittman made a motion to accept the essay, however, in 18 months have Mr. Bauer submit a second essay letting the Board know where he is at in his recovery. Ms. Jeffries seconded the motion. All Board members voted in favor of the motion.

Erin Rasmussen: Ms. Rasmussen is requesting she be allowed to work at a Detox Center that is in the process of opening for business. Board members need more information prior to making a decision and Ms. Rasmussen was contacted by telephone. Ms. Rasmussen indicated the process, as she understands it, would be for the RN to remove the medication (Suboxone) from the locked box, take the medications out of the foil packet or bottle, and hand the medication to the patient, then return the unused medication to the locked box. She indicated she would be taking patient's vitals and that the APRN, PA, or physician would be in and out of the room, and there would be another RN working at the same time. Ms. Jeffries questioned what happens after the patient is detoxed. Ms. Rasmussen stated it is up to the patient to leave or go into Action Recovery, the intensive outpatient program.

Ms. Jeffries made a motion to grant the request to allow Ms. Rasmussen to pass certain controlled substances at this particular clinic under the supervision of an approved licensed individual (MD, APRN, PA). Ms. Rall seconded the motion. Discussion: Board members indicated this request is similar to Ms. Gygi's request last month. The Board denied her request based on her length of probation (just two months). Ms. Rasmussen has only been on probation for a short period of time. Ms. Gygi had the physician and social worker at the meeting in support of her request. Their clinic has been established for a long time and has many checks and balances established. Mr. Pittman stated if we were to grant the request, the Board could reconsider Ms. Gygi's request. Ms. Gygi's place of employment was more structured and included a list of the controlled substances for which she was requesting access. Ms. Bangerter stated she feels this would be setting-up Ms. Rasmussen to fail. Ms. Jeffries withdrew her motion since the clinic is not in business yet and the necessary checks and balances are not in place. Ms. Parrish made a motion to deny the request at this time based on limited length of time on probation, it is too early in her recovery to allow access to any controlled substances and the checks and balances are not yet established. Mr. Kremin seconded the motion. All Board members voted in favor of the motion.

Dusti Hall,
New Order:

Ms. Hall stated she has read her Stipulation and understands the terms and conditions of the Order. Ms. Hall indicated her concern is with the number of hours she is allowed to work. She indicated she spoke with Dr. Yelsa who indicated he did not have a problem with the number of hours she worked and he would leave it up to the Board to determine the number of hours per week. Ms. Hall indicated she is having a hard time finding part-time work and would like to work at least three twelve-hour shifts. Her current Order allows her to work three eight-hour days per week. Ms. Hall also questioned how long she would be required to check-in for drug testing.

Ms. Hall is currently out of compliance because she had a positive urine screen without a valid prescription. Ms. Hall entered two prescriptions into Affinity, however, did not submit a copy of the prescriptions for validation. She has not submitted her 12-Step or PIR meeting attendance documentation, did not submit the therapist report, and has not submitted her essay. The continuing education requirements were also due, however, there was a misunderstanding between the Division and Ms. Hall, and she will have until May 27, 2014 to submit the continuing education documentation.

Mr. Kremin 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. Jeffries seconded the motion. All Board members voted in favor of closing the meeting. The meeting was closed at 12:00. Ms. Parrish made a motion to open the meeting. Mr. Pittman seconded the motion. The meeting was opened at 12:05 p.m.

Ms. Jeffries made a motion that according to Ms. Hall's evaluations, amend the Order to remove attendance at PIR and 12-Step meetings, remove random urine screens, attend a Cognitive Restructuring Course, attend therapy within the next 30 days, and allow Ms. Hall to work two twelve-hour shifts or three eight-hour shifts per week. Ms. Parrish seconded the motion. All Board members voted in favor of the motion. The essay will be due May 27, 2014. Ms. Hall will not be allowed to have access to controlled substances or to call in prescriptions to a pharmacy.

Rule:

Dr. Hobbins indicated that a Rule Hearing would be scheduled for June 12, 2014. Dr. Hobbins also reported that H.B. 143, Psychiatric Nurse changes would take effect May 14, 2014.

Evaluation review:

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. Mr. Pittman seconded the motion. All Board members voted in favor of closing the meeting. The meeting was closed at 1:00 p.m. Ms. Parrish made a motion to open the meeting. Mr. Pittman seconded the motion. The meeting was opened at 1:30 p.m.

Ms. Parrish made a motion based on the evaluation provided. Mr. Schwartz will be required to undergo a neuropsychological evaluation and have the results submitted and reviewed by the Board prior to approval of the practice plan. Mr. Pittman seconded the motion. All Board members voted in favor of the motion. The review of the practice plan will be deferred by the full Board until after the neuropsychological evaluation has been reviewed. It was suggested that Jamie-Clinton Lont, as a practicing APRN, review the practice plan and report to the Board at the next meeting. Dr. Hobbins will contact Ms. Lont with this request.

Amy Stone,
Interview:

Ms. Stone's license was suspended as outlined in her Stipulation. Her Stipulation did not include specific terms that needed to be met prior to the lifting of suspension; therefore, the Division will automatically lift the suspension because the specified time of suspension has been met.

Dr. Hobbins indicated she is concerned with Ms. Stone who has stated that the information in the Stipulation and Order is wrong, that the incident occurred once. The Order clearly lists multiple offenses. There is some concern that Ms. Stone is downplaying the circumstances that placed her on probation. Ms. Stone indicated she did not agree with the Stipulation and Order at the time she signed it. Board members questioned why she would sign the document if she did not agree. Ms. Stone stated she did not take the medications for herself; she took the medication for another person.

Ms. Stone indicated she is trying to schedule the neuropsychological examination; however, it is very expensive and she is having a difficult time with finances. Ms. Jeffries made a motion to require a psychological evaluation and substance use disorder evaluation, but she will not need to complete a neuropsychological evaluation. Board members indicated Ms. Stone would need to take her Stipulation and Order and BCI report that reflects the 2006 and 2007 incidents with her to the evaluation. Ms. Parrish seconded the motion. All Board members voted in favor of the motion.

Ms. Stone indicated she has had a physical evaluation recently and will have the practitioner submit a fitness for duty letter. Board members reminded Ms. Stone that all evaluations need to include a fitness for duty. Once she has completed the evaluation, she will meet with the Board to determine the necessary probationary terms and conditions. If the evaluation does not indicate a substance use disorder, those sections of the Order would be amended.

Sarah Swearingen
Essay review:

Ms. Jeffries made a motion to deny approval of the essay. The essay needs to be typed so Board members can read the essay. The purpose of the essay is not to castigate DOPL and the Board of Nursing, but rather to make sure the probationer understands their part in the probation and explain what changes they will make to avoid problems in the future. Ms. Swearingen's essay does not meet the intent of the requirement. Mr. Pittman seconded the motion. All Board members voted in favor of the motion.

Discussion regarding Essay:

Board members would like to consider, for future Stipulations, that the essay be submitted: after completion of a cognitive restructuring class, later in the probationary period, or possibly an essay at the beginning and then again at the end of probation.

Environmental Scan:

Dr. Hobbins reported on the following issues:
-The Division's Telehealth study should be

completed in June. Dr. Hobbins also indicated that ANA would like to be part of nursing regulation. They have indicated that the practice of nursing is where the practitioner is located, and the Division considers practice where the patient is located.
-There is a new definition of public health nursing.
-APRN Compact Administrators will be presenting to NCSBN Annual Delegate Assembly regarding the compact. The major issue for other states is the grandfathering of APRNs licensed in other states who do not meet the APRN Consensus Model requirements.

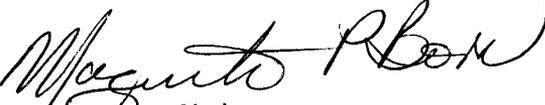
Psychological evaluation review:

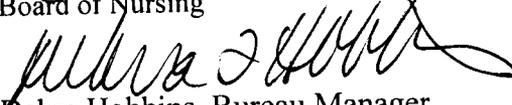
Mr. Pittman made a motion to close the meeting in accordance with the Open and Public Meetings Act, 52-4-205(1)(a) to discuss the character, professional competence, or physical or mental health of an individual. Ms. Parrish seconded the motion. All Board members voted in favor of closing the meeting. The meeting was closed at 2:25 p.m. Ms. Parrish made a motion to open the meeting. Mr. Pittman seconded the motion. The meeting was opened at 2:37 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.

6/12/2014
Date Approved

6/17/14
Date Approved


Peggy Brown, Chair
Board of Nursing


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