

## 2<sup>nd</sup> AGENDA

### **BOARD OF NURSING October 10, 2013 – 8:30 a.m.**

**Room 474 (Fourth 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. Sign Per Diem
2. Call Meeting to Order.
3. Administer Oath of Office to Jamie Clinton-Lont and Calvin Kremin
3. Review and approve August 29, 2013 minutes

#### **BOARD BUSINESS:**

- 9:00 a.m.** - Monica Murdock, Informal Adjudicative Proceeding  
**9:30 a.m.** - Rebecca Davis, Informal Adjudicative Proceeding  
**10:00 a.m.** - Marc Hancock, Informal Adjudicative Proceeding  
**11:00 a.m.** - William David Jordan, Informal Adjudicative Proceeding

#### **LUNCH: 12:00 – 1:00**

#### **BOARD BUSINESS:**

- 1:00 p.m.** - Compliance Report  
Discussion:
- Telemedicine Study
  - Direct and Indirect Supervision
- 2:00 p.m.** - Dusti Jo Hall, Informal Adjudicative Proceeding  
**3:00 p.m. - 5:00 p.m.:** Jerry Budd

#### **NEXT MEETING:** October 24, 2013

Meetings scheduled for the next quarter: November 14, 2013; December 12, 2013 and January 9, 2014.

**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

**GUESTS – PLEASE SIGN**

Date: Oct. 10, 2013

**BOARD OF NURSING**

**NAME: (PLEASE PRINT)**

**REPRESENTING**

Katie Hunter

SUU Nursing

JAMECA HANSEN

SUU Nursing

Anelise Brooks

UCCU DNP Student

Geff Murdock

JACOB COPPE

SILVER LINING

Marie Israelson

Student (WSU)

Mark H. Davis

Rebecca Davis RN

Ben Becker

Intermountain Healthcare

Kaylene Hyatt

Michael Deschner

Jerry Budd

Sarah Jensen

Friend

# CHECKLIST FOR PUBLIC MEETINGS

I am, M. Peggy Brown, chairperson (or acting chairperson) of the Utah Board of Nursing.

I would like to call this meeting of the Utah Board of Nursing to order.

It is now (time) \_\_\_\_\_ am (pm) on October 10, 2013

This meeting is being held in room 475 of the Heber M. Wells Building in Salt Lake City, Utah.

In compliance with Utah's Open Meetings laws, this meeting is being recorded in its entirety.

This recording is classified as a Public Record.

The following Board members are in attendance:

	YES	NO
<u>Peggy Brown</u> , Chairperson	<u>X</u>	
<u>Cecilee Rall</u>	<u>X</u>	
<u>Alisa Bangerter</u>	<u>X</u>	
<u>Diana Parrish</u>	<u>X</u>	
<u>Barbara Jeffries</u>	<u>X</u>	
<u>Ralph Pittman</u>	<u>X</u>	
<u>Megan Christensen</u>	<u>X</u>	
<u>Calvin Kremin</u>	<u>X</u>	
<u>Jamie Clinton-Lant</u>	<u>X</u>	

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
<u>Mark Steinagel</u> , Division Director		<u>X</u>
<u>Debra Hobbinic</u> , Bureau Manager	<u>X</u>	
<u>Boyce Barnes, acting</u> , Board Secretary	<u>X</u>	
<u>Debbie Harry</u> , Compliance Specialist	<u>X</u>	
<u>Irene Woodford</u>	<u>X</u>	
<u>Mitchell Jones, AAG</u>	<u>X</u>	

If present, we welcome all 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) 5:06 pm, and this meeting is adjourned.

**SWORN STATEMENT  
SUPPORTING CLOSURE OF BOARD MEETING**

DOPL-FM-010 05/02/2006

*Handwritten notes:*  
@ 11:30 AM  
open 13:50  
close 15:00  
open 16:52

I Marguerite Brown acted as the presiding member of the Nursing Board Board, which met on Oct. 10, 2013

Appropriate notice was given of the Board's meeting as required by §52-4-202.

A quorum of the Board was present at the meeting and voted by at least a two-thirds vote, as detailed in the minutes of the open meeting, to close a portion of the meeting to discuss the following:

- the character, professional competence, or physical or mental health of an individual (52-4-205(1)(a))
- strategy regarding pending or reasonably imminent litigation (§52-4-205(1)(c))
- deployment of security personnel, devices, or systems (§52-4-205(1)(f))
- investigative proceedings regarding allegations of criminal misconduct (§52-4-205(1)(g))

The content of the closed portion of the Board meeting was restricted to a discussion of the matter(s) for which the meeting was closed.

With regard to the closed meeting, the following was publically announced and recorded, and entered on the minutes of the open meeting at which the closed meeting was approved:

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

If required, and/or kept or maintained, the recording and any minutes of the closed meeting will include:

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

Pursuant to §52-4-206(5), a sworn statement is required to close a meeting under §52-4-205 (1)(a) or 52-4-205(1)(f), but a record by tape recording or detailed minutes is not required.

- A record was not made
- A record was made by:       Tape Recording       Detailed Written Minutes

Pursuant to §52-4-206(1), a record by tape recording is required for a meeting closed under §52-4-205(1)(c) or 52-4-205(1)(g), and was made.

- Detailed written minutes of the content of a closed meeting although not required, are permitted and were kept of the meeting.

I hereby swear or affirm under penalty of perjury that the above information is true and correct to the best of my knowledge.

*Marguerite Brown*  
Board Chairman or other Presiding Member

10-10-13  
Date of Signature

August 10, 2013  
DOPL-Board of Nursing

To the Utah Board of Nursing and others to whomever this information may concern:

I am writing this in response to the matter of the informal adjudicative proceeding regarding my registered nursing license in the state of Utah.

I received my registered nursing license the first part of May 2010. I want to inform you at that time, I voluntarily and at cost to myself only, started drug testing, and had one positive test which was prescription positive and approved by my caseworker at that time. Also, one year prior to this during 2009, I also was drug testing and did not have any positive tests. During this time I was deeply involved in one on one counseling, grief support groups and going to LDS addiction treatment groups 3-4 times a week. I feel at this time is when I consider my treatment and rehabilitation to truly take hold inside of me.

On March 12, and May 22 of 2013 I failed to check in and missed two random drug sample selections. And over the course of the year before this I failed to check in over 50 times with Affinity. I want to make myself very clear. I am an addict. But I am also a mother who has the needs of three very young girls to take care of as well. The two dates above that I missed, each of my girls had softball games, and/or practices. Because of the lateness in the year and being my husband has a very busy job at that time of year; I neglected to call in within the time frame allowed. This is always the case when I forget to call. I have two different alarms on my phone to remind me to call and check in. Sometimes when those alarms go off, I have two screaming kids, sometimes I am driving down the road and can't call at that very second. What I am trying to tell you is that in my mind, my recovery is such and at a place that I'm not thinking all the time about calling in for my drug tests. I have never felt better in my life. I don't wake up in the morning and think about getting my hands on a bottle anymore, but I think about how I'm going to be the best mom I can be today. I am thinking about getting my girls to their softball game, taking them to their church activities, volunteering in their classrooms, and making dinner, and spending alone time with my husband. My life and priorities have changed. I do know and understand that this takes only a small part of my day to call

and check in for my test, but when I was using I didn't care about my kids, who they were with, or if they sat screaming in their cribs all day. When I decided at last to get and stay clean, I told myself that would never happen again. My family was going to be my first priority. For me, this is a huge part of my recovery, that my girls are happy, smart and highly functioning in school and society. This might not have been the case if I was not in the place in my recovery where I am today. I know I need to improve with my calling in to Affinity each day. My husband and I have talked about ways to help remind me to call in, he even calls and texts me to remind me to call in, as does my mother. I believe if there was another motive for me missing, it would be evident like using other prescriptions, positive drug tests, etc. And this is just simply not the case.

Regarding the sample from May 8, 2013, it tested positive for Butalbital. I have never received a RX for any drug with this. We were out to eat at Olive Garden with my in laws that were here from out of town. I had a headache and asked her if she had some Tylenol. She keeps her pills like Tylenol/Ibuprofen in an unmarked bottle. She gave me two round pills that I assumed were Tylenol. After finding out I tested positive for Butalbital, she admitted that she forgotten she put some of those in the unmarked bottle when she got bad headaches when she was gone from home. This is what she had given me. To me, they looked exactly like Tylenol. I told Connie this right after I found out I tested for this and it was an honest mistake. I have had no positive tests since that time, nor have I taken anything with Butalbital in it, or Fioricet, which is what my Mother in law gave me.

In regards to the self assessment that was due on April 1, 2013. I was unaware that this was missing. Each of the last quarterly times I have had to submit paperwork, my family and I have been in California (this can be verified by Connie) and with some difficulty I have managed to get the paperwork to her, although it was late. I talked to Connie about going back to monthly submission of my paperwork since this was the easiest way to do it for me, and I was always on time and compliant when it was required of me monthly.

Through all of this, I have not been working. I felt that I needed to finish with my girls all star softball season first, which are very demanding of my time and schedule before again starting to look for employment. That season started the first of March, and ended last night, with my girls team 'Nemesis' taking 5<sup>th</sup> in the State in the 10 and under fast pitch division. I do have some

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leads with a facility where my sister works, and have talked to the DON at this facility about working part time, and I do believe I will have a position there at the end of the month. I have felt that the stipulations and restrictions put on my license have inhibited me from finding work as quickly as I'd like. As discussed with the board before, I have applied many places, driven many miles and had many interviews. For someone trying to come back from a situation like mine, this can be very frustrating and depressing. I consider myself to be a different person than I was when I started the recovery process, and I think many who knew me back then can attest to this. But I just want you to understand how frustrated it is to be continually on the job hunt, especially under the stipulations that I have set before me.

I would appreciate the chance to show the board that I can be 100% compliant. If I neglect to be compliant again with tests, or check-ins, then I am willing to subject myself to the punishment the board sees fit. This might be difficult for you to understand, but it is so hard in my mind to remember that I still need to do this because of the way I feel, and the point that I am in in my recovery. I understand this process takes time. I understand that I must see it through. I would really like the chance to at least get a job and use my license before having it taken away again. I have come so far in my recovery that it would be unfortunate for this to happen and for me never to have the chance to even go back into the nursing work place. And I respectfully ask that you take my comments and feelings into consideration as to any decision that you may make in this proceeding.

Respectfully,  
Monica Murdock  
Case No. 2012-324

Utah Nemesis 5<sup>th</sup> Place  
10U Fast pitch All Star State  
Tournament-Taylorsville, UT  
Coached by:  
Geoff and Monica Murdock  
Maryn, (9) Brynnlee (8),  
Gabby (5), our bat girl...



*Handwritten signature or mark*

To DOPLE,

June 27, 2013

This letter is in response to my positive urine test June 17, 2013. On Friday June 14, 2013 I went out of town to a friend's wedding. On Saturday June 15, 2013 I consumed 2 glasses of champagne and on Sunday June 16, 2013 I consumed 3 beers over an 8 hour period. I have not consumed alcohol prior to this event since 11/14/2012. I have not consumed alcohol since. I continue to not consume illegal drugs or prescription drugs not prescribed to me. Along with this letter I am sending my yearly review from my work that I received earlier this month. I have now been employed at my current job for 5 years and at the beginning of the year was promoted to the supervisory nurse position full time. Thank you for your consideration in this matter.

A handwritten signature in cursive script that reads "Rebecca Davis RN". The signature is written in black ink and is positioned above the typed name.

Rebecca Davis RN

To DOPL,

8/24/2013

This letter is in response to my unprofessional conduct during my probationary period.

My positive alcohol test 6/17/2013 was because I drank 5 drinks over two days, 6/15/2013 and 6/16/2013 while out of town. I did not drink to get drunk and I did not use any other mood altering substances before, during, or after this time. I did make the conscious decision to drink. I did think of the consequences of drinking related to my stipulation order but I did not think it would lead to me not being able to practice as a nurse. I did call my sponsor the 1<sup>st</sup> afternoon before I drank that weekend, but could not make contact. I did speak to her the evening of 6/16/2013 shortly before going to bed. We spoke about how much I had drunk and my behavior when I drank. We both agreed that I had not become "drunk", in so much as my behavior changed or that I had done anything to harm myself or others. I was able to stop and even had no desire to consume any more alcohol after what I had already drank. We also spoke about the circumstances of those two days. We determined that not being with my support systems (family, her) was a huge factor in my alcohol consumption. Also, being around people I had drank with in the past had influence in my decision.

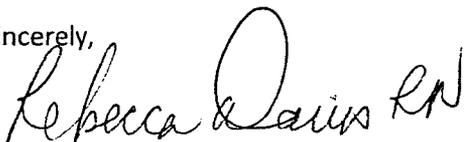
Since this incidence I have been in contact almost daily with my sponsor. I have restarted my 4<sup>th</sup> step regarding my moral inventory. I have realized that to not drink I must surround myself with my support systems. If I do need to travel without my family I will prepare ahead of time including letting my sponsor know the details of my circumstances and plan to contact her daily while away. I have increased my recovery meetings, trying to go two times a week instead of one.

Regarding my missed check in and test 7/5/2013 and 7/6/2013, I had gone camping in an area of Wyoming where I had no signal to call to check in. Before I left town I did check the AT&T coverage map and it appeared I would have coverage where we were staying. I did have coverage 3 of the 5 days I was camping. Also, my plan was to drive home early if I did have to test. I realized I should have just done a call in interruption and notified Connie I would be out of town and not taken the chance that I did. I do not have a history of excessive missed call ins.

My RN career continues to be successful and rewarding. I have been at my current job 5 years and 2 months. I have never called in/missed a shift and at the beginning of 2013 was promoted to lead RN. My job performance has been rated overall as "exceeding expectations" on my most recent evaluation in June 2013. I am including a copy of the evaluation with this letter.

I understand that consuming the alcohol I did 6/15/2013-6/16/2013 was wrong and violates my stipulation and order. This act did not affect my job performance or my ability to safely perform my RN duties. I will continue to refuse all alcohol offered to me in all circumstances and prove to DOPL that I am serious about keeping my license and practicing safely as a registered nurse.

Sincerely,



Rebecca Davis RN



AUG 27 2013

DIVISION OF OCCUPATIONAL  
PROFESSIONAL LICENSING

August 12, 2013

**BY UNITED STATES MAIL  
AND EMAIL**

Division of Occupational and Professional Licensing  
Attn: Dr. Debra F. Hobbins, Bureau Manager  
160 East 300 South, 4<sup>th</sup> Floor  
P.O. Box 146741  
Salt Lake City, Utah 84114-6741

**Re: Marc Hancock, APRN**

Dear Dr. Hobbins:

The purpose of this letter is to respond to the Notice of Informal Agency Action ("Notice") that I received from the Division of Occupational and Professional Licensing ("DOPL") on July 11, 2013. I appreciate the opportunity to respond to the allegations and I look forward to discussing these important matters with you. I will discuss each allegation below.

**1. Respondent was first licensed as an advance practice registered nurse and to administer and prescribe controlled substances in the State of Utah on or about March 11, 2008. See Notice of Informal Agency Action, p. 2, ¶ 1.**

I agree with this allegation.

**2. On or about May 4, 2011 Respondent voluntarily entered into a Stipulation and Order with the Division in DOPL Case No. 2011-162, wherein Respondent admitted that Respondent had used methamphetamine on five different occasions. Respondent's participation in the Division's diversion program was terminated, Respondent's license was revoked, the revocation stayed, and Respondent's license was placed on probation, subject to terms and conditions, for a period of five years. See Notice of Informal Agency Action, p. 2, ¶ 2.**

I agree with this allegation.

**3. Respondent violated the terms and conditions of the Stipulation and Order in DOPL Case No. 2011-162. See Notice of Informal Agency Action, p. 2, ¶ 3.**

While I agree with this allegation, I will provide additional information below that will assist you in reviewing my case. At all times relevant to the Notice, I have not been employed as a nurse. Accordingly, during the relevant time period, I have not done anything that would

create a risk to the health, safety or welfare of the public or patients. Notwithstanding my unemployed status, I have been working to rectify any non-compliance on my part.

**4. Respondent failed to submit his employer reports in a timely manner on January 1, 2013 and April 1, 2013. See Notice of Informal Agency Action, p. 2, ¶ 4.**

While I agree that two employer reports were not submitted on the exact due dates, I promptly worked to correct the problem. As you know, I have been unemployed for approximately one year. I was confused by the applicability of the employer report provision during times of unemployment. I assumed that informing the Board that I am unemployed would eliminate this requirement. This was a mistake on my part. I have properly submitted the employer reports since Connie Call informed me that I must continue submitting them during time of unemployment.

Since the only information I would provide on the employer reports is to state that I am still unemployed, I do not believe this allegation should be a critical factor in the Board's determination on what sanctions, if any, are appropriate in this case.

**5. Respondent failed to submit his aftercare report to the Division in a timely manner on April 1, 2013. See Notice of Informal Agency Action, p. 2, ¶ 5.**

It is my understanding that I completed the Dayspring program in January 2013. I did not realize that I needed to file a final aftercare report in April 2013 because I completed the program. While the report was due on April 1, 2013, I did quickly complete and file the report on April 24, 2013 once I knew about this problem. Except for the final report, I believe all other aftercare reports were filed in a timely manner.

Because the only aftercare report that I did not timely file was the final report, I do not believe this allegation should be a critical factor in the Board's decision on what sanctions, if any, are appropriate in this case.

**6. On November 20, 2012; December 4, 2012; January 17, 2013; April 13, 2013, and May 22, 2013; Respondent failed to provide a sample for drug and alcohol analysis as required by the Division. See Notice of Informal Agency Action, p. 2, ¶ 6.**

On or about December 13, 2012, I met with this Board to discuss my failure to provide samples for drug and alcohol analysis on November 20, 2012 and December 4, 2012. During the December 13 meeting we discussed that during this time period I was having complications with my HIV medications. As you know, the medications were causing me serious illness that prevented me from leaving my home for drug screenings.

On January 17, 2013, I could not provide a sample because I had voluntarily checked myself into the Steps Recovery in Payson, Utah. I stayed at Steps Recovery for approximately two weeks. I exchanged emails with Connie Call on this issue and I requested Steps Recovery to send a letter to Ms. Call to provide her with information about my stay at Steps Recovery. Since

I do not remember Ms. Call asking for additional information, I assumed that I did not need to provide any additional information.

On April 13, 2013, I forgot to check in because I was doing volunteer work at Steps Recovery. To the best of my knowledge, I discussed this matter with Ms. Call and offered to provide her with a letter from Steps Recovery, but she decline and stated that a letter was not necessary. Ms. Call did add an additional test to my schedule to make up for the missed sample.

On May 22, 2013, I forgot to check in because I was preparing for my flight to London, England on a schedule vacation. I contacted Ms. Call and she pre-approved the vacation period to start on May 23 rather than May 22. This was a mistake on my part. As I recall, after returning from England, Ms. Call informed me that she would add additional tests to make up for the missed test on May 22.

Although I admit to missing these tests, I would like to point out that I have maintained a consistent record of daily check ins and negative testing results since I signed the Stipulation and Order in more than two years ago. Additionally, I have worked to continue a consistent record even during my times of unemployment. I have gladly submitted to multiple tests during this time of unemployment, which also came at a great cost to me at approximately \$65 each test at a time when I did not have any income.

**7. Respondent failed to check-in to determine whether he was required to provide samples for drug and alcohol analysis on twelve dates between October 6, 2012 and June 20, 2013. See Notice of Informal Agency Action, p. 2, ¶ 7.**

I admit these allegations. On both of these days I simply forgot to check in. It is my understanding that if I missed a check in once in a while I would remain compliant.

**8. Respondent failed to submit a self-assessment due July 1, 2013. See Notice of Informal Agency Action, p. 2, ¶ 8.**

While I agree that a self-assessment was not submitted on July 1, 2013, I did submit the self-assessment on July 12, 2013. I sincerely apologize for submitting the assessment late.

**9. Respondent failed to attend two 12-step meetings in June 2013. See Notice of Informal Agency Action, p. 2, ¶ 9.**

I deny these allegations. I did attend two 12-step meetings in June 2013. I accidentally reported only one meeting. I have since notified Ms. Call that I actually attended two 12-step meetings in June.

**10. Respondent failed to attend any Professionals in Recovery meetings in May 2013. See Notice of Informal Agency Action, p. 2, ¶ 10.**

I usually attend the Professionals in Recovery (PIR) meeting on Mondays. I feel most comfortable with this group. I was on vacation in Hawaii and England from approximately May,

6, 2013 to June 6, 2013. After missing the meetings in May, I attended two additional 12-step meetings in the month of June. While I know the 12-step meetings are not substitutes for the PIR meetings, I am hoping for your understanding by pointing out that I made an effort to supplement the meetings I missed in May. Ms. Call did approve the vacation time.

I sincerely appreciate the opportunity to present this written response to the Notice of Informal Agency Action. I believe that I am doing my best to comply with the Stipulation and Order I signed a few years ago. During any times where I was briefly non-compliant, I made efforts to quickly correct any problem. I believe that if the Board determines to sanction me, there are other available sanctions that are more appropriate in this case. I do not believe that the facts in this case warrant a suspension of my license. Thank you for your time and I look forward to meeting with you on October 10, 2013.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Hancock", with a long horizontal line extending to the right.

Marc Hancock

Cc: Stavros Law

BUGDEN & ISAACSON, LLC  
TRIAL LAWYERS

445 EAST 200 SOUTH  
SUITE 150  
SALT LAKE CITY, UT 84111  
PHONE 801-467-1700  
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WALTER F. BUGDEN, JR.

October 8, 2013

**VIA HAND DELIVERY**

L. Mitchell Jones  
Assistant Attorney General  
Commercial Enforcement Division  
Heber Wells Building  
160 South 300 East, 5<sup>th</sup> Floor  
Salt Lake City, UT 84114

Dr. Debra F. Hobbins, Bureau Manager  
Division of Occupational and Professional Licensing  
Heber Wells Building  
160 South 300 East, 4<sup>th</sup> Floor  
Salt Lake City, UT 84114

**Re: Dusti Jo Hall / Case No. DOPL 2013-266**

Dear Mitchell and Dr. Hobbins:

This matter is set for hearing on Thursday, October 10, 2013 at 2:00 p.m.  
Enclosed please find my Memorandum in Support of Ms. Hall's Position. Also attached  
is attached is a letter from Ms. Hall's attorney in Arizona and character letters from the  
following individuals:

- Melissa Sullivan, a colleague;
- Brandi Orr, a fellow student;
- Jed Done, A colleague; and
- Penny Moore, a colleague.

Thank you for your attention to this matter.

Yours truly,



Walter F. Bugden, Jr.

WFB:sg  
Enclosures

WALTER F. BUDGEN, JR. (480)  
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Telephone: (801) 467-1700  
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Email: wally@bilaw.net

Attorney for Defendant

**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

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IN THE MATTER OF THE LICENSE OF  
DUSTI JO HALL  
TO PRACTICE AS A  
REGISTERED NURSE  
IN THE STATE OF UTAH

**MEMORANDUM IN SUPPORT OF  
DUSTI JO HALL'S POSITION AT  
INFORMAL AGENCY ACTION**

**Case No. DOPL 2013-266**

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Respondent, Dusti Jo Hall, by and through her counsel, Walter F. Bugden, Jr., hereby submits a memorandum in support of her position at the Division of Occupational and Professional Licensing's Informal Agency Action.

**INTRODUCTION AND RELEVANT FACTUAL BACKGROUND**

1. Ms. Hall received her nursing license in the State of Utah on September 25, 1996.
2. On May 6, 2009, Ms. Hall entered into a Stipulation and Order with the Division of Occupational and Professional Licensing (the "Division") in DOPL Case No. 2007-207 regarding allegations that she had been representing herself as an APRN on signs and business cards while not being licensed as an APRN in the State of Utah;

and that she had been diagnosing and treating patients without the supervision of a physician.

3. Ms. Hall timely complied with the Division's requirements under the Stipulation, and paid her fine of \$1,000.00.
4. On November 21, 2012, Ms. Hall was arrested at the United States port of entry in Lukeville, Arizona, where it was discovered that hidden in her vehicle was a quantity of marijuana, later determined to be approximately 59 kilograms in weight.
5. On November 26, Ms. Hall was charged with one count of possession with intent to distribute marijuana, a violation of 21 U.S.C. 841(a)(1) & 841(b)(1), a felony; and one count of possession of marijuana, a violation of 21 U.S.C. 844, a misdemeanor.
6. On December 4, 2012, Ms. Hall pleaded guilty to one count of misdemeanor possession of marijuana, a violation of 21 U.S.C. § 844, in the United States District Court, District of Arizona.

### ARGUMENT

- I. **The Division should not revoke Ms. Hall's nursing license or place probationary terms and conditions on her license because her misdemeanor conviction for marijuana possession neither involves moral turpitude nor bears a reasonable nexus with her ability to competently practice nursing.**

The Division may only revoke or suspend Ms. Hall's license if it finds that she has "engaged in unprofessional conduct." Utah Code Ann. § 58-1-401(2). "Unprofessional conduct," for purposes of this Informal Agency Action, means conduct that has

result[ed] in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation with respect to a crime of moral turpitude or any other crime that, when considered with the functions and duties of the occupation or profession for which the license was issued or is to be

issued, bears a reasonable relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession.

Utah Code Ann. § 58-1-501(2)(c). Accordingly, before the Division can revoke or place probationary terms and conditions on Ms. Hall's license, it must find that she has been convicted of either 1) a crime involving moral turpitude, or 2) a crime that "bears a reasonable relationship to [her] ability to safely or competently practice the occupation or profession." Utah Code Ann. § 58-1-501(2)(c). As the following will show, neither of these species of unprofessional conduct applies to Ms. Hall.

**A. Ms. Hall did not commit a crime of "moral turpitude."**

Ms. Hall did not commit a crime of moral turpitude because her conduct meets none of the elements of moral turpitude outlined in the Administrative Code. While "moral turpitude" is not defined under the Nurse Practice Act, it is defined in the Administrative Code universally as conduct which "(i) is done knowingly contrary to justice, honesty, or good morals; (ii) has an element of falsification or fraud; or (iii) contains an element of harm or injury directed to another person or another property." Utah Admin. Code r. R708-48(2)(a); Utah Admin. Code r. R708-21(2)(a); Utah Admin. Code r. R722-330(2)(a); Utah Admin. Code r. R722-300(2)(a).

Here, Ms. Hall has been convicted of possession of marijuana, a federal misdemeanor under 21 U.S.C. § 844. Her crime occurred outside of Utah and independently of her functions as a practicing professional in this state; therefore, her conduct simply cannot be defined as involving "moral turpitude."

First, her crime did not involve conduct that was done "knowingly contrary to justice, honesty, or good morals." Her crime was not *malum in se* or inherently immoral.

The crime to which she pled guilty and of which she was convicted—misdemeanor possession—is not a specific intent crime, and does not implicate malicious intent. See 21 U.S.C. § 844. The language of 21 U.S.C. § 844 does not require that the individual knowingly act contrary to “justice, honesty, or good morals”; rather, it requires that the individual act knowingly with regard only to possession of a controlled substance. Furthermore, Ms. Hall avers that principals involved in the cartel coerced her to carry the marijuana across the border. Therefore, her crime does not have the indicia of flagrant disregard for justice, honesty and morals that “moral turpitude” requires.

Second, the crime of misdemeanor possession of marijuana involves neither a statutory nor implicit element of dishonesty. See 21 U.S.C. § 844. Misdemeanor possession of marijuana under the federal code simply does not implicate fraud or deceit. See *id.* Similarly, the drug distribution charge under 21 U.S.C. 841(a)(1), which was originally filed and later dropped in plea negotiations, contains no express or implicit element of dishonesty.<sup>1</sup>

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<sup>1</sup> See 21 U.S.C. 841(a)(1) & 841(b)(1). While no Utah court has addressed the precise issue of whether drug distribution involves an element of deceit, the majority of jurisdictions hold that it does not. See *State v. Waller*, 118 S.W.3d 368, 371 (Tenn. 2003); *United States v. Lewis*, 626 F.2d 940, 946 (D.C. Cir. 1980) (stating that the defendant’s prior felony conviction for the unlawful distribution of a controlled substance did not involve dishonesty or false statement within the meaning of Rule 609 of the Federal Rules of Evidence); *United States v. Puco*, 453 F.2d 539, 543 (2d Cir.1971) (concluding that narcotics convictions are not highly relevant to the issue of veracity); *State v. Geyer*, 480 A.2d 489, 496–97 (Conn. 1984) (concluding that convictions for narcotics offenses do not reflect directly on credibility and stating that such convictions “clearly lack[ ] the direct probative value of a criminal conviction indicating dishonesty or a tendency to make false statement”); *Gregory v. State*, 616 A.2d 1198, 1204–05 (explaining that drug-related offenses generally do not involve dishonesty or false statement); *State v. Fernandez*, 859 P.2d 1389, 1391 (Idaho 1993) (holding that “[a]rranging a drug transaction in and of itself is not probative of whether a person is truthful or untruthful”); *State v. Konechny*, 3 P.3d 535, 546 (Idaho Ct. App. 2000) (stating that felony drug convictions are not “intimately connected” with credibility); *State v. Zaehring*, 325 N.W.2d 754, 756–57 (holding

Third, Ms. Hall's crime does not "contain an element of harm or injury directed to another person or property." The crime to which she pled involved no violence to others or destruction to property, but rather involved possession of marijuana. Accordingly, her crime is not one of "moral turpitude."

**B. Ms. Hall's misdemeanor is not a crime that "bears a reasonable relationship to the licensee's or applicant's ability to safely or competently practice the occupation or profession."**

Because Ms. Hall's conduct occurred outside of Utah and had no "reasonable relationship" to her practice as a nurse, it is not a valid ground for revocation or suspension of her license.

Utah Code Ann. § 58-1-501 provides that the nurse's conduct must be "considered with the functions and duties of the occupation or profession for which the license was issued or is to be issued." The division must find a "reasonable relationship" between the crime and the licensee's "ability to competently practice [nursing]." *Id.*

First, Ms. Hall's conviction for possession of marijuana bears no reasonable nexus with her ability to practice nursing competently. She is not a drug user, and the crime to which she pled reflects an isolated incidence of drug possession under circumstances of coercion. The Division has no evidence before it that her competence as a nurse is compromised by any past drug use or any prospect of continued

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that narcotics offenses do not involve dishonesty or false statement); *State v. Aleksey*, 538 S.E.2d 248, 255 (N.C. 2000) (indicating that violations of narcotics laws are generally not probative of truthfulness); *State v. Hardy*, 946 P.2d 1175, 1178 (1997) (commenting that "[d]rug convictions are not crimes of 'dishonesty or false statement' like perjury or criminal fraud and thus [Rule 609] does not apply").

involvement in drug sales or distribution. In short, given the unique, and isolated circumstances giving rise to her conviction for marijuana possession, there is no basis for finding a nexus between her possession conviction and her competence as a nurse.

Second, the Division must consider the crime of which Ms. Hall was convicted, not the crimes with which she was charged. Under Utah Code Ann. § 58-1-501(2)(c), “unprofessional conduct” as it pertains specifically to crimes, means “conduct that results in conviction, a plea of nolo contendere, or a plea of guilty or nolo contendere which is held in abeyance pending the successful completion of probation . . . .” Utah Code Ann. § 58-1-501(2)(c). The only charge that “result[ed] in conviction” for Ms. Hall is possession of marijuana, a misdemeanor. The felony charge for distribution did not result in conviction, and therefore it may not factor into the Division’s analysis of whether Ms. Hall has engaged in “unprofessional conduct.”

Alternatively, even if the Division considers the felony distribution charge in its nexus analysis, this charge does not bear reasonably upon Ms. Hall’s ability to competently practice nursing. Utah courts have not addressed the precise issue of whether drug trafficking crimes that are not related to nursing duties qualify as “unprofessional conduct” under the Division of Occupational and Professional Licensing Act. In fact, only one Utah appellate court case, *Heinecke v. Dept. of Comm., Div. of Occ. & Prof. Licensing*, 810 P.2d 459 (Utah Ct. App. 1981), has addressed “unprofessional conduct” as it relates to nursing. That court upheld the Division’s revocation of a nursing license where the nurse had engaged in sexual intercourse with a patient. Even though the sexual intercourse occurred outside the scope of the nurse-patient relationship, the court noted, “just because a professional is ‘off-duty’ does not

mean that his or her conduct is completely insulated from professional concern." *Id.* at 468, n.14. However, the court considered it significant that the nurse "took advantage of knowledge and information gained while on-duty to exploit an unprofessional 'off-duty' relationship." *Id.*

Here, on the other hand, no such nexus exists between Ms. Hall's professional competence and the drug trafficking charge. The conduct in question occurred near the border of Arizona and Mexico and was clearly not committed within the scope of Ms. Hall's duties as a nurse. Therefore, there was no relationship between her "on-duty" responsibilities at the hospital and her "off-duty" misconduct.

Again, Ms. Hall is not a drug-user and there is no evidence that she has at any time tested positive for marijuana or other substances. Similarly, this isolated incident of trafficking does not bear any indicia of fraud, deceit, or misrepresentation that would indicate Ms. Hall is unfit to practice nursing. She has been fully candid with the Division and has cooperated in disclosing all relevant information and agreeing to drug testing.

Accordingly, because Ms. Hall's crime contains none of the elements of moral turpitude and has no "reasonable relationship" with her professional responsibilities, the Division has no basis for revoking her license or placing probationary conditions and terms her license.

#### **CONCLUSION**

Based on the foregoing, the Division should not revoke Ms. Hall's license or place probationary terms and conditions on her license.

DATED this 8<sup>th</sup> day of October, 2013.

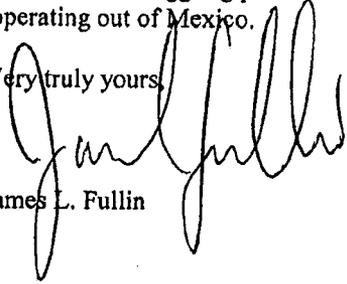
BUGDEN & ISAACSON, L.L.C.

By:   
WALTER F. BUGDEN, JR.  
Attorney for Defendant



fide and real defense. So, Ms. Hall was sentenced, as agreed, to ninety days in the custody of the U.S. Bureau of Prisons. Although not quite commonplace, Ms. Hall is certainly not the only U.S. citizen to have faced criminal charges as a result of highly creative and smuggling plots emanating from sophisticated and dangerous criminal enterprises operating out of Mexico.

Very truly yours,

  
James L. Fullin

## Sindra Garcia

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**From:** Melissa Sullivan <msullivan.415@gmail.com>  
**Sent:** Monday, October 07, 2013 7:50 PM  
**To:** Sindra Garcia  
**Cc:** Dusti Hall  
**Subject:** Dusti Hall

To whom it may concern;

I have known Dusti Hall, RN for approximately eight years, I worked with her at Intermountain Medical Center for three years in the Emergency Department. During this time to current date I work as an Emergency Medical Technician (Critical Care Technician). As we served three years, she served many roles as an RN: triaging, fast tracking, traumas and other nursing duties. During the three years that I worked with Dusti I learned a lot from her, she was informative, educated and loved teaching. All of the technicians, paramedics, firefighters and even other nurses felt confident to go to her with any question whether it be a simple or complicated question she always knew the answer and how to explain it in a way anyone could understand. She was always willing to help out anyone in any role to make the patients' visit to the ED the best experience it could be.

As a co-worker I enjoyed and also knew a lot of co-workers who loved working with her because of her enthusiasm towards patient care, which set an example to other co-workers. She did most of the patient care herself without delegating too much on the techs. Dusti would often stay after her shift just to finish up with her patients to make sure they received the care, she felt, they deserved. She is one of the most considerate, empathetic and sympathetic Nurses I have ever met and also was a great advocate for her patients.

I looked forward to working with her and I always knew it was going to be a fun, exciting, as well as an entertaining day. She not only was skilled and had a talent for nursing but was fun, had many jokes, was personable with the staff as well as with patients and their families while still being professional. It seemed her patients were always informed of what was going on with their care, she had a way to put them at ease. Dusti always seemed to be missing (by missing I mean not at the nurses' station gossiping) but she was always with a patient or their family members, which no other nurse that I've seen do, she was always answering questions, giving hugs or putting someone at ease. With that being said she always stayed on top of her work never making her other patients wait for care. She has a way with patients and their families and it comes so natural.

I often heard different staff members (Doctors Management, Nurses, Techs, and secretaries) speak highly of her skills, her ability to communicate, act calm and certain professional demeanor while caring for a trauma or critically ill patient. She has inspired me to want to learn more to one day become a Nurse so I will be able to follow in her shadow. I can not possibly say enough about Dusti and her nursing ability to care for patients and their overall well-being.

She is truly a good friend and inspiration in which I admire, not only as a friend but as an outstanding Nurse. It was a great pleasure to work with her and feel she needs to be back in the nursing field in which she was born to do. I highly respect her and wish to aspire to be the kind of Nurse that Dusti is. She's a great example to other's around her of what nursing is all about. I wish her the best of luck through this situation because it would be a great loss and tragedy if she were to stop practicing nursing because once you have seen her working you can feel the compassion that Dusti has to be a Nurse because, I believe, that's what she was born to be.

Respectfully,  
Melissa Sullivan, (CNA, Trauma Technician Certified, BLS, First responder certified through American Red Cross )

## Sindra Garcia

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**From:** Brandi Orr <bboltonorr@mac.com>  
**Sent:** Monday, October 07, 2013 10:35 PM  
**To:** Sindra Garcia  
**Cc:** 1luckyfin@gmail.com  
**Subject:** Dusti Hall

To whom it may concern,

I attended graduate school with Dusti Hall and interacted with her on a daily basis during the years 2003-2005 in class and social events. She was always very knowledgeable in class and contributed to learning with her experience. For a short time, I was a preceptor at the clinic where she was employed and observed her interactions with patients. She was always very helpful and caring towards patients. She related with patients very easily and they seemed to appreciate the extra time she would take with them.

Dusti is a very knowledgeable nurse who understands medications, treatments and disease processes. She is very resourceful and caring about helping others. I often witnessed her show extreme compassion about another person's situation. In addition she has a fun and loving personality which allows others to feel comfort and trust her. These qualities are essential in providing good care to patients.

Sincerely,

Brandi Orr, APRN

## Sindra Garcia

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**From:** Jed Done <jdone@farmington.utah.gov>  
**Sent:** Tuesday, October 08, 2013 12:32 AM  
**To:** Sindra Garcia; dusti@usa.com; 1luckyfin@gmail.com  
**Subject:** Letter for Dusti Hall

To Whom it may concern.

This is a letter in regards and concerning Dusti Hall. Dusti Hall from the time that I have known her has been a mentor and a friend in my career pursuits. When I began working in the ER at Intermountain Medical Center. Dusti not only showed me the ropes and was a mentor, she taught me a great deal about how to care and show compassion for others. Her caring, resourceful and knowledgeable example was one that I tried to emulate. I saw her compassion first hand in calming the fears of frightened loved ones who's family member was either hurt or sick. She was able to calm their fears and with her knowledge be able to explain to them what was happening and what the next steps would be in the care the family member would receive.

Because of her knowledge Dusti quickly became a mentor to me. She was able to relate and teach in simple terms for anyone and everyone to understand. She was calm under pressure and would always encourage those who were struggling with a concept. She would instruct and coach those who needed help and always showed patience to those around her. She was always willing to lend a hand and was a voice of support when I had doubts and struggles. She quickly became someone I could rely on and was someone I could look for to get feed back from and an opinion from. Her opinions mattered to me and were sought after continually. She quickly became a trusted friend and someone who I relied on frequently. I certainly wouldn't be the kind of person and care giver that I am today without her help.

Dusti is someone who is a builder and not someone who tears down. She would always look for the good in people and sought to build them up. If it was a patient who was frightened and worried about the unknown she was there with assurance that the patient would be given the best care and that the best outcomes were in the patient's best interest. She was an advocate for her patients and for her fellow coworkers and friends. I am grateful for Dusti, for her friendship and for her being a mentor. Her knowledge and skills have not only benefitted me, but they have also benefitted her patients.

Jed Done  
Engineer/EMT-Advanced (Farmington Fire Department)  
Critical Care Tech (Intermountain Medical Center)

**Sindra Garcia**

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**From:** Penny Moore <moorepenny@comcast.net>  
**Sent:** Tuesday, October 01, 2013 9:00 PM  
**To:** dusti@usa.com; Sindra Garcia  
**Cc:** p3hny Moore@gmail.com  
**Subject:** Dusti Hall

To Whom it my concern,

October 1, 2013

I am writing in regards to Dusti Hall. Dusti has been a mentor of mine and has aided in my success as a nurse. She has great knowledge and expertise in the nursing field. She is extremely caring and personable with her patients, which has always been a great example for me.

Thank you,  
Penny Moore RN

**engaging in conduct that results in conviction . . . with respect to . . . any . . . crime that, when considered with the functions and duties of [a registered nurse], bears a reasonable relationship to the licensee's ability to safely or competently practice [registered nursing].**

Dusti J. Hall, RN, BSN, MSN  
5526 W. 13400 S. Ste. 224  
Herriman, UT 84096

8/16/2013

DOPL  
D. Hobbins

**To Whom It May Concern:**

This letter is in response to the notice of agency action to determine whether a basis exists to revoke my license to practice as a registered nurse. I was told to write something regarding each of the 5 allegations listed and will do so below.

1. This allegation is correct. I was licensed as a registered nurse in the State of Utah on or about September 25, 1996.
2. On or about May 6, 2009 I did voluntarily enter into a Stipulation and Order with DOPL Case No. 2007-207. This allegation requires a little clarification. I understand that you hear daily from people that they are not guilty or it wasn't them. Well, I will be perfectly honest with you. This case carried on for so long because that is the case. (I have enclosed Exhibit A in a separate email). I was working at The Practice of Medicine with Dr. Paul E. Pilgram. We started the practice together from the ground up. I was in chosen among literally every nurse that I know (because it is quite an honor to work along such an esteemed, professional, smart, kind and fabulous Dr.). Dr. Pilgram told me that he chose me simply because he never had a patient that I was the nurse for that didn't rave about how genuine and caring I was. I love nursing. I love taking care of people and I work hard. Not super common in the work force today. I truly love nursing as evidenced by my continuing education and work history. Anyway, I started by being the office manager, office RN, biller, receptionist, supply manager, etc. I order equipment, I got our business licenses. I did it all. We had and still have today a very successful practice that I was prematurely ripped away from because of jealousy. I was in NP school and a PA came to do her internship. Her name was Tiffany Seamons. She was bold and a little abrasive with the patients. I on the other hand am guilty of spoon feeding my patients. I am guilty of spending too much time with them and dealing with more than one issue at a time during their set appointment. As the office RN I was in charge of calling patients back and giving them their lab results. I believed in actually going over their results because our greatest downfall as a community is ignorance. Calling a patient back and telling them simply that their labs or normal or abnormal creates an acceptance for ignorance. I would tell them that their rbc's were the right size, right shape, that their TSH was functioning and speaking correctly to the pituitary gland and the soldiers were relaying their messages accurately. I never hung up the phone with a single unsure or confused patient. Well, Tiffany would call and leave messages that said normal, abnormal. Med called in. End of story. Because of my relationship with all of the Practice's patients they would call me and ask me to explain to them what their labs meant and why they were being placed on new medications and what the said medication did, side effects, etc. After a few weeks Tiffany closed the door and said "May I say something to you as a friend and co-worker?" I said "absolutely". Thinking she was being sincere. She place her hand on my knee and said "you are never going to be a good nurse or a good nurse practitioner

UTAH ATTORNEY GENERAL'S OFFICE

AUG 21 2013

Commercial Enforcement Division

as long as you keep spoon feeding and caring this much about every patient. You don't have time to be effective if you care about each one like that. You need to quit making everyone else look bad because you are here 20 hours a day and just give them what they need to know. I am dealing with my patients and I don't need you going around me and doing my job for me and making me look like I don't care." I said "I understand that." I was so shocked (and Dr. Pilgram had asked me to answer the patients questions and clarify any questions they had because he agreed she wasn't being thorough. So I wasn't going behind her back. I was doing my job.) that I just said "o.k. thank you for the advice" and turned around and started charting. I couldn't believe anyone could have the gall to tell someone that. But she was very curt and outspoken. Something I am not. After a few weeks Dr. Pilgram met us in the hall and said "girls, come here", so we went in his office. He said "Dusti, your charting is perfect. However, you give too much explanation. You don't have to chart every word said during the visit. Condense it more and you will save a ton of time". "Tiffany, you have lost us a ton of money. You are leaving out charges....." and went on and on. Fairly negative and I was actually humiliated for her. I was embarrassed that he was doing it in front of me. When he finished he said "but otherwise, your charting is to the point and concise so good job". When he got done and walked out she leaned over and patted me on the back and said "Don't worry, when you get more experience you will be a better charter". Then walked out. Eventually, patients started asking to not be seen by her. When they didn't have a choice they would say right to her "when Dusti graduates we can still see her right? We aren't stuck with you?" One night in the beginning she said "you must do something right because the patients adore you. Well, after so many patients requesting me and not her she changed her tune. She was very religious and active in the LDS religion. I am LDS as well but not quite as gung-ho as she was. Our biller at the time was Spring Greenburg. A very staunch member of the LDS church. I was 35 at the time and unwed and she had made accusations about my sexual preference. Even gone to Dr. Pilgram and said I live my life in a lie and so how can he trust me working for him. He asked her what she was referring to. She said "well, I think she is gay." He said "have you asked her?" She said "No". He said "well, she has never lied to me." So, needless to say when Tiffany approached her to get me removed from the Practice that wasn't a hard sale. I know this because Tiffany had gone to Cassandra Timothy, CNA and asked her a bunch of questions regarding my sexuality and integrity. Cassandra being fairly new to the Practice and me being her boss and Tiffany merely an intern came to me and said I also heard them talking about catching you and proving it to Dr. Pilgram, in turn showing my issue with honesty and therefore, my inability to be an exceptional employee. I figured it would blow over. I played softball with Spring's husband Dan and had gotten Spring the job. She had babysat for my little girl for years. (Yes, I have 2 children out of wedlock. You may as well know all of my sins since this is laying my life on the line for my future and the future of my children). One weekend during a tournament Dan said "my wife is out to get you." I said "why?" He said "Because Tiffany hates you and Spring thinks you're gay and doesn't want to catch it" then started laughing. "She even asked me to find out who your girlfriend is." I just laughed it off. I didn't think it would really get taken to the extreme it did. Anyway, Dr. Pilgram went to New Hampshire one week and I was working. Yes, I was talking to patients, refilling prescriptions and acting under my scope of practice as the RN. Which even medical assistants without qualifications (in my humble opinion) can call in prescriptions. Dr. Pilgram was a phone call away with any questions. Our Practice PA Jared Spackman (my preceptor) was in the office all of this week. I did see a number of patients as written in the allegations. With Jared on the premises and he also spoke with the patients. I was doing clinicals and practicing within my limits as a student nurse practitioner. I have never practiced beyond the scope of my RN license. Time went on and in May of 2007 our phantom sign was vandalized as mentioned by Dr. Pilgram. When I showed up to work one day I saw the new sign. Under Dr. Pilgrams name was DUSTI J. HALL, FNP-C. To be honest, I

was very proud of what I had accomplished. I didn't cover the sign or ever even think about it because I knew I wasn't practicing. The sign was covered by trees and you had to honestly look pretty hard to see it. For years patients had called and asked if they could see me as their provider. Stacy Bowers, our receptionist would constantly tell me that I am going to be booked for life once I start practicing. But the phone calls and inquisitions started long before the phantom sign donned my name. Dr. Pilgram in June also had new business cards ordered. Rather than ordering mine in July when I was going to sit for my boards he had mine made as well. Dusti J. Hall, FNP-C. These were ordered and locked up in a drawer. One day an anonymous call came into DOPL saying that I was handing out business cards and had placed a sign in the street and was scheduling patients. No one knew about the cards except our office staff. Weird as that may seem. So, a week later Brittany from DOPL comes in and acts as a patient. Requests an appointment with me and Stacy tells her I am not practicing yet. She said "well, her name is on the sign out front." Stacy said "yes it is. But she hasn't taken her boards yet. Our sign was destroyed and so we had it put on there but she isn't seeing patients yet. Sorry". Brittany then said "Well, can I get a business card then?" Stacy said "She doesn't have any". Brittany just kept bugging her. Stacy said she was so uncomfortable she didn't even know what to say. So finally she unlocked the drawer pulled one out and crossed out the FNP-C and wrote RN. Said you can call when she graduates and make an appointment. Brittany then asked for another card that wasn't marked out. Stacy said no. She said "Please so that I have it when she does. I know her from school and want it." Stacy said "oh, ok". Then told me she thought she was my friend. I said "I have no idea who it is. Oh well." It wasn't until Brittany called and made the DOPL appointment with me and then showed me the 2 cards that it clicked that it was her that had lied and persuaded my receptionist. I think I was Brittany's first DOPL case and I feel she was unfair and her tactics bordered unprofessional. Anyway, after a long drawn out process which I had sought the advocacy of Ed Brass, we decided to sign the stipulation. Apparently, Tiffany and Spring said they would testify that I was seeing patients illegally and where they were coworkers I wouldn't have a chance in hell. I was not guilty. My FNP license was to be marked as disciplinary action and my RN license was assured to never be marked with a disciplinary action. I had spoken with Dan Lau and Laura Poe about this. I told them in the interview that I was willing to not sit for boards as an FNP because the ridicule and accusations were false and no employer would believe I was being punished for hanging a sign prematurely that I never did hang. Dr. Pilgram even testified that I didn't even know about it. But I loved being an RN so much that I figured I would just continue in that profession. I had met with Laura Poe after the stipulation and discussed with her the just how in depth the monitoring would be if I did decide to sit for boards. She said "Dusti, I knew you as a student at Westminster. I have talked to your dean and other faculty members and everyone agrees that you are a valuable asset to our community. You're bright and driven. In fact, your Dean Marilyn Chan told me that she had discussed with you taking over her pediatric patients once they outgrew her practice. It would be very sad to have you not board over this incident." I said "yes it would. And a waste of an expensive education. 50,000 down the drain. But I feel that this was handled unfairly and the stipulation is a little heavy handed. I agreed to pay the 1000 dollar fine and I did. But I will not sit for boards if the disciplinary action is going to be public." She said "will you please reconsider. We need good FNP's and you are highly recommended. Just consider it and we will discuss it next time." I said "I will just keep practicing as an RN with no disciplinary action. I love nursing." She said "well that is your choice. But please think about it." Now low and behold my RN license has a disciplinary action attached because Deb Hobbins said they had to attach it to something and since I didn't sit for my boards they attached it to my RN. This is exactly why I didn't sit for my boards. It states in my stipulation that it would not affect my RN. I now have to deal with the repercussions of this as well. Unable to find a job that I am highly qualified for because of stigma. It is very frustrating.

Anyway, that is my rebuttal for the allegation number 2.

3. As far as the allegation number 3. Yes, I was driving a car that had marijuana hidden in it.
4. I deny this allegation.
5. I did plead guilty to one count of minor possession of marijuana. Amount unknown. Misdemeanor. I did so because I did know and I did accept responsibility for my decision to protect my family. I had an attorney in Arizona and I told him the only thing I cared about was keeping my RN license. He said in the State of Arizona that a misdemeanor for minor possession has never held up a license. I didn't have time to look into Utah laws and so I asked him if he had represented RN's before with possession charges and the outcome. He said "Yes I have. I have never had an RN lose their license. If you go to trial and are found guilty of a felony then your license would be lost or suspended. But no grand jury or judge found any probable cause for a felony. You were not indicted. But pleading to a misdemeanor will remove the error of chance that you could be criminally charged. So in a sense, you are giving up 90 days of your life for your future as an RN." I made this decision solely on the fact that he was right. I accepted responsibility for my decision and I paid the price of going to prison for 90 days and being without my children and almost losing my house. My entire world has fallen apart and the one thing I love most (other than my children) is nursing. I have always loved my career. I have never done drugs and I never would. I honestly had a decision to make to protect my family and I did so without seriously contemplating the what if? I grew up in Mexico and thought I could handle this situation on my own without involving the authorities (which I thought may affect my profession). Every decision I made was directly related to my future as an RN. Ironic how the one thing I was fighting for is the one thing I am fighting for. I made a mistake. I accepted responsibility and paid the ultimate price of 90 days of my life. I lost more than you will ever know. I am still paying the price with my house going into foreclosure because of being out of work and a possible bankruptcy if I don't find employment soon.

I have accepted responsibility for my actions. I want nothing more than to just practice as an RN doing what I love to do. I will swear under oath that I have not done any drugs and have no intention of ever picking that habit up. I have 2 wonderful children and I coach my sons baseball team. I volunteer in the schools and I am an outstanding citizen. I was blackmailed and to thought I could deal with this situation on my own. I have learned the proper channels to take and will be a better example to my family in the future. I still plan on volunteering in the community and being a wonderful example to my children and the community. I hope you can find it in your hearts to hear my side with an open mind and decide by my sincerity if I am telling you the truth. I feel that in our meeting you will get this information from me. Thank you for your time and consideration.

Sincerely,

Dusti J. Hall, RN, BSN, MSN  
5526 W. 13400 S. Ste. 224

(4) Levels of supervision are defined as follows:

(a) "Direct supervision" and "immediate supervision" mean the supervising licensee is present and available for face-to-face communication with the person being supervised when and where occupational or professional services are being provided.

(b) "Indirect supervision" means the supervising licensee:  
(i) has given either written or verbal instructions to the person being supervised;

(ii) is present within the facility in which the person being supervised is providing services; and

(iii) is available to provide immediate face-to-face communication with the person being supervised as necessary.

(c) "General supervision" means that the supervising licensee:

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(i) has authorized the work to be performed by the person being supervised;

(ii) is available for consultation with the person being supervised by personal face-to-face contact, or direct voice contact by telephone, radio or some other means, without regard to whether the supervising licensee is located

on the same premises as the person being supervised; and

(iii) can provide any necessary consultation within a reasonable period of time and personal contact is routine.

(5) "Supervising licensee" means a licensee who has satisfied any requirements to act as a supervisor and has agreed to provide supervision of an unlicensed individual or a licensee in a classification or licensure status that requires supervision in accordance with the provisions of this chapter.