

MINUTES

**UTAH BOARD OF NURSING
MEETING**

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

CONVENED: 8:30 a.m.

ADJOURNED: 5:40 p.m.

Bureau Manager:
Board Secretary:

Debra Hobbins, DNP, APRN
Shirlene Kimball

Conducting:

Peggy Brown, MS, RN

Board Members Present:

Peggy Brown, MS, RN
Diana Parrish, BS, public member
Calvin Kremin, MSN, CRNA
Barbara Jeffries, BSN, RN
Cescilee Rall, BSN, RN
Megan Christensen, BS, public member

Board Members Excused:

Jaime Clinton Lont, MSN, APRN
Alisa Bangerter, BS, RN
Ralph Pittman, LPN

Division Staff:

Connie Call, Compliance Specialist

Guests:

Laura Sombathy, Weber State student
Annie Sullivan, Weber State student
Anjanette Rheer
Kelly Lundberg, Ph.D. U of U
McCall Mason
Ryan Gray
Jason Young

January 9, 2014 Minutes:

The January 9, 2014 minutes were tabled.

**Sara Calderas, non-compliance,
Telephone interview:**

Ms. Calderas indicated she considered signing a Surrender document because she did not have the money to pay for the fine and comply with the other requirements in her Order. However, her employer offered to re-hire and she decided she did not want to surrender the license. Ms. Calderas stated she is now having second thoughts about the nursing position because she likes her non-nursing position. Ms. Calderas stated she does not want to

surrender the nursing license because she worked very hard for the license. Dr. Hobbins explained the limited license and Ms. Calderas indicated she would consider her options and let the Division know her decision. She stated she understands there will be a fine for non-compliance. Mr. Kremin made a motion to issue a \$100.00 fine. Ms. Rall seconded the motion. All Board members voted in favor of the motion.

Informal Agency Proceeding,
Nina Manning:

Mitchell Jones explained that Ms. Manning responded to the Notice of Agency Action and Order to Show Cause. Ms. Manning submitted a written response and admitted to paragraphs one, two, three, nine and ten. The Division is withdrawing part of the allegation contained in paragraph seven (receiving prescriptions from more than one prescriber). The Division is also withdrawing the allegations contained in paragraphs eight and eleven. Therefore, the Board will be making a determination regarding the disputed paragraphs five and six, and part of paragraph seven.

Paragraph Five: Ms. Manning failed to meet with the Board in October. She stated she never received the letter and her kids may have misplaced it. Mr. Jones indicated the Division mailed the letter to the correct address. Ms. Manning then indicated she found the letter later and would have appeared if she had known about it.

Paragraph Six: Ms. Manning failed to timely submit her physical report. Ms. Manning submitted the physical evaluation 2 ½ months late and it did not state that she was physically fit to practice. Ms. Manning indicated she had contacted the physician twice and was told it had been submitted. She indicated she was not aware that she needed to tell the physician to include a fitness for duty statement.

Paragraph Seven: Ms. Manning filled her prescriptions at more than one pharmacy.

Mr. Jones indicated that the Division is

recommending a \$1000.00 fine. Mr. Kremin questioned Ms. Manning on whether she fully understood the Order. Ms. Manning indicated she does not fully understand the Order, but has read the Order several times. Ms. Manning stated the Order does not clearly spell out that the physician must provide a fitness for duty statement. Mr. Kremin stated the Order is very clear. Ms. Brown questioned the date that the physical was completed. Ms. Manning indicated it was completed May 17, 2013. Ms. Brown indicated Ms. Manning met with the Board in August and was informed at that time that the Board did not have the evaluation and it was her responsibility to follow up with the physician.

Ms. Manning stated she would like to propose only receiving a public reprimand. She indicated she is just finishing the county court probation, does not have a job and does not know when or how she would pay a \$1000.00 fine. Mr. Jones stated that the Division is still recommending a \$1000.00 fine. Mr. Kremin made a motion to close the meeting 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 closed at 9:37 a.m. A motion was made to open the meeting and the meeting was opened at 9:45 a.m.

Board members indicated Ms. Manning engaged in unprofessional conduct for violating paragraphs five, six, nine and ten of the Notice of Agency Action. Ms. Manning also obtained controlled substances dispensed from more than one pharmacy. A motion was made to issue Ms. Manning a \$500.00 fine due at the end of 5 months and issue a letter of public reprimand. The motion was seconded. All Board members voted in favor.

Connie Call,
Compliance report:

Ms. Call indicated Mr. Singer appears to be out of compliance with his Order because he had a drug screen that was positive for cocaine. Ms. Rall 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. Christensen seconded the motion. All Board members voted in favor of closing the meeting. The meeting was closed at 10:20 a.m. Ms. Parrish made a motion to open the meeting. Ms. Rall seconded the motion. The meeting was opened at 10:31 a.m.

Cheryl Jensen,
Her request:

Ms. Jensen requested a meeting with the Board to discuss section 8(v) of her Order that does not allow her to call in prescriptions to a pharmacy. Ms. Jensen stated the clinic where she works receives a request for a prescription, the request is sent to the physician, and the physician writes the prescription. The clinic would like her to scan the prescription into the computer system. She indicated she never initiates a prescription. Mr. Kremin made a motion to allow Ms. Jensen to assist the provider with e-prescriptions. Ms. Jeffries seconded the motion. All Board members voted in favor of the motion.

Kenneth Cook,
Renewal application review:

Mr. Cook met with the Board to explain his “yes” answers on the renewal application. Mr. Cook indicated he is current working at Dignity Home Health and Hospice. Mr. Cook explained he does not remember all the events that happened, and only just read the police reports from the March 2012 incident. He indicated in 2012 he was diagnosed with Post Traumatic Stress Disorder, and is working with a mental health counselor to help him deal with the deaths of his child and cousin in the late 1990’s. Mr. Cook also indicated he is dealing with stress he incurred while a medic in the military and the issues regarding the only medic to provide care on the Piute Indian Reservation. He reported at the time of the incident and arrest, he lost his home to foreclosure; had credit problems, and was having marital problems.

Board members questioned why the police reports were so different from his narrative. Mr. Cook stated he did not remember some of what happened and the last thing he remembered was that he found

his wife's marijuana and spice, and that she was untruthful with him. He indicated since the incident, he sees a therapist every three months and is currently on medication. Ms. Jeffries questioned if he was ingesting alcohol in 2012. He stated he is a social drinker, and only had alcohol at New Year's and for his anniversary; otherwise he did not drink alcohol. Mr. Cook stated he feels the police reports were inconsistent. Ms. Parrish indicated she does not see any inconsistencies in the police reports. He has stated he does not remember going to his wife's place of work, the police coming, and no memory of being arrested. Ms. Parrish questioned how his narrative could be so different from the police reports. Ms. Parrish indicated she does not feel he has addressed the actual events. Ms. Brown indicated the Board will discuss his request for renewal and will contact him.

Kenneth Cook: Ms. Jeffries made a motion to require Mr. Cook to receive a neuropsychological evaluation and a physical examination within 90 days and have the evaluators include a fitness for duty statement along with any recommendations. Ms. Parrish seconded the motion. All Board members voted in favor of the motion.

Kelly Lundberg, Ph.D.,
Presentation:

Dr. Lundberg met with the Board to discuss ideas with the Board regarding interviews with a probationer or other individual brought before the Board.

Board members discussed the best ways to approach interviews. Dr. Lundberg indicated that there is a difference between content and process. She reported that process is what is going on, for example, an individual comes in and is very defensive. Dr. Lundberg stated that the best response would be to say, "I understand it is difficult," rather than to say, "I understand why you feel that way."

Dr. Lundberg indicated if the individual goes on and on about the same situation, say, "I am going to interrupt and here is what we are going to accomplish today." It would be even better, prior

to beginning the interview, to say to the individual, "We have about 15 minutes and I want you to keep that in mind, we will let you speak for about 5 minutes." Then remind them when the time is up. Board members need to keep in mind that nothing that is said should be taken personally. Dr. Lundberg indicated each Board members needs to check their own reaction and say, "Sounds like you have a lot to say about this, but this is not the place, we are going to talk about your plan."

Ms. Rall indicated there have been times with a hostile individual we feel it would be best to have a security guard. Dr. Lundberg stated you could deescalate a situation by thanking the person for taking responsibility, attitude, whatever; however, the probationer does not need to be thanked for doing what he/she should be doing. Make sure it is genuine and think about what you are thanking them for. Do not let probationers go on and on if they are angry. The longer we allow them to vent, the angrier they become. Say, "I am going to stop you now, or in spite of all of that . . .," Look at the order and emphasize the Stipulation and Order. If things do start to escalate, you can ask a person to step outside for a time, or say, "You cannot continue to sit here and talk like that." If a visitor, the Board member can say, "We appreciate you coming, but this is not the place and would suggest you write a letter to DOPL." The chair controls the meeting.

Ms. Parrish indicated there is a difference between younger and older probationers. The older individual is more grateful, the younger one not so grateful. Dr. Lundberg stated that with the younger generation the Board should talk about specifics, what you are required to do and let them know it is not a guideline, but a requirement. Tell them the reason why you need it, that it is necessary to judge compliance, and this is the only way. On the other hand, indicate this may be confusing, but this is the way it is. Use the matter of fact approach.

Ms. Brown indicated that there are probationers that have been placed on probation due to poor

judgment, who do not see their actions as problematic and affecting their abilities as a nurse. Dr. Lundberg stated if the individual is showing a pattern of poor judgment, let them know that as a Board you have concerns. Indicate that you are concerned and explain how judgment fits with nursing. Understand that the Board is not the therapist. On the self-assessment, have them address what they are learning on probation. If they say something unbelievable, say, "We probably are not going to believe that," and their response will be to try to convince you. Say to them, "Look at what you are trying to accomplish, admit the truth or be in violation." It is better to put the facts on the table and ask them why they are here today. It is not the board's job to collect information, or try to figure out what they are missing. Do not trick them, get them to tell you what is going on, and if the person is not forthcoming, say this is what you left out. She also indicated it is best to have one person doing the interviewing. Also, keep it to a time limit and do not be caught up in the story. Say, "I know this is important to you," but we need to say, "This is what we are trying to accomplish today," then it is easier to interrupt them. If it is a new probationer, say, "Help me understand what you were thinking." Sometimes they will start to explain, but not getting to the point, stop them and say again, "Help me understand."

Dr. Lundberg indicated that if they just want to talk, say, "This is not the place." If they are requesting an amendment when it is not the appropriate time to ask, just say, "No, we are not going to approve the request it is just too early." Indicate they can request, but we are going to look for compliance and let them know what you are looking for. They have the right to request, the Board has the right to say no. Make sure you convey empathy, but be aware that words are important. If you do not mean it, do not say it.

Connie Call,
Compliance report:

Ian Gowans. Mr. Gowans is requesting he be allowed to work in home health. Ms. Parrish made a motion to deny his request due to the recent

relapse. Ms. Jeffries seconded the motion. All Board members voted in favor of the motion.

Jaimee Anderson: Ms. Anderson requested she be allowed to work in home health. Ms. Parrish made a motion to approve the request due to the continued compliance with her Order. Ms. Anderson must submit monthly employer reports to the Board from the home health employer. Ms. Jeffries seconded the motion. All Board members voted in favor of the motion.

Todd Powell. Mr. Powell's therapist indicated he has successfully completed therapy. Ms. Parrish made a motion to terminate the requirement for therapy at this time. Ms. Christensen seconded the motion. All Board members voted in favor of the motion.

Scott Hirschi: Mr. Hirschi requested he be allowed to meet with his supervisor quarterly instead of monthly. Ms. Jeffries made a motion to approve quarterly one-on-one meetings with the supervisor. Ms. Parrish seconded the motion. All Board members voted in favor of the motion.

Monica Murdock. Ms. Murdock would like to attend 12-step meetings four times a month in lieu of attending two 12-step meeting and two PIR meetings. Ms. Jeffries made a motion to allow Ms. Murdock to attend weekly 12-step meeting in lieu of PIR meetings. Mr. Kremin seconded the motion. All Board members voted in favor of the motion.

Tracy Johnson. Ms. Johnson is requesting she be allowed to have two prescribing physicians and that her access to controlled substances be returned. Mr. Kremin made a motion to approve both requests. Ms. Rall seconded the motion. All Board members voted in favor of the motion.

Group 1
Secretary: Shirlene Kimball

Board members present: Ms. Rall, Ms. Christensen and Mr. Kremin.

Tracy Schroeder,
New Order:

Ms. Schroeder explained the circumstances that brought her before the Board. Ms. Schroeder failed Diversion and will need to provide the Board with

new substance use disorder, psychological and physical evaluations. Board members requested she make sure the evaluators address her fitness to practice. Board members indicated she would need to provide the evaluators with copies of her police and BCI report. Board members reviewed the Order systematically with Ms. Schroeder. Ms. Schroeder stated she understands the Order. Ms. Schroeder requested her access to controlled substances be returned and stated she would be willing to complete extra urine screens. Mr. Kremin stated the Board needs to monitor her probation for a period, and at this point, it is too early to lift that restriction. Ms. Schroeder stated she does have thoughts of relapse, and has to take it one day at a time. She indicated she still needs to find a sponsor. Ms. Schroeder is in compliance with the terms and conditions of her Order.

Micheal Josh Ludwig,
New Order:

Mr. Ludwig explained the circumstances that brought him before the Board. He indicated he has been sober for seven years from drugs, and last ingested alcohol December 2013. He had an evaluation that indicated he did not have a substance use disorder, but the evaluator recommended that the Division monitor Mr. Ludwig on probation. Mr. Ludwig stated he understands the terms and conditions of his Order. Mr. Ludwig stated he is currently employed at St. Joseph's Villa. Mr. Ludwig is in compliance with the terms and conditions of his Order.

Holly Wilson,
New Order:

Ms. Wilson failed to appear for her interview with the Board and did not contact Ms. Call to review her Order. Ms. Wilson will be invited to meet with the Board next month and if she fails to appear, she will be referred for an Order to Show Cause Hearing.

Tyler Bauer,
New Order:

Mr. Bauer failed to appear for his interview with the Board and did not contact Ms. Call to review his Order. Mr. Bauer will be invited to meet with the Board next month and if he fails to appear, he will be referred for an Order to Show Cause Hearing.

Group 2
Minute taker: Connie Call

Members present: Ms. Brown, Ms. Parrish and Ms. Jeffries.

Erin Rasmussen,
New Order:

Ms. Rasmussen explained the circumstances that brought her before the Board. She indicated she self-reported to the Division, has completed the ATC treatment program and is currently in aftercare. She stated she attends AA and PIR meetings, but prefers to attend AA meetings. Ms. Rasmussen was instructed to have the aftercare program complete the therapy form. She submitted names of her primary prescriber, psychiatrist, and substance abuse evaluators. Ms. Rasmussen stated her sobriety date is November 22, 2013. She presented her essay and is working on obtaining a sponsor. Ms. Rasmussen is in compliance with the terms and conditions of her Order.

Laena Young,
New Order:

Ms. Young explained the circumstances that brought her before the Board. Ms. Young stated she is not currently employed in nursing. She indicated her employer has been very supportive. Ms. Young indicated she exercises and spends more time with her family to alleviate stress. Committee members indicated she must notify Ms. Call once she has completed her criminal probation. Ms. Young is in compliance with the terms and conditions of her Order.

Julie Porter,
New Order:

Ms. Porter explained the circumstances that brought her before the Board. Ms. Porter stated she understands the terms and conditions of the Order. She indicated she is currently employed in a non-nursing position and has a good support system. Ms. Porter reported her sobriety date is November 1, 2008. She reported she has had some thoughts of relapse but speaks with her sponsor and works her 12-step program. Ms. Porter indicated she deals with stress by exercising daily, yoga, dance, work, crocheting, and cooking. Ms. Porter is in compliance with the terms and conditions of her Order.

Christopher Singer,
Non-compliance:

Mr. Singer is non-compliant with the terms and conditions of his order because he tested positive for cocaine. Mr. Singer explained that he had

turned in his notice at his place of employment because he had a new job in Orem. When he met with them later, they rescinded their offer because he would need to be in the clinic alone at times, and his Order requires direct supervision. His last place of employment hired someone else so he is now looking for employment. He provided the Committee with an updated address. Mr. Singer stated his sobriety date is July 9, 2012. He reported he is currently attending 12-Step meetings, has good family and spiritual support. He indicated his stressors have been getting married to a woman with five kids, moving and seeking employment.

Reconvened to Full Board at 4:07 p.m.

Kolby Andersen,
New application:

Mr. Anderson explained the circumstances that brought him before the Board. He indicated he is an avid hunter and had been with a friend who poached two deer. He indicated he also picked up antlers without a permit. He stated all this began in 2007. Ms. Jeffries questioned the trespassing that happened in 2004. Mr. Andersen stated he was charged with trespassing at an Elk ranch, but he indicated he was just walking down the road and did not feel he was trespassing. A review of the application and additional documents show that from 2004 to present Mr. Anderson pleaded no contest to one count of criminal trespass, one count of disorderly conduct, one count of attempted wanton destruction of protected wildlife, and one count of transfer of protected wildlife. He violated his criminal probation and he was ordered to serve six days in jail, which he just completed. Mr. Andersen stated all the charges stemmed from hunting, and that he did not see eyeball to eyeball with the sheriff.

Mr. Andersen recently passed the NCLEX-RN examination and has submitted an RN application. He is currently licensed as an LPN and is employed at the State Hospital.

Board members questioned what lessons has he learned, and what will he do differently in order to stay out of trouble. Mr. Andersen stated he has

learned not to be stupid and obey laws. Board members questioned how he would apply what he has learned to nursing. Mr. Andersen stated it is important to follow the law and the employer's rules in order to keep the patient safe.

Ms. Jeffries stated the decisions Mr. Andersen makes outside of nursing correlate with nursing, especially regarding the decision-making process. Ms. Jeffries stated she is concerned that he explained the hunting issues with the fish and game instances, but had to be asked regarding the trespassing. Mr. Andersen stated he accepts responsibility; he understands he broke the law.

Mr. Andersen's girlfriend was also present and indicated Mr. Andersen was just explaining the three misdemeanors, not the other because they were not in the same category. Ms. Brown indicated it appears he has taken care of the charges, with the exception of the probation violation and will be on probation now until January 2017.

Ms. Parrish indicated she is concerned that he continues to do as he pleases, regardless of the laws regarding hunting. She indicated there may be issues with authority figures, and would like him to address maturity issues and insight.

Ms. Jeffries made a motion to issue the license on a three-year probation with the following terms and conditions: complete a thinking errors course, submit quarterly employer and self-assessment reports and the self-assessment report must address maturity and insights, submit an annual BCI report, general supervision, and compliance with the court probation. Ms. Parrish seconded the motion. All Board members voted in favor of the motion.

Report from Committees:

-Erin Rasmussen: Ms. Rasmussen submitted her essay; however, it was not accepted and she will need to resubmit the essay.

-Chris Singer: Mr. Singer had a positive urine screen and he indicated that he does not think the testing center followed the chain of custody

protocol since he did not see them tape the container. The Division will contact the testing center for clarification. Ms. Call will also speak with the Medical Review Officer to see if the substances he is taking could test positive for cocaine.

Dusti Hall:

Ms. Rall 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. Christensen seconded the motion. All Board members voted in favor of closing the meeting. Meeting closed at 4:38 p.m. A motion was made to open the meeting and the meeting was opened 5:17 p.m.

A motion was made to lift Ms. Hall's suspension based on the recommendations in her evaluation and require the following: 1) successful completion of a psychological evaluation completed by a Board approved psychologist and include a fitness for duty statement; 2) have her physician submit a fitness for duty letter to the Board; 3) allow her to work as an RN on a part time basis, no more than 40 hours over a two week period with no more than three shifts in a row; 4) work under direct supervision; 5) submit urine screens; 6) no access to controlled substances. The motion was seconded. All Board members voted in favor of the motion.

Rule:

Dr. Hobbins reviewed with Board members the final draft Rule. Ms. Rall made a motion to accept the rule changes. Ms. Jeffries seconded the motion. All Board members voted in favor of the motion.

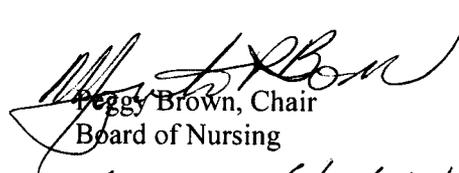
Ms. Jeffries:

Ms. Jeffries requested the Board review the standard physician stipulation and order to see if there is anything we need to add to an APRN stipulation. She would also like to discuss separating the APRN from the RN/LPN Stipulation and Order.

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

3/27/14
Date Approved


Peggy Brown, Chair
Board of Nursing


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