

MINUTES

**UTAH
BOARD OF NURSING
MEETING**

December 13 2012

**Room 474 – 4th Floor – 8:00 a.m.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 8:20 a.m.

ADJOURNED: 6:10 p.m.

Bureau Manager:
Board Secretary:

Debra Hobbins
Shirlene Kimball

Conducting:

Diana Parrish, Chair

Board Members Present:

Peggy Brown
Cescilee Rall
Diana Parrish
Sue Kirby
John Killpack
Barbara Jeffries
Sheri Palmer
Ralph Pittman
Marie Partridge

Board Members Excused:

Alisa Bangerter
Tonya Bailey

Guests:

Harold Levy, Nightingale School of Nursing
Andrew Starvos
Mandy Gibson, Provo College
Gary S. Sliver, MD, Utah Society of Anesthesiologists
Mr. Harper, Eagle Gate College

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS

October 11, 2012 Minutes:

Ms. Partridge made a motion to approve the October 11, 2012 minutes as written. Ms. Brown seconded the motion. All Board members voted in favor of the motion.

November 15, 2012 minutes:

The November 15, 2012 minutes were tabled.

Meeting closed at 8:25 a.m. in accordance with 52-4-205(1)(a) to discuss the character, professional competence, or physical or mental health of an individual:

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

Meeting opened at 8:55 a.m.

Mr. Killpack made a motion to open the meeting at 8:55 a.m. Ms. Brown seconded the motion. All Board members voted in favor of the motion. No action was taken.

Ray Walker,
Discussion regarding informal hearings:

Mr. Walker explained the informal Notice of Agency Action process. The following criterion needs to be met for the informal hearing process to take place: violation of probation, violation of a criminal statute, denial of renewal, or discipline/action in another state.

Mr. Walker reported that the notice of informal agency action is sent to the individual. The individual is required to file a written response within 30 days. The individual is then placed on the agenda. If the individual fails to respond to the request for written response, the Bureau Manager informs the Board and it is considered a default. The Bureau Manager provides the Board with the allegations supporting the agency action. The Board reviews the information provided by the Bureau Manager. The individual may provide a comment if they wish, the chair sets the limits and directs comments. Mr. Walker indicated the Board does not retry a criminal conviction and the Division of Occupational and Professional Licensing Practice Act Rule, section R156-1, outlines how to evaluate good moral character, unprofessional and unlawful conduct. The Board makes a recommendation to the Division and provides the reasons for the recommendations.

Harold Levy,
Nightingale School of Nursing:

Mr. Levy met with the Board to discuss Nightingale School of Nursing. Dr. Hobbins stated that last month, the NCLEX pass rates were reviewed and several programs received letters of warning and others a Memorandum of Understanding. She indicated Nightingale was sent a Memorandum of Understanding. The Division was not aware of the changes taking place at Nightingale School of Nursing

until Mr. Levy contacted the Division and explained the situation. Dr. Hobbins indicated she invited Mr. Levy to meet with the Board to explain Nightingale's circumstances. Mr. Levy stated he is not on the Board of Directors for Nightingale College; however, he indicated he is considering investing further in Nightingale School of Nursing. Mr. Levy stated his background is in education and he was a member of the Board of Regents in New York. He stated he has been on the Boards of a number of colleges. He stated the investment firm, ComVentures, locates investors and works very carefully with the regional accreditation bodies. He stated they are currently looking for an online nursing education program. Mr. Levy stated the investment company has not acquired Nightingale School of Nursing yet; however they have been financing Nightingale for a number of months and have invested \$623,000 to date. He indicated they are not an owner and in order to keep the program running from now until next August will cost about 1.2 million dollars. He indicated the investors feel it will take until August to break even. Dr. Hobbins indicated that if the program is on probation, the NLNAC site visit will be delayed.

Mr. Levy stated the program has made improvements over the last several months. They have an academic success plan, have developed new admissions requirements, and have a new coordinator. Mr. Levy stated he feels they can build a quality program. He reported the NCLEX scores are improving and the annual pass rate is 89%. Ms. Brown indicated she believes the problem with the low pass rates may have come from the 1 + 1 program where LPNs are accepted into the RN program. Those students are graduating in small numbers and not doing well on the examination. Mr. Levy contacted the nursing program administrator and found out that the program no longer offers an LPN exit program. However, the program still accepts LPNs into the program and he was informed that there is no correlation between the pass and fail rates with either LPN or non-LPN students. Mr. Levy stated that the NLNAC site visit is scheduled for January 20, 2013 and he is requesting that the Board not issue the probation or MOU at this time.

Mr. Killpack stated the year-to-date results are above the national average, there appears to be an upward trend and pass rates are improving. Mr. Pittman made a motion to withdraw the probation based on the upward trend in pass rates and to continue to monitor the program and to address any changes in trends. Ms. Jeffries seconded the motion. Mr. Pittman added an amendment to review the program in 6 months to see if there continues to be an upward trend. Mr. Killpack seconded the amendment. Ms. Brown opposed. All other Board members in favor of the motion and the amendment.

Connie Call,
Compliance Report:

Ms. Call indicated Julie Willardson reported a relapse and met with the Board last month. However, she has now missed several urine screens and has been invited to meet with the Board this month. Ms. Brown indicated Ms. Willardson was given an exception to work in a nursing program and we may need to withdraw the exception. Mr. Pittman stated that Ms. Willardson was fined last month for the relapse and appeared to understand how serious the Board was regarding the relapse. He suggested a second fine. Mr. Killpack stated that missing several urine screens is not the same as a relapse. However, Board members indicated that drug court considers a missed urine screen as a positive screen. The find for a second offense can be up to \$500.00. Committee members will discuss the fine with her during her meeting with the Board.

Marc Hancock met with the Board last month and was instructed he needed to remain in 100% compliance. He missed urine screens on November 20, 2012 and December 4, 2012.

Ian Gowans requested his access to controlled substances be returned and his supervisor submitted a letter of support. Mr. Killpack made a motion to approve the request. Ms. Brown seconded the motion. All Board members voted in favor of the motion.

Board members separated into groups at 10:10 a.m.

Group 1
Conducting: Marie Partridge

Board members present: John Killpack, Cescilee Rall, Marie Partridge, Sue Kirby and Ralph Pittman.

Karen Burton,
New Order:

Ms. Burton explained the circumstance that brought her before the Board. She indicated she entered diversion and had two relapses during that period. She stated she relapsed this summer and failed to notify Diversion Committee members of the relapse. She was then released from Diversion in September. Ms. Burton's license is currently suspended. She stated she understands she can not work in the clinical setting with a suspended license. However, Ms. Burton stated she would like to work at Weber State University educating nurses. She stated she is teaching ethics in nursing and is very open about her addiction. She reported she has been clean for 6 years and 10 months of the last 7 years. She stated she currently has no desire to use. She stated she didn't realize she was an addict until her last relapse. Committee members questioned where sobriety is at on her priority list? She stated it is at the top. Mr. Killpack informed Ms. Burton that she can not work for a college/school of nursing according to her Order. Ms. Kirby stated she is concerned that Ms. Burton does not appear to have insight into her addiction and the Board's role is to protect the public. Ms. Kirby stated that students are the public. Ms. Burton stated she is an educator and she feels she needs to educate students. Mr. Killpack stated he agrees with Ms. Kirby, it does not appear she has enough insight into her addiction to be teaching in a nursing education program. She has an enormous amount of conflict in her life at this time and dealing with that conflict takes a lot of energy. Mr. Killpack stated she must inform the nursing education program she can not teach. Ms. Burton stated she will let them know. Mr. Killpack stated she could continue with her dissertation if the program allows her to remain in their program but she does need to notify them of her Order.

Mr. Pittman questioned why if she is doing her dissertation on addiction, and she has indicated she has good judgment, and that she is aware of the triggers and the behaviors of addiction, why did she revert to the same habits and relapse. Ms. Burton stated that she claims to have only two relapses and is only counting the ones where she took the medication from the hospital. She stated she does not feel that taking

her husbands pills was a relapse and thought it was ok to take the pills because it was not the IV medication that she had taken from the hospital. She also indicated she thought it would be okay to use once in a while after completing Diversion. Ms. Kirby stated that is the biggest concern of the Board. She is not in recovery and does not appear to understand the recovery process. Ms. Burton stated her sobriety date is October 13, 2012. She stated she has no thoughts of relapse since that date and has not relapsed. Committee members indicated Ms. Burton needs to be totally honest with the Board and as long as there is any type of secret, she is not in total recovery. Committee members indicated they will take her request to allow her to work at Weber State University nursing program to the Board. However, Committee members indicated she does not appear to be dealing with her addiction and she needs to work on her recovery and focus on herself. She will be seen again March 14, 2013. If she is teaching recovery, she needs to understand it. The Committee will recommend denial of the request.

Julie Willardson
Interview:

Ms. Willardson met with the Committee last month after relapsing. She has now missed two urine screens and Committee members questioned Ms. Willardson regarding her missed urine screens. Ms. Willardson stated Christmas times always creates additional stress for her, and along with the stress of teaching, she called into Affinity, but did not remember to test. She indicated she is now setting reminders to check a second time. She stated she feels her recovery is going well. Mr. Pittman questioned whether or not teaching was a good fit for her at this time. Ms. Willardson stated she thinks so. She reported last semester was harder than normal because she was working with several faculty members that were more difficult for her to work with. She stated she was also teaching a course that she was not familiar with. She reported that the groups will be changing soon for the next semester and the stress should be reduced. She stated she is focusing more on her family. Mr. Killpack questioned if she has considered working in a clinical setting. Ms. Willardson stated she would like to work in the clinical setting, but she needs to be sure she can handle that setting and does not feel she is ready yet. Mr. Killpack stated Ms. Willardson was

given an exception to teach and if it appears that it is too stressful and she can not comply with the terms and conditions of the Order, the Board may take away the exception. Mr. Killpack stated the Committee will discuss adding another fine. Ms. Willardson stated she understands. She reported her sobriety date is October 26, 2012. She stated she has no thoughts of relapse and has not relapsed since October 26, 2012. She was reminded she needs to submit her reports for November and needs to complete one more hour of continuing education. **Ms. Willardson is out of compliance with the terms and conditions of her Order.** She will be seen again February 2013.

Group 2
Minute taker: Connie Call

Board members present: Peggy Brown, Diana Parrish, Barbara Jeffries and Sheri Palmer.

Lillian Howell,
Probation interview:

Ms. Howell reported her sobriety date is 2001. She indicated she has not applied for work for the past six months and has given up looking for a nursing position. Committee members provided Ms. Howell with a number of suggestions where she could try to find volunteer work to have her probation count. **Ms. Howell is in compliance with the terms and conditions of her Order.**

Karen Carter,
Probation interview:

Ms. Carter reported she is doing well. Her sobriety date is June 2007. She indicated she is working full time and also has a part-time position. **Ms. Carter is in compliance with the terms and conditions of her Order.**

Marc Hancock,
Non Compliance:

Mr. Hancock was requested to meet with the Board because he missed two urine screens. He verified he had forgotten his COC form and couldn't test and the second test was missed because he has had health issues and had a hard time getting out of bed. Mr. Hancock reported his sobriety date is July 2012. A motion was made to close the meeting in accordance with 52-4-205(1)(a) to discuss the character, professional competence, or physical or mental health of an individual. The motion was seconded. All Board members in favor. The meeting was closed at 10:58 a.m. A motion was made to open the meeting at 11:07 a.m. The motion was seconded. All Board members in favor.

Notice of Agency Action set for 11:00 a.m.,
Christopher Moore:

Mr. Jones provided Board members with a copy of the Notice of Agency Action for Christopher Moore. The notice of agency action outlines the allegations and lists the violations of probation. Mr. Jones indicated Mr. Moore did not respond to the Notice of Agency Action. Mr. Mitchell indicated that the copy of the Notice of Agency Action was sent to his last known address and it came back unclaimed. Mr. Moore did not appear by 11:20 a.m. Mr. Jones then outlined the violations of probation listed on page two of the Notice of Agency Action. Mr. Moore failed to meet with the Board, failed to provide a psychiatric evaluation, failed to provide urine screens on three separate occasions, failed to call into Affinity on 72 different occasions, failed to submit therapy reports, employer reports or self assessment reports. Mr. Moore did not appear to explain his position. Mr. Jones indicated that Dr. Hobbins is seeking to revoke the license and Mr. Moore would not be allowed to reapply for a period of five years. Diana Parrish, Board chair asked if there were any questions. Board members did not have any questions. Ms. Parrish then requested a recommendation for action and the reasons for the action. Ms. Brown made a motion that in the matter of Christopher Moore, the Board follow the Divisions recommendation for revocation and that he can not reapply for a period of five years based on failure to meet the requirements in the February 17, 2012 Stipulated agreement. Mr. Moore also admitted in that stipulated agreement to having a substance abuse problem. His repeated non-compliance placed the public, patients and co-workers at risk. Mr. Pittman seconded the motion. All Board members voted in favor of the motion. Mr. Killpack questioned if there was an appeal process if Mr. Moore chose to question the action. Mr. Walker indicated there is an appeal process and the Division director would make the determination whether the case should be reheard.

Rebecca Davis,
Interview:

Ms. Davis tested positive last month for alcohol. She admitted to sharing a bottle of alcohol with friend. Board members indicated they are concerned because she was recently was fined for ingesting medicine with alcohol. Ms. Davis stated she does not have a problem with alcohol and her drug of choice was marijuana. Ms. Jeffries questioned whether or not she has

switched drugs of choice. Ms. Davis stated drinking alcohol is not a habit and it would not happen again. Ms. Jeffries questioned why after four years of probation, after attending 12-Step and PIR meetings, and after a discussion with the board regarding alcohol in medications, why she would drink with a friend. Ms. Davis stated she just made a poor decision. Ms. Jeffries questioned where she is at in terms of recovery? Ms. Davis indicated she started over on the Steps and is currently on Step 4. Ms. Davis stated she feels she is doing well, she hasn't missed any meetings and has been in compliance other than the alcohol. She reported her new sobriety date is November 13, 2012. A review of her Order indicated she was placed on probation due to missing morphine at her place of employment. She stated she signed out the morphine, but she didn't take it. Board members indicated a fine may be issued. She stated she has had no thoughts of relapse and has not relapsed. **Ms. Davis is out of compliance with the terms and conditions of her Order.** She will be seen in March 2013.

Adjourned to lunch at 11:50 a.m.

Carrie Frampton Hearing at 2:00 p.m.
Reconvened from Hearing at 5:00 p.m.

Carrie Frampton Hearing was held.

Rules Discussion:

Dr. Hobbins reviewed with Board members changes/additions to the Rule. She stated all bolded wording regarding faculty will be deleted. Ms. Brown stated that even with the Statute change in regards to regulation of nursing education programs the Board will only monitor a program until the program receives candidacy or application status. Board members discussed reviewing NCLEX pass rates on an annual basis. Board members stated it would be acceptable to monitor the NCLEX pass rates annually by rolling quarter. Ms. Brown made a motion to move forward with the revisions to R156-31b-302c through R156-31b-604 as discussed. Mr. Killpack seconded the motion. All Board members voted in favor of the motion

Report from Probation Peer Review
Committee:

Karen Burton: Ms. Burton requested she be allowed to work in a school of nursing. Ms. Burton indicated she thought she could work in the school of nursing if

she was under supervision. Ms. Burton does not understand or does not accept the terms of her probation. Board members reviewed the Order and the Order does not allow Ms. Burton to work in a school of nursing even if she was under supervision. Mr. Pittman also indicated Ms. Burton has failed to inform the doctorate program that her license is currently suspended. Committee members recommended her request to teach in a school of nursing be denied. All Board members voted in favor of the recommendation.

Julie Willardson: Committee members approved the continuing education submitted by Ms. Willardson. Committee members reported they discussed with Ms. Willardson the exception allowing her to teach in a school of nursing. This exception may be rescinded if she continues to be out of compliance. Mr. Killpack stated it appears Ms. Willardson is trying very hard to make the necessary changes. The recommendation from the Committee is to issue a \$250.00 fine for the relapse. All Board members voted in favor of the recommendation.

Marc Hancock: Mr. Hancock is out of compliance with the terms and conditions of his Order. Mr. Hancock is unable to work at this time and has put into place strategies for coming into compliance. Committee members recommend no fine at this time.

Rebecca Davis: Mr. Killpack made a motion to fine Ms. Davis \$250.00 for her second relapse for alcohol. Ms. Partridge seconded the motion. All Board members voted in favor of the motion.

Diane Crossley: New information was presented that Ms. Crossley did submit her reports by the due date and did not alter the date. Ms. Partridge made a motion to suspend the fine. Mr. Killpack seconded the motion. Mr. Pittman opposed. All other Board members voted in favor of the motion.

Michael Green will be referred for an Informal Hearing for violation of probation.

Dale Hullinger is out of compliance and late on paperwork. He will be scheduled to meet with the

Board January 2013.

Susanne Irish missed a drug screen and will be scheduled to meet with the Board January 2013.

Cynthia Carter: Board members recommend a fine be issued for non-compliance and Ms. Carter will be scheduled to meet with the Board January 2013.

Teresa Williams will be scheduled to meet with the Board in January and a fine issued for non-compliance to the terms and conditions of her Order.

Monica Murdock is out of compliance with the terms and conditions of her Order and will be scheduled to meet with the Board January 2013.

Amy Nau is out of compliance and will be seen January 2013.

Open and Public meetings Act Training:

Dr. Hobbins conducted the Open and Public Meetings Act training.

Board survey of Online disciplinary documents:

Mr. Pittman made a motion to recommend the first option, documents should only be found within the DOPL's website. Ms. Brown seconded the motion. All Board members voted in favor of the motion.

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

February 14, 2013
Date Approved

(ss) Diana Parrish
Diana Parrish, Chair, Utah Board of Nursing

February 14, 2013
Date Approved

(ss) Debra Hobbins
Debra Hobbins, Bureau Manager, Division of Occupational & Professional Licensing