

**MINUTES**

**UTAH  
BOARD OF NURSING**

**April 14, 2011**

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

**CONVENED: 8:00 a.m.**

**ADJOURNED: 1:00 p.m.**

**Bureau Manager:**

Noel Taxin

**Secretary:**

Shirlene Kimball

**Compliance Specialist:**

Connie Call

**Conducting:**

John Killpack

**Board Members Present:**

Peggy Brown  
Debra Schilleman  
Mary Williams  
Diana Parrish  
Joel Allred  
John Killpack  
Sue Kirby  
Marie Partridge  
Pam Rice  
Alisa Bangerter

**Board Members Excused:**

Barbara Jeffries

**Guests:**

Julie Aiken, Ameritech College  
Casey Hill, Utah Medical Association

**TOPICS FOR DISCUSSION**

**ADMINISTRATIVE BUSINESS:**

March 10 , 2011 Minutes:

Connie Call,  
Compliance report:

**DECISIONS AND RECOMMENDATIONS**

A Motion was made to approve the March 10, 2011 with corrections. Ms. Bangerter abstained. All other Board members were in favor of the Motion.

Ms. Call reported the following individuals will be meeting with the Board today and are out of compliance with the terms and conditions of their Orders: Karen Chlarson, Carrie Frampton and Lisa Kendall.

**NEW BUSINESS:**

Ameritech College  
Julie Aiken:

Ms. Aiken met with the Board to request termination of the probationary and provisional status for Ameritech College. Ms. Aiken indicated the program has met all conditions of the Memorandum of Understanding and their NCLEX pass rates meet the requirement in rule. Dr. Williams made a Motion to have the Division review the NCLEX-RN national average pass rate and if Ameritech's pass rate is no lower than 5% below the national pass rate, provisional and probationary status be terminated and the program be placed on full approval. Ms. Brown seconded the Motion. All Board members were in favor of the Motion.

2011 Legislative Update:

Ms. Taxin reported H.B. 23 modified the Utah Controlled Substance Act by creating a controlled class of synthetic cannabinoid substances often referred to as "spice". H.B. 66 amends the Vital Statistics Act and allows a nurse practitioner to sign a death certificate if employed by a health care facility. H.B. 171 requires additional inspections of abortion clinics. H.B. 243 allows members of licensing Boards to continue to serve for a limited time period after their terms have expired until their successors are appointed. S.B. 61 requires a prescriber applying for a new or renewed controlled substance license to take four hours of controlled substance prescribing classes each licensing period. S.B. 128 amends the Pharmacy Practice Act to allow the APRN and PA, in addition to the physician and osteopathic physician to dispense a cosmetic drug or injectable weight loss drug to a patient. S.B. 134, Transparency in Health Care Provider Advertising, requires the health care provider in any professional advertising to include certain information about the license and title of the health care provider. S.B. 248 authorizes certain individuals to access the controlled substance database for the purpose of reviewing a patient's request for workers' compensation benefits.

Review of Proposed language for the  
Pharmacy Practice Act R156-17b-310,  
Exemption from Licensure – Prescribing  
Practitioner or Optometrist Dispensing  
Cosmetic Drug or Injectable Weight Loss  
Drug:

Ms. Kirby made a Motion to approve the proposed language. Ms. Brown seconded the Motion. All Board members voted in favor.

Tricia Schmidt,  
Re-review of her request for termination of  
suspension:

Ms. Schmidt met with the Board last month to request termination of suspension. The Board approved her request; however, the Division had concerns and requests that the Board revisit the discussion. Ms. Taxin stated Ms. Poe had a meeting with Ms. Schmidt and made the decision to suspend Ms. Schmidt's license for six months. Ms. Taxin stated there must have been a reason why Ms. Poe determined the relapse and surrounding circumstances warranted a six month suspension. Ms. Taxin stated that the Order requires Ms. Schmidt to complete a psychological and chemical evaluation and complete any treatment that is deemed necessary. Ms. Schmidt has not completed the requirements. A Motion was made that Ms. Schmidt must complete six months of suspension and have met all terms and conditions of the Suspension prior to the suspension being terminated. The Motion was seconded. All Board members in favor.

Dana Swenson,  
Educational Interview:

Ms. Swenson was requested to meet with the Board to explain why she sat for the NCLEX examination prior to the Division receiving her transcripts. Ms. Swenson indicated the Division sent her an authorization to sit for the examination and she thought that the school had provided the transcripts. When she received the authorization she scheduled an appointment and took the examination. She stated she then received a call from the Division indicating her transcripts had not been received. Ms. Swenson stated she called the school and found out she had not completed the course because she had not passed the HESI examination. She stated she realizes now that she should have talked with the school before taking the examination. Dr. Williams stated the Nurse Practice Act and Rules guide the practice of nursing and it is her responsibility to know the laws and rules of governing her profession. Board members stated they understand there was some miscommunication, but Ms. Swenson needs to take responsibility for her license. Ms. Taxin suggested she read the law and rules at least once a year to make sure she remains in compliance with any statute or rule changes. Ms. Taxin stated since Ms. Swenson took the examination prior to meeting the licensure requirements, the Board

could have required she retake the examination. Ms. Swenson stated she understands. Board members recommend Ms. Swenson be approved for licensure.

Divided into Groups to conduct probation interviews at 9:07 a.m.:

Group 1: Conducting: Marie Partridge  
Secretary: Shirlene Kimball

Members present: Ms. Schilleman, Ms. Partridge, Ms. Kirby, Ms. Rice and Mr. Allred.

Karen Shelton,  
Probation Interview:

Ms. Shelton reported she is doing better this quarter and is not as stressed as she was at the last meeting. She stated she found a place to live and has a job interview tomorrow. She indicated her last day of nursing employment was October 21, 2010. Ms. Shelton stated she relieves stress by walking and has good family support system. She will be seen July 14, 2011. **Ms. Shelton is in compliance with the terms and conditions of her Order.**

Karen Chlarson,  
Probation Interview:

Board members indicated Ms. Chlarson's urine screens have been positive for high levels of ETG. Ms. Chlarson stated she has no idea why the urine screens are positive for ETG. She stated she has never had an alcohol problem and stated she has not ingested alcohol. She indicated after receiving the non compliance letter, she researched the internet and found that eating a lot of protein could make the urine screen positive for ETG. She stated she is on a high protein diet. Ms. Chlarson stated she also looked at all the products she uses. Board members indicated that contact with hand sanitizers, lotions, etc. would not cause this high of a level of ETG. Ms. Chlarson stated her search also found that it may be an error on the test. Ms. Kirby stated there may be one false positive, but not all nine urine screens. Ms. Chlarson stated she finds it interesting that after she received the letter of noncompliance she stopped using a lot of the hand products, stopped drinking her protein drinks and had a negative urine screen. Ms. Schilleman stated that the Board would not know if the negative was because of that, or if she did not drink during that period. Ms. Call reported Ms. Chlarson's probation is scheduled to terminate April 23, 2011. Ms. Schilleman questioned whether or not the Board could extend the probation due to the number of positive urine screens. Ms. Taxin stated if nothing is done the

probation will terminate and the Board would then need to refer her to investigations. Ms. Chlarson stated she would like to demonstrate to the Board that she is clean and is willing to extend her probation for a period of six months. Ms. Taxin stated Ms. Chlarson would have to sign an agreement to extend probation. Ms. Taxin stated she would draft an Order to extend the probation and send it to Ms. Chlarson. She suggested Ms. Chlarson think about what she wants to do and if in agreement, sign the extended Order. **Ms. Chlarson is out of compliance with the terms and conditions of her Order.**

Christine Cannon,  
New Order:

Ms. Cannon explained the circumstances that brought her before the Board. She reported she entered Diversion in 2002-2003, relapsed and surrendered her license in 2005. She stated she worked very hard on her sobriety and reported her sobriety date is March 2007. She stated she began the process of getting her license back August 2009. She stated opiates were her drugs of choice. Ms. Cannon stated she has a great support system and attends 12-step meetings and speaks with her sponsor once a month. Ms. Cannon stated she understands the terms and conditions of her Order. She stated she is not working in nursing; however, she is employed and does not want to give up her current job in case she can not find nursing employment. Ms. Cannon questioned whether or not volunteer hours would be accepted toward the hours worked for the probation. Board members indicated volunteer hours would be accepted if the work requires a registered nurse and she meets the terms and conditions of the Order. Ms. Kirby suggested that only one year of volunteer hours could be accepted, and after that period she would have to be employed as a nurse. Ms. Cannon stated she would agree to volunteer for only one year for the hours to count toward tolling probation. Ms. Taxin stated Ms. Cannon's request would be presented to the full Board and she would receive notification regarding the decision. She will be seen July 14, 2011. **Ms. Cannon is in compliance with the terms and conditions of her Order.**

Group 2 Conducting: Peggy Brown  
Minute taker: Connie Call

Members present: Peggy Brown, Mary Williams,  
Diana Parrish, Alisa Bangerter and John Killpack.

Bureau Manager: Noel Taxin

Lacy Turley,  
New Order:

Ms. Turley explained the circumstances that brought her before the Board. Ms. Turley stated she does not feel she has a substance abuse problem but does have problems associated with pain. Board members reminded Ms. Turley she can only have one prescribing practitioner. Ms. Turley stated she contacts her sponsor daily and has a good family support system. She stated her current stressors are a custody battle for her daughter and being terminated from her employment. She will be seen again July 14, 2011. **Ms. Turley is in compliance with the terms and conditions of her Order.**

Carrie Frampton,  
Probation Interview:

Ms. Frampton called indicating she was ill and could not meet with the Board. She will be scheduled to meet with the Board next month. **Ms. Frampton is out of compliance with the terms and conditions of her Order for missing urine screens.**

Lisa Kendall,  
Probation Interview:

Ms. Kendall stated she was recently diagnosed as being bipolar and feels that is why she has been self medicating with marijuana all of these years. She stated she is currently participating in an intensive outpatient program and is now taking medications for her bipolar disorder. She stated she has had three deaths in the family in the past year and admitted to four relapses, three times on marijuana and once on alcohol. Ms. Kendall stated she is still in drug court and her new sobriety date is March 24, 2011. She said she didn't take drug court or DOPL seriously and had been having a beer now and then. She stated she is now taking her probation seriously. She stated she is attending 12-Step meetings and speaks with her sponsor once a week. Board members questioned whether or not she would like to suspend the license so that she can concentrate on her sobriety. She stated she does not want to surrender or suspend the license as this time. She stated she now has a better understanding of what is required and will be compliant. Ms. Kendall will be seen again July 14, 2011. **Ms. Kendal is out of compliance with the terms and conditions of her Order.**

Reconvened to Total Board at 10:06 am.:

Report from Probation Peer Review  
Committee:

Christine Cannon is a new order. It was determined that Ms. Cannon will need to obtain an evaluation to see if therapy is recommended. Ms. Cannon also requested she be allowed to count volunteer hours as meeting the hours toward probation. Ms. Kirby stated a job description regarding the volunteer hours would be necessary to make sure the hours volunteered requires nursing knowledge. If they are nursing hours, Board members recommend she be allowed to count the volunteer hours for up to one year toward her probation.

Karen Chlarson: Ms. Chlarson has had a number of urine screens positive for high levels of ETG. Ms. Chlarson stated she did not ingest alcohol and does not know why the urine screens would be positive. She stated she would be willing to extend the probation for a period of six month to demonstrate clean urine screens and show the Board she is committed to the process. Board members requested Ms. Taxin prepare a document for Ms. Chlarson's signature to extend the probation for a period of six months. Board members requested Ms. Chlarson be invited back to meet with the Board once the document has been signed.

Lacy Turley is a new order and Committee members recommend she be allowed to attend 4 12-step meetings per month in lieu of 2 12-step and 2 PIR meetings. Her request to work in home health was denied.

Jeness Morgan,  
Discussion regarding attendance at 12-Step  
meetings:

Ms. Morgan provided a second psychiatric evaluation. Both evaluations suggested she continue counseling, but indicated a low risk for further substance abuse. The psychologist stated that if Ms. Morgan maintained sobriety, he would suggest termination of probation. Ms. Taxin stated the evaluation did not require attendance at 12-Step meetings, did not recommend therapy and had no recommendations for any follow up. Ms. Taxin stated the Board should trust the evaluator's recommendations and assessment. She stated at this time the Division will monitor her drug screens, but will not require therapy or attendance at 12-Step meetings. If there are any problems during the probation, the Board could readdress the issue and

Taylor Simmons,  
Request that her access to controlled  
substances be returned:

require therapy or attendance at 12-Step meetings.

Ms. Simmons has been in compliance with the terms and conditions of her Order. Her sobriety date is October 2, 2009. A Motion was made to return access to controlled substances. Ms. Brown seconded the Motion. All Board members in favor.

Bambi Koeller,  
Request for termination of Probation:

Ms. Koeller has complete all terms and conditions outlined in her Order. The employer letter was reviewed regarding her termination of employment. Dr. Williams made a Motion to terminate probation. Ms. Rice seconded the Motion. All Board members voted in favor of terminating the probation.

Teresa Williams,  
Request for termination of Probation:

Ms. Williams' probation began in August 2006 and she has only worked for a period of three months since that time. She stated she is currently waiting for disability. Ms. Taxin stated in Ms. Williams' letter she addresses her pain, stress and health issues. Ms. Taxin stated if Ms. Williams is in pain and not healthy, she is putting the public at risk. Mr. Allred stated Ms. Williams does not accept accountability for her actions. Ms. Rice made a Motion to deny Ms. Williams request for termination of probation. Ms. Bangerter seconded the Motion. All Board members were in favor of the Motion.

Sam Bellacomo,  
Request for access to controlled substance:

Ms. Rice made a Motion to deny Mr. Bellacomo's request for access to controlled substances because he was just taken off suspension and placed on probation. He is not working and Board members would like to monitor his practice before allowing access to controlled substances. Ms. Partridge seconded the Motion. All Board members in favor.

Theresa Brewer,  
Request for early termination of probation:

Ms. Brewer submitted documentation that she has completed her court probation. Dr. Williams made a Motion to terminate the probation on her license. Ms. Schilleman seconded the Motion. All Board members were in favor of the Motion.

Julie White,  
Review job description:

Ms. Taxin read the letter from Ms. White's employer with the job description to the Board. Ms. Taxin stated she has some concerns, especially with the after hour injection parties. She stated she feels the letter

should be reviewed by investigations. The letter indicates Ms. White was hired as an injector, not as an RN. She stated an injector is not a licensed profession and questioned who can be hired and trained to give the injections. Ms. Taxin reported it is clear that the APRN, PA, MD and DO can inject Botox and other derma fillers. However, the language is not clear whether or not it can be delegated to an RN. The Board's position has been that it is outside the scope of practice of an RN. Ms. Taxin reported that the attorneys are looking at this issue. If the physician assesses the patient, and writes the order, can the RN go ahead with the injection? Ms. Taxin stated the Medical Practice Act defines a medical assistant and the medical assistant must be under the direct and immediate supervision of the physician. Ms. Taxin also questioned whether or not it is within the RN scope of practice to be a weight loss consultant. Board members indicated there are a lot of ways the nurse could be involved in weight loss. Board members are concerned that it appears this company could take anyone off the streets to train as an injector and the position would not require the RN license. The question would be if Ms. White is currently working as a RN. If she is working as an RN, she would have to be under the direct supervision of a physician. Board members discussed whether or not a licensed RN could even do this under the direct supervision of a physician or if it is outside the scope of practice of an RN. Could the physician say Ms. Williams is working as a medical assistant under his supervision? If so, the hours would not count toward nursing practice. Ms. Brown questioned if the Botox is written as a prescription order, is it reasonable that the nurse provide the injection, or does it require medical judgment. If the physician says inject here and here, is that following an order. If the physician says go in and inject the patient, is that following an Order? Mr. Killpack stated the difference would be that the medical assistant off the street does not show medical judgment and the physician takes the responsibility. But as a nurse she is doing the assessment. The Board needs to discuss this further with Ms. White. Board members indicated they were not comfortable with this because it is exercising medical judgment. The Division also needs to look at

the after hour injection parties to see if there are charts on every patient.

The position of the Board would be that the RN must have the direct immediate supervision of the physician and have a physician order. The physician would have to see the patient the first time and would be the same process of nursing assessment. Medical assessment needs to be defined by the physician. If the physician is not ordering and supervising, then the nurse is working outside their scope of practice. RNs can not independently give these types of injections. Board members will address this issue with Ms. White at the next probation interview.

Debra Davenport:

Ms. Davenport's psychiatric evaluation indicated she should not be working in a high stress area and she would be fine working in an area where she can focus on only one or two things at a time. Ms. Davenport requested she be allowed to work in home health care. No on-going therapy was recommended.

Marsha Taylor,  
Request for termination of probation:

Ms. Taylor began probation in 2008. She has been on probation for three years and her access to controlled substances was returned nine months ago. Ms. Taxin stated the Board could have Ms. Taylor complete a reevaluation. Board members requested that Ms. Taylor be seen next month and have her explain why she should be released from probation. Her request was tabled until next month.

Salt Lake Tribune Article:

Informational.

Ms. Taxin report:

Ms. Taxin stated that Mr. Steinagel has requested the June meeting be canceled.

Adjourned to Taniela Kivalu Hearing at  
11:20 a.m.

The hearing resulted in a default judgment.

*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.*

May 12, 2011  
Date Approved

(ss) John Killpack  
John Killpack, chair, Board of Nursing

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May 12, 2011  
Date Approved

(ss) Noel Taxin  
Noel Taxin, Bureau Manager, Division of Occupational &  
Professional Licensing