

Arizona State Board of Nursing

Janice K. Brewer
Governor

Joey Ridenour
Executive Director



Board Meeting Minutes

The Special Session meeting of the Arizona State Board of Nursing convened at 4:34 p.m., Monday, April 19, 2010, in the Board of Nursing Board Room, Suite 200, 4747 N. 7th Street, Phoenix, Arizona, with Kathy Malloch, PhD, MBA, RN, FAAN, President, presiding.

BOARD MEMBERS PRESENT:

Kathy Malloch, PhD, MBA, RN, FAAN, President (telephonic)
Denise Link, PhD, WHCNP, FNAP, Vice President (telephonic)
Kathy Scott, RN, MPA, PhD, FACHE, Secretary (telephonic)
Terri Berrigan, LPN, Member (telephonic)
Kathryn L. Busby, JD, Member (telephonic)
E. Gary Gum, MSN, RN, FCN, Member
Lori Gutierrez, BS, RN-C, RAC-CT, CBN (telephonic)
M. Hunter Perry, Member (telephonic)

BOARD MEMBERS ABSENT:

Patricia Johnson, LPN, Member

LEGAL COUNSEL:

Monty Lee, Assistant Attorney General
Seth Hargraves, Assistant Attorney General
Kim Zack, Assistant Attorney General
Nina Zimmerman, Assistant Attorney General

STAFF:

Joey Ridenour, RN, MN, FAAN, Executive Director
Judy Bontrager, RN, MN, Associate Director of Operations
Pamela Randolph, RN, MSN, Associate Director of Education and Evidence Based Regulation
Valerie Smith, RN, MS, Associate Director of Investigations
Stephanie Nelson, R.N., MSN, Nurse Practice Consultant
Barbara Melberg, Legal Secretary
Lila Wiemann, Admin. Asst.
Deborah Richards, Senior Investigator
Adam Henriksen, IT Dir.
Cory Davitt, Network Ops. Dir.

I. Call to Order

The meeting was called to order at 4:34 p.m, Monday, April 19, 2010.

Malloch presided.

The following Board members were telephonically present: Malloch, Link, Berrigan, Gutierrez, Gum, and Busby.

Scott and Perry joined the meeting telephonically at 4:43 p.m. and 5:19 p.m., respectively. Perry was advised to abstain from voting on further motions due to his late arrival.

II. Board Reports for Discussion, Information, Staff Direction and/or Decision

II.A. A.A.G. Report – Lee/Zack/Hargraves/Zimmerman

II.A.1. Shamie Slusser, RN and Lorna West, RN v. AZBN, et al. – CV2010-051468

Zack addressed the Board regarding the purpose for the special meeting and presented a summary of the lawsuit filed by Slusser and West.

II.A.2. Executive Session to Obtain Legal Advice Pursuant to A.R.S. § 38-431.03(A)(3) and (4) re: Shamie Slusser, RN and Lorna West, RN v. AZBN, et al. – CV2010-051468 – Lee/Zack/Hargraves/Zimmerman

Busby moved, Berrigan seconded, and it was unanimously carried to go into Executive Session on Agenda Item II.A.2. for the purpose of obtaining legal advice. Executive Session convened at 4:41 p.m., and adjourned at 5:00 p.m.

III. RN/LPN/CNA Investigative Reports

III.A.1. Shamie Slusser RN140542 (S. Nelson)

Attorney Teresa Sanzio was present telephonically and available for questions. Malloch asked the Board to consider the option of affirming the challenged Interim Order for a substance abuse evaluation, but at the Board's expense. Nelson presented for the Board's consideration an additional option that the Board rescind the Interim Order and offer a Consent Agreement for 18 months probation and, if not signed within 30 days, issue a Notice of Charges. Busby moved, Scott seconded, and after discussion it was unanimously carried to rescind the previously issued Interim Order and, based upon the findings of fact and statute/rule violations identified in the investigative report, offer a Consent Agreement for 18 months probation with stipulations to include a substance abuse evaluation, rehabilitation if recommended by the evaluator, aftercare, relapse prevention therapy, nursing ethics course, documentation course, nurse recovery if recommended by the evaluator, AA with sponsor, drug testing two times per month for the first 6 months of probation and one time per month for months 7-18, abstain from alcohol, abstain from unauthorized drug use, notification of practice settings, quarterly performance evaluations, direct supervision for the first 9 months and on site supervision for months 10-18, registry/travel nursing/float pool/home health/night shift prohibited. If not signed within 30 days, issue a Notice of Charges.

	VOTE	Johnson, Patricia Member	Gutierrez, Lori Member	Gum, Gary Member	Scott, Kathy Secretary	Malloch, Kathy President	Link, Denise Vice Pres	Perry, Hunter Member	Berrigan, Terri Member	Busby, Kathryn Member
YES	7		X	X	X	X	X		X	X
NO	0									
ABSTAIN	0									
ABSENT	2	X						X		

III.A.2. Lorna Angela West RN144551; CNA1000000003 (S. Nelson)

Attorney Teresa Sanzio was present telephonically and available for questions. Busby moved, Scott seconded, and it was unanimously carried to rescind the previously issued Interim Order, and based upon the findings of fact and statute/rule violations identified in the investigative report, offer a Consent Agreement for 12 months probation including the attached terms. If not signed within 30 days, issue Notice of Charges.

	VOTE	Johnson, Patricia Member	Gutierrez, Lori Member	Gum, Gary Member	Scott, Kathy Secretary	Malloch, Kathy President	Link, Denise Vice Pres	Perry, Hunter Member	Berrigan, Terri Member	Busby, Kathryn Member
YES	7		X	X	X	X	X		X	X
NO	0									
ABSTAIN	0									
ABSENT	2	X						X		

II. Board Reports for Discussion, Information, Staff Direction and/or Decision

II.A. A.A.G. Report – Lee/Zack/Hargraves/Zimmerman

II.A.1. Shamie Slusser, RN and Lorna West, RN v. AZBN, et al. – CV2010-051468

Busby moved, Gum seconded, and it was unanimously carried to reopen Agenda item II.A.1. Zack requested that the Board discuss and decide its position re: the lawsuit and, specifically, whether the Board finds it necessary to seek legislative revisions to the relevant statute and intends to do so. In addition, Zack inquired whether the Board intends to rescind all other outstanding Interim Orders for evaluations at the licensee’s expense. Zack advised that, by doing both, the Board is acquiescing to Plaintiffs’ position that the Board lacks statutory authority to order evaluations at the licensee’s expense. Busby moved, and Scott seconded, to rescind all outstanding Interim Orders requiring an evaluation and to review each case individually for further action, preferably at the May 2010 Board meeting; to seek legislative changes to give the Board authority to order evaluations at the licensee’s expense; to direct the Executive Director to look for funding sources for future evaluations at the Board’s expense pending a legislative revision, and to determine the financial impact on the Board and report the findings at the May 2010 Board meeting. After discussion, the motion carried with seven in favor and one abstained.

	VOTE	Johnson, Patricia Member	Gutierrez, Lori Member	Gum, Gary Member	Scott, Kathy Secretary	Malloch, Kathy President	Link, Denise Vice Pres	Perry, Hunter Member	Berrigan, Terri Member	Busby, Kathryn Member
YES	7		X	X	X	X	X		X	X
NO	0									
ABSTAIN	1							X		
ABSENT	1	X								

Attorney Teresa Sanzio asked the Board to define “outstanding” for purposes of its decision to rescind all outstanding Interim Orders requiring evaluations. Busby spoke for the Board and clarified an “outstanding” order as one that the licensee had yet to comply with and in which the case had yet to be resolved or adjudicated.

IV. Call to the Public

No member of the public wished to address the Board.

V. Adjournment

Scott moved, Busby seconded, and it was unanimously carried to adjourn the meeting.

The meeting adjourned at 5:33 p.m., Monday, April 19, 2010.

Kathy Malloch, PhD, MBA, RN, FAAN, President