

# *Arizona State Board of Nursing*

Janice K. Brewer  
Governor

Joey Ridenour  
Executive Director



## **Board Meeting Minutes**

The special meeting of the Arizona State Board of Nursing convened at 9:00 a.m., Friday, October 29, 2010, in the Board of Nursing Board Room, Suite 200, 4747 N. 7<sup>th</sup> Street, Phoenix, Arizona, with Kathy Malloch, PhD, MBA, RN, FAAN, President, presiding.

### **BOARD MEMBERS PRESENT:**

Kathy Malloch, PhD, MBA, RN, FAAN, President  
Terri Berrigan, LPN, Member  
Kathryn L. Busby, JD, Member  
E. Gary Gum, MSN, RN, FCN, Member (telephonic)  
Lori Gutierrez, BS, RN-C, RAC-CT, CBN  
Patricia Johnson, LPN, Member  
M. Hunter Perry, Member

### **BOARD MEMBERS ABSENT:**

Denise Link, PhD, WHCNP, FNAP, Vice President  
Kathy Scott, RN, MPA, PhD, FACHE, Secretary

### **LEGAL COUNSEL:**

Emma Mamaluy, Assistant Attorney General  
Kim Zack, Assistant Attorney General

### **STAFF:**

Joey Ridenour, RN, MN, FAAN, Executive Director  
Judy Bontrager, RN, MN, Associate Director of Operations  
Valerie Smith, RN, MS, Associate Director of Investigations  
Ron Lester, Senior Investigator  
Doug Parlin, Senior Investigator  
Mary Rappoport, RN, MN, Nurse Practice Consultant  
Barbara Melberg, Legal Secretary

## I. Call to Order

The meeting was called to order at 9:00 a.m., Friday, October 29, 2010.

The following Board members were present: Malloch, Johnson, Gutierrez, Gum (telephonic), Perry, Berrigan and Busby.

Malloch presided.

Malloch welcomed members of the audience, explained the procedure for addressing the Board and stated the mission of the Board.

### II.A. **APRN/RN/LPN Investigative Report/Potential Summary Suspension pursuant to A.R.S. §§ 41-1092.11(B) and/or Acceptance of a Consent Agreement and or Adoption of Complaint & Notice of Hearing**

#### II.A.3. **Elizabeth Ann Eller TRN165490; RN Endorsement (Rappoport)** **(aka: McRae)**

Rappoport addressed the Board additional information.

Complainant Christopher Clark was present and available for questions. Eller was not present but was represented by legal counsel Glynn Gilcrease who was present telephonically and addressed the Board. Busby moved, Berrigan seconded, and it was unanimously carried, based upon the findings of fact and statute/rule violations, to accept the signed Consent Agreement for indefinite suspension of the temporary license and continue the investigation related to the application for licensure.

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

#### II.A.1. **Vicki L. Bailey CNA999948995 (Lester)** **(aka: Payne)**

The proceeding began at 9:07 a.m., with the following Board members present: Malloch, Johnson, Gutierrez, Gum (telephonic), Perry, Berrigan and Busby. Emma Mamaluy, Assistant Attorney General, provided legal advice.

Lester addressed the Board with updated information.

Bailey was not present and was not represented by legal counsel.

Based upon the information presented at this meeting, all Board members verbally agreed that a showing of extraordinary circumstances or the possibility of irreparable harm has been made supporting the need for a Summary Suspension.

Busby moved, Johnson seconded, and it was unanimously carried, based upon the information presented at this meeting and the information contained in the investigative report, to accept and adopt the proposed preliminary Findings of Fact and Conclusions of Law of the Findings set forth in the draft Order attached to the investigative report.

All Board members verbally agreed that the foregoing conduct poses an immediate threat to the public health, safety, or welfare and requires emergency action pursuant to A.R.S. § 41-1092.11(B).

Busby moved, Perry seconded, and it was unanimously carried, based upon the information presented at this meeting, the information contained in the investigative report, and the preliminary Findings of Fact and Conclusions of Law, the Board make a finding that public health safety and welfare imperatively requires emergency action and issue an Order summarily suspending Certificate No. CNA999948995 pending further hearing, which shall be promptly instituted and determined.

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

It was therefore ordered that the certificate of Vicki L. Bailey be suspended effective with the service of the written Order, and that Bailey will immediately cease practice as a certified nursing assistant. This suspension shall remain in effect pending a public hearing and final decision by the Arizona State Board of Nursing pursuant to A.R.S. § 32-1664.

**II.A.2. Julie Dawn Yandell TRN165059; RN Endorsement (Parlin)  
(aka: Deerinwater)**

The proceeding began at 9:12 a.m., with the following Board members present: Malloch, Johnson, Gutierrez, Gum (telephonically), Perry, Berrigan and Busby. Emma Mamaluy, Assistant Attorney General, provided legal advice.

Yandell was not present and was not represented by legal counsel.

Based upon the information presented at this meeting, all Board members verbally agreed that a showing of extraordinary circumstances or the possibility of irreparable harm has been made supporting the need for a Summary Suspension.

Perry moved, Johnson seconded, and it was unanimously carried, based upon the information presented at this meeting and the information contained in the investigative report, to accept and adopt the proposed preliminary Findings of Fact and Conclusions of Law of the Findings set forth in the draft Order attached to the investigative report.

All Board members verbally agreed that the foregoing conduct poses an immediate threat to the public health, safety, or welfare and requires emergency action pursuant to A.R.S. § 41-1092.11(B).

Perry moved, Busby seconded, based upon the information presented at this meeting, the information contained in the investigative report, and the preliminary Findings of Fact and Conclusions of Law, the Board make a finding that public health safety and welfare imperatively requires emergency action and issue an Order summarily suspending temporary TRN License No. TRN165059 pending further hearing, which shall be promptly instituted and determined. After discussion Perry amended the motion to include: and deny licensure. Busby concurred. The motion carried unanimously.

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

It was therefore ordered that the license of Julie Dawn Yandell be suspended effective with the service of the written Order, and that Yandell will immediately cease practice as a nurse. This suspension shall remain in effect pending a public hearing and final decision by the Arizona State Board of Nursing pursuant to A.R.S. § 32-1664.

**II.B. Motion to Deem Allegations Admitted for Failure to Respond to Complaint and Notice of Hearing & Recommended Discipline**

**II.B.1. Eileen Louise Rosnizeck RN133573; LP037150 Zack**  
 Kim Zack, Assistant Attorney General, represented the State.

Rosnizeck was not present and was not represented by legal counsel.

Zack addressed the Board with additional information.

Busby moved, Johnson seconded, and it was unanimously carried to grant the State’s Motion to Deem Allegations Admitted.

Busby moved, Johnson seconded, and it was unanimously carried to accept the Factual Allegations and the Alleged Violations from the Complaint and Notice of Hearing as Findings of Fact and Conclusions of Law.

Busby moved, Berrigan seconded, and it was unanimously carried to accept the State’s recommended discipline for revocation of both RN and LP license.

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

**III. A. RN/LPN/CNA Investigative Reports**

**III.A.1. Jena Diane Soldano LP Endorsement (Rappoport)**  
**(aka: Frownfelter)**

Soldano was present and available for questions. Perry moved, Busby seconded, and it was unanimously carried, upon meeting all requirements, grant licensure and issue a Letter of Concern for a December 21, 2009, misdemeanor conviction in the Shasta Superior Court, in Redding, California, and from on or about August 2008 to September 2008, failing to consistently document controlled substances on two patient records while employed as a licensed vocational nurse with Windsor Redding Care Center, Anderson, California.

**III.A.2. Kelly Lynn Williams TRN160817; RN Endorsement (Rappoport)**

Julia Campbell and Williams were present and available for questions. Rappoport addressed the Board with additional information. Busby moved, Berrigan seconded, and it was unanimously carried to amend September 23, 2010 Consent Agreement, specifically applicant’s employment work hours and supervision. The Consent Agreement must be signed within 7 days, if not signed issue an Order of Denial.

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

**IV.A. Termination of Previously Issued Board Orders After Full Compliance**

**IV.A.1. Michelle L. Hammarbeck RN157243**

**IV.A.2. Jeffrey S. Mitoff RN108447**

Busby moved, Berrigan seconded, and it was unanimously carried to terminate Board Order/Consent Agreement as of October 29, 2010, if no evidence of non-compliance with Board Order/Consent Agreement exists.

**V. Felony Bar Cases**

**V.A. Recommended Notice of Charges for RN/LPN/CNA - CONSENT**

**V.A.1. Mark Andrew Hinkle Compact MO 135943 Rappoport**

Busby moved, Johnson seconded, and it was unanimously carried, based upon the findings of fact and statute/rule violations identified in the investigative report, issue Notice of Charges.

**VI. Board Reports Regarding Executive Director/Designee Delegated Duties: Cases Dismissed and Letters of Concern**

**VI.A. Board Information Regarding Cases Dismissed Pursuant to ARS 32-1605.01 (C) 1**

Information was provided to the Board regarding cases dismissed pursuant to ARS 32-1605.01 (C) 1

**VI.B. Board Information Regarding Letters of Concern Issued Pursuant to ARS 32-1605.01 (C) 4**

Information was provided to the Board regarding Letters of Concern issued pursuant to ARS 32-1605.01 (C) 4.

**VII. Call to the Public**

A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body. The Board may ask staff to review a matter or may ask that a matter be put on a future agenda. Members of the public body shall not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action. A.R.S. § 38-431.01(G).

**VIII. Adjournment**

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

The meeting adjourned at 9:24 a.m., Friday, October 29, 2010.

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