
BEFORE THE DIVISION OF PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
STATE OF UTAH

IN THE MATTER OF THE LICENSE OF :
SHAMIS TATE : EMERGENCY ORDER
UTAH LICENSES #9311052-4405 :
AND #9311052-3102 :
TO PRACTICE AS AN ADVANCED :
PRACTICE REGISTERED NURSE :
AND A REGISTERED NURSE : Case No. DOPL 2022- 154
IN THE STATE OF UTAH :

The Division of Professional Licensing of the Department of Commerce of the State of Utah (the "Division") initiated an Emergency Adjudicative Proceeding pursuant to Utah Code Ann. § 63G-4-502, the Utah Administrative Procedures Act; Utah Code Ann. § 58-1-108(2), the Division of Professional Licensing Act; and Utah Administrative Code § R156-1-206, of the Division of Professional Licensing Act Rules. The Division initiated the Emergency Administrative Proceeding upon evidence that the continued practice of Shamis Tate ("Respondent" or "Tate") as an advanced practice registered nurse and a registered nurse represented an immediate and significant danger to the public health, safety, and welfare; and that the threat required immediate action by the agency.

Before taking this action, the Chair of the Utah Board of Nursing appointed a three-member committee to review with the Division the proposed action in this matter, pursuant to Utah Code Ann. § 58-1-108(2).

Pursuant to the Open and Public Meetings Act, Utah Code Ann. § 52-4-101 et seq., the Division provided notice of the meeting of the committee for 9:00 a.m. on Wednesday, June 29, 2022, at the Heber M. Wells Building located at 160 East 300 South, Salt Lake City, Utah. Notice of the Emergency Hearing was published on the Utah Public Meeting website on June 21, 2022, and in local newspapers. Notice of the Emergency Hearing was placed in the lobby of the Heber Wells Building on or about June 22, 2022. The committee convened at the appointed date and time. The meeting of the committee was closed pursuant to Utah Code Ann. § 52-4-205(1)(a) in order to discuss the professional competence and character of an individual. The presiding committee member affirmed under oath that the meeting was closed for that purpose. The committee reviewed the Division's proposed action and considered information in the form of testimony and exhibits. The Division, having considered the committee's recommendations, makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. On or about September 24, 2019, Respondent was first licensed as an advanced practice registered nurse in the State of Utah.
2. On or about February 17, 2015, Respondent was first licensed as a registered nurse in the State of Utah.
3. In December 2021, the Division received a complaint from a patient of True Health alleging that they received ineffective medical treatment for neuropathy for a large fee. The Division began investigating this complaint.
4. True Health is a Utah dba with locations in Taylorsville ("True Health SLC") and St. George ("True Health SGU"). Respondent is an owner of True Health. Jade Malay ("Malay")

and Tate are listed as co-founders of True Health SLC and SGU on True Health's websites. Malay and Tate are listed as applicants/owners on the dba application.

5. Through True Health, Tate employs clinical case managers and other personnel with no medical license to perform patient intake, perform diagnostic testing and recommend treatment options, and to oversee patient care, which includes therapies and injections. APRNs or medical assistants carry out the treatments. Tate does not typically write or carry out orders. She is rarely on site.

6. The Division has contacted more than a dozen complainants against True Health since starting its investigation.

7. The complaints, an undercover investigation, and an expert opinion by Dr. Mark B. Bromberg, Professor of Neurology at the University of Utah ("Dr. Bromberg"), demonstrate that Tate devised and oversaw a fraudulent business in which patients are improperly diagnosed with severe peripheral neuropathy, prescribed ineffective treatments, pressured to sign up with false claims about symptom progression, and charged exorbitant sums for treatments, often via high interest loans.

Respondent Employed Unlicensed Individuals and Failed to Supervise

8. Tate employed Tucker Beadles ("Beadles") and Mikhail LeRoux ("LeRoux") to consult with patients and recommend treatments.

9. Neither Beadles nor LeRoux has a Utah medical license of any kind.

10. DH, an undercover investigator for the Division, scheduled a consultation and evaluation with True Health.

11. DH was seen by Beadles, who conducted the consultation. Another employee performed testing.

12. Beadles evaluated test results, told DH the outcome was very poor, and discussed treatment options to reverse the neuropathy.

13. Beadles stated he would oversee DH's care and write orders for therapies and injections.

14. BL, a former True Health patient, had her consultation with LeRoux.

15. LeRoux questioned BL about her medical history and current symptoms.

16. LeRoux evaluated thermal images of BL's feet, taken by another employee, and discussed treatment options with BL.

17. LS, a former True Health patient, had her consultation with a man fitting LeRoux's description.

18. At the consultation, LeRoux evaluated test results and discussed treatment options.

19. Patients report frequent confusion as to the names, positions, and licensure status of True Health employees.

20. As Tate is rarely on site, she does not supervise evaluations and treatment discussions at consultations, nor is she present for treatment sessions.

Respondent Authorized Invalid Diagnoses of Peripheral Neuropathy

21. Dr. Bromberg notes that few patients that complained about True Health had symptoms consistent with peripheral neuropathy and none with a severe neuropathy.

22. True Health employees failed to perform an adequate history of current symptoms and did not apply clinical testing with established and validated peripheral nerve assessment

surveys, nerve conduction tests that directly establish nerve function, nor carry out blood tests for hemoglobin A1c.

23. These tests are necessary to establish the presence and severity of a peripheral neuropathy.

24. Dr. Bromberg further notes that heat maps generated by thermal pictures have no relevance to the status of microvasculature.

25. For example, at DH's consultation, a medical assistant performed tests on DH's hands and feet, including vibration, pain, and heat sensing tests. The MA also took thermal photos of DH's hands, feet, and legs. No nerve conduction tests were performed.

26. Beadles diagnosed DH with peripheral neuropathy.

27. At BL's consultation, she was asked general questions about her medical history and current symptoms. An employee took thermal photos of her feet. No other tests were performed.

28. Based on the thermal images alone, LeRoux diagnosed BL with severe peripheral neuropathy.

29. NB, a former patient, had tests done on her feet and legs, including being poked in the neck, legs, and feet, use of a vibrating device, a warm object, and something soft like a cotton ball. She also had thermal photos taken of her feet.

30. A man fitting LeRoux's description diagnosed NB with severe peripheral neuropathy over a Zoom call. He did not give his title or name.

31. NB went to her podiatrist after her second appointment with True Health. Her podiatrist tested her feet and told her she did not have peripheral neuropathy.

32. True Health employees' diagnoses of peripheral neuropathy were invalid and part of a plan to defraud patients.

Respondent Authorized the Use of Fear and Coercion to Obtain Patients

33. Dr. Bromberg notes that while peripheral neuropathies can cause discomfort or affect balance, they rarely render ambulation functionally problematic with the need for a wheelchair.

34. Essentially, only neuropathies associated with diabetes and metabolic syndrome include damage to microvasculature.

35. Amputation is necessary only when a wound from an unnoticed injury to the foot fails to be treated, which is very uncommon.

36. At the consultations, True Health employees like Beadles and LeRoux showed patients the thermal images of their feet and legs. They claimed the images showed very poor circulation. They told patients if they did not obtain treatment, they risked losing mobility or even amputation.

37. This premise is medically false.

38. Most of True Health's neuropathy patients appear to be older and more susceptible to fear of these alleged health risks.

39. For example, at BL's consultation, LeRoux claimed the thermal photos of BL's feet showed severe symptoms, comparable to a stage 3.5 in cancer progression, and that the next stage could be amputation.

40. BL, a sight-impaired patient, worried that she would lose her ability to walk after she had already lost her sight.

41. LeRoux pushed BL to purchase a treatment plan for BL's feet, stressing that she should begin treatment that day or her mobility would be at risk.

42. BL purchased the treatment based on LeRoux's false and coercive statements.

43. NB was similarly shown photos of her feet. She was told that she needed treatment from True Health, or she could risk having an amputation. This scared her. She ultimately purchased the treatment.

44. KH, a former patient, was told that if he did not get treatment for neuropathy, he would get worse and end up in a wheelchair.

45. The photos and threat of amputation or other mobility problems were used to instill fear in patients and to encourage them to purchase True Health products. This treatment model is fraudulent.

Respondent Authorized Improper Treatment Modalities

46. True Health offered the following treatments for peripheral neuropathy: human umbilical cord allograft stem cells, platelet-rich injections, spine stretching, supplements, exercises, red light therapy, and vibration therapy.

47. Dr. Bromberg states the following about each treatment offered:

- Human Umbilical Stem Cells: There is no justification for injection of human umbilical stem cells in the setting of an uncomplicated neuropathy. Further, injection of human umbilical stem cells is not approved by the FDA, and thus represents an illegal procedure.
- Platelet-rich Injections: There is no data to support efficacy of injection of platelet-rich fluid for the treatment of any peripheral neuropathy.

- Spine Stretching: Spine stretching is not an appropriate treatment of a peripheral neuropathy from any cause.
- Supplements: Some data supports the use of dietary supplements (nutraceuticals) for painful diabetic neuropathy, but not other forms of neuropathy. Some patients appear to have been given Myer's Cocktail, but there is no data showing that these items have any meaningful effect on neuropathy.
- Exercises: The very simple distal leg exercises illustrated by True Health will have no effect on the course of peripheral neuropathy
- Red Light Therapy: A decision in 2006 investigated the efficacy of infrared energy as a treatment of polyneuropathy and found no benefit.
- Vibration Therapy: It is unclear whether this form of therapy is effective using the device provided by True Health.

48. Dr. Bromberg concluded that the treatments above are invalid means to reverse or treat neuropathy.

49. At consultations, patients were told that the treatments above would reverse their neuropathy.

50. Beadles told DH, the undercover investigator, that the treatment modalities would reverse the neuropathy.

51. LeRoux told BL that her condition would improve significantly from the treatments offered.

52. KH was told by a female employee named Sandy that the treatments had very high success rates.

53. The True Health Office Policies form given to patients also states that they have a “high success rate.”

54. Thus, not only did Tate instruct her employees to mislead patients about their diagnosis and consequences absent treatment, but she further authorized the prescription of invalid, improper treatment modalities.

Respondent Charges Large Sums for Ineffective Treatments

55. True Health’s ineffective treatments for improperly diagnosed peripheral neuropathy are also expensive.

56. As noted above, patients are pressured with false, disturbing statements to sign up quickly without time to seek a primary care doctor’s opinion.

57. DH was told to decide within the next 2-3 days whether to sign up for a \$20,500.00 treatment plan.

58. BL was pressured to sign up the day of her consultation for a \$22,000.00 treatment plan. LeRoux told her she could begin treatment that day, but once BL signed the contract, he apologized and directed her to return another day for her first round of treatment.

59. JW, a former patient, was told he would get a special discount if he signed up that day. His contract price was \$17,500.00 with a discount of \$18,495.00.

60. The individual treatments also appear to be significantly overpriced. An invoice for BL prices one round of stem cell injections at \$15,000.00. As these treatments are ineffective, they are by nature overpriced.

61. True Health employees also inconsistently address whether its services are covered by insurance when they are fully aware that the treatment True Health provides is not covered.

62. TA, a former patient at True Health SGU, asked an employee named Crystal whether insurance would cover the treatment. Crystal said a “Dr. Gills” would check TA’s insurance. TA never heard back.

63. SW, a former patient, asked True Health staff whether they accepted insurance, and they did not answer until the end of the consultation.

64. Tate was present at SW’s consultation. SW asked Tate about insurance codes but failed to give any information.

65. Patients are overcharged for treatment cancellations, at times being charged more than the full contract price.

66. As noted above, JW signed up for a treatment package costing \$17,500.00. He attempted to cancel after four of the twelve scheduled treatment sessions.

67. Malay was directly involved in JW’s cancellation. She told him he would receive no refund. JW asked for an invoice of his treatment up to that point.

68. The invoice Malay printed off for JW was for \$23,450.00. This was \$5,950.00 dollars more than the full contract price. JW only completed approximately 33% of scheduled treatment sessions and was charged more than 100% of the contract price.

69. True Health also failed to provide a refund for lightly used or unused products, such as a neurogenic red light or nerve plate.

70. JW attempted to return a nerve plate that he received unboxed. He never used the device. Malay told him he could not return it because he touched it. His invoice listed a \$2,500.00 price for the device.

71. WF, a former patient, also tried to return the nerve plate and red light, after approximately two rounds of treatment, and was refused a refund for the items.

72. Finally, if a patient cannot afford True Health treatments, employees have them sign up for high interest rate loans, failing to clarify loan terms with patients before they sign.

73. BL could not afford her \$22,000.00 program. An employee named Kendal told her about a CareCredit loan with 0% interest.

74. BL assumed she qualified for the 0% interest loan, but later learned she was signed up for a \$15,000.00 loan with 14.99% interest through Ally Bank.

75. WF and his wife discussed their credit with an employee. Neither of them understood why the employee was discussing that with them. They did not realize until later that they had financed a \$16,000.00 loan with Ally Bank.

76. The actions above are deceptive, misleading, and fraudulent and stem from Tate's practice as an APRN, RN, and as an owner of the business.

CONCLUSIONS FROM THE FACTS

1. Respondent's conduct as described above poses an immediate and significant danger to the public health, safety, and welfare; and requires immediate action by the Division.

2. The conduct and circumstances described in the Findings of Fact constitute violations of Utah Code Ann. §58-1-501(1)(c) and (g) and §58-1-501(2)(b) and (h).

3. Utah Code Ann. §58-1-501(1)(c) defines as unlawful conduct "knowingly employing any other person to practice or engage in or attempt to practice or engage in any occupation or profession licensed under this title if the employee is not licensed to do so under

this title . . .” Respondent tasked unlicensed individuals with nursing responsibilities like evaluating patient health and prescribing treatments. Respondent failed to supervise.

4. Utah Code Ann. §58-1-501(1)(g) defines as unlawful conduct, “aiding or abetting any other person to violate any statute, rule, or order regulating an occupation or profession under this title . . .” Respondent aided and abetted her employees’ fraudulent communications and conduct. She authorized the use of invalid testing to reach invalid diagnoses of peripheral neuropathy. She authorized the use of false, frightening claims about what would happen to patients without treatment. She authorized the use of ineffective treatments with no substantiation for effectiveness in medical literature. She further authorized charging patients exorbitant fees for the treatments and misleading patients regarding high interest loan agreements. She advertised to the public that these treatments were effective, and did so relying on the credibility of her APRN and RN licensure.

5. Utah Code Ann. §58-1-501(2)(b) defines as unprofessional conduct, “violating, or aiding or abetting any other person to violate, any generally accepted professional or ethical standard applicable to an occupation or profession regulated under this title . . .” Respondent and employees within her control acted in nonconformity with established professional and ethical standards.

a. There is no ethical or professional standard under which the approaches to neuropathy treatment detailed in the facts above are appropriate.

b. Beyond this, the Nurse Practice Act Rule’s Standards of Professional Accountability states that, “[APRN licensees] shall . . . demonstrate honesty and integrity in nursing practice . . .” Utah Admin. Code R156-31b-703a(3).

c. The actions and communications described above show Tate and her employees did not conduct themselves with honesty and integrity at True Health.

d. The ANA Code of Ethics also states the following:

Nurses may not delegate responsibilities such as assessment and evaluation; they may delegate tasks. The nurse must not knowingly assign or delegate to any member of the nursing team a task for which that person is not prepared or qualified.

American Nurses Association (2015). Code of ethics for nurses with interpretive statements. 4.4 Delegation of nursing activities. Silver Spring, MD: Nursesbooks.org. Retrieved from <https://www.nursingworld.org/coe-view-only>

e. Tate violated this provision of the Code by delegating assessment and evaluation to individuals who were neither licensed nor qualified to do so.

6. Finally, Utah Code Ann. §58-1-501(2)(h) defines as unprofessional conduct, “practicing or attempting to practice an occupation or profession requiring licensure under this title by any form of action or communication which is false, misleading, deceptive, or fraudulent . . .” Respondent has designed a fraudulent business model that frightens patients into using unproven methods to treat neuropathy. Her conduct described above is false, misleading, deceptive, and fraudulent.

7. Respondent has practiced in a manner that gave the Board reasonable cause to believe the health of a patient or the public may be harmed.

8. The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to Utah Code Ann. § 58-1-401(2)(a) and (b) to restrict Respondent's APRN and RN licenses.

9. The Division finds that there is a factual basis to conclude that Respondent poses an immediate and significant danger/threat to the public health, safety, and welfare; and that the Division should take immediate action to restrict Respondent's professional licenses. The Division has limited its Order to the minimum in time and scope necessary to protect public safety.

CONCLUSIONS OF LAW

1. The Division has jurisdiction and authority to act in this matter and has followed appropriate statutory procedures regarding the initiation of emergency adjudicative actions.

2. Utah Code Ann. § 63G-4-502 provides:

(1) An agency may issue an order on an emergency basis without complying with the requirements of this chapter if:

(a) the facts known by the agency or presented to the agency show that an immediate and significant danger to the public health, safety, or welfare exists; and

(b) the threat requires immediate action by the agency.

(2) In issuing its emergency order, the agency shall:

(a) limit its order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare;

(b) issue promptly a written order, effective immediately, that includes a brief statement of findings of fact, conclusions of law, and reasons for the agency's utilization of emergency adjudicative proceedings; and

(c) give immediate notice to the persons who are required to comply with the order.

(3) If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the agency shall commence a formal adjudicative proceeding in accordance with the other provisions of this chapter.

3. The actions of Respondent constitute an immediate and significant danger to the public health, safety, and welfare; and require immediate action to protect the public health, safety, and welfare.

4. Respondent is regularly providing fraudulent diagnoses and treatments and delegating nursing tasks to unlicensed individuals in violation of Utah Code Ann. §58-1-501(1)(c) and (g) and §58-1-501(2)(b) and (h).

5. Respondent's improper conduct caused harm to BL and other patients and poses a continuing danger to the public health, safety, and welfare.

6. This Order is necessary to prevent harm to the public pending a formal adjudication of the matters addressed in this proceeding. Immediate action is necessary, and this Order is the least restrictive action needed to prevent or avoid the danger to the public health, safety, or welfare.

7. Respondent may challenge the Order pursuant to Utah Admin, Code R151-4-111 as follows:

Utah Administrative Code § R151-4-111. Emergency Adjudicative Proceedings. Unless otherwise provided by statute or rule:

(2) Upon request for a hearing under this rule, the Division shall conduct a hearing as soon as reasonably practical but not later than 20 days from the receipt of a written request unless the Division and the party requesting the hearing agree in writing to conduct the hearing at a later date.

ORDER

1. The licenses of Shamis Tate to practice as an advanced practice registered nurse in the State of Utah, license number 9311052-4405, and to practice as a registered nurse in the State of Utah, license number 9311052-3102, shall be immediately restricted, meaning that Respondent, while working as an advanced practice registered nurse or registered nurse shall not perform any medical services unless supervised by a licensed Utah physician or advanced practice registered nurse as defined by Utah Administrative Code R156-1-102a(4)(b). The supervising physician or advanced practice registered nurse must be approved by the Board of Nursing.

2. Shamis Tate shall immediately cease and desist from engaging in any unlawful or unprofessional conduct. More specifically, she is prohibited from doing the following:

- a. Employing unlicensed individuals to perform medical tasks;
- b. Using, or directing or permitting employees to use, invalid testing methods to diagnose peripheral neuropathy;
- c. Making or permitting employees to make unsubstantiated statements about peripheral neuropathy and patient symptoms; and
- d. Making or permitting employees to make unsubstantiated statements about the efficacy of True Health's neuropathy treatments.

3. Respondent shall immediately provide a copy of this Emergency Order to any company or person who retains Respondent's services, and to any current or prospective employer, supervisor, or manager of Respondent.

4. Respondent shall immediately provide a copy of this Emergency Order to any employee or independent contractor of True Health SLC or SGU.


5. Respondent shall immediately provide a copy of this Emergency Order to any prospective, current, or past patients of True Health SLC or SGU.

6. Respondent shall not destroy, alter, or transfer documents pertaining to or held by any True Health business located in Utah, or direct or permit any individual to do so. The term documents includes but is not limited to appointment books, bank statements, canceled checks, charts, computer discs, computer printouts, correspondence, business records of all description, desk calendars, diaries and journals, drawings, facsimiles, graphs, ledgers, memoranda, minutes of meetings, motion pictures, photographic materials, receipts, reports, routing slips, tape recordings, telegrams, telex messages, transcripts, videotapes, and writings of all description.

7. The Division shall proceed with a formal adjudicative proceeding to revoke Respondent's license to practice as an advanced practice registered nurse in the State of Utah and seek other relief.

DATED this 29 day of JUNE 2022.

DIVISION OF
PROFESSIONAL LICENSING


~~MARK STEINAGEL~~ DEBORAH R. VANCE
Director Assistant Director

RIGHT OF LICENSEE TO REVIEW

1. In accordance with Utah Admin. Code § R151-4-111, the Division will schedule a hearing upon receipt of a written request from Respondent. At the hearing it will be determined whether this Emergency Order should be affirmed, set aside, or modified, based on the standards set forth in Utah Code Ann. § 63G-4-502. The hearing will be conducted in conformity with Utah Code Ann. § 63G-4-206.

2. Upon receipt of a request for hearing pursuant to Utah Admin Code § R151-4-111, the Division will conduct a hearing as soon as reasonably practical, but not later than twenty (20) days from receipt of a written request, unless the Division and the party requesting the hearing agree to conduct the hearing at a later date.