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**DEPARTMENT OF HEALTH  
BOARD OF NURSING HOME ADMINISTRATORS  
RULE DEVELOPMENT WORKSHOP**

**NOVEMBER 14, 2014**

**EMBASSY SUITES ORLANDO/LAKE BUENA VISTA SOUTH  
4955 KYNGS HEATH ROAD  
KISSIMMEE, FLORIDA**

**Reported By:  
Diana C. Garcia, Court Reporter  
Notary Public - State of Florida**

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**BOARD MEMBERS:**

**HENRY GERRITY, III, NHA, CHAIRMAN  
CHRISTINE HANKERSON, MSN, MS/P, PHD, RN**

**ALSO PRESENT:**

**ADRIENNE RODGERS, EXECUTIVE DIRECTOR  
LAWRENCE HARRIS, ESQUIRE, ASSISTANT ATTORNEY GENERAL  
EDITH ROGERS, REGULATORY SPECIALIST II  
KAREN GOLDSMITH, ESQUIRE, FLORIDA HEALTH CARE  
CAROL BERKOWITZ, ESQUIRE, FLORIDA HEALTH CARE  
DIANA C. GARCIA, COURT REPORTER  
AUDIO SPECIALIST**

\* \* \* \* \*

P R O C E E D I N G S

November 14, 2014

1:17 p.m.

(The November 2014 Florida Board of Nursing Home Administrators, Rule Development Workshop meeting was called to order, after which the following took place:)

MS. RODGERS: Okay. Good morning -- good afternoon.

This is the Workshop of the Board of Nursing Home Administrators. Today is November 14th, 2014, and we're starting at 1:17 p.m.

The introductions will be of the Board members and counsel that are present, and then I ask anyone in the audience who will be addressing the Board to introduce themselves.

Henry Gerrity?

CHAIRMAN GERRITY: Henry Gerrity, Board Chair, is present.

MS. RODGERS: Christine Hankerson?

DR. HANKERSON: Christine Hankerson, present.

MS. RODGERS: And Adrienne Rodgers, I'm the Executive Director for the Board of Nursing Home Administrators.

1 Edith Rogers is an Administrative Assistant  
2 and Board Staff.

3 And we have counsel, Lawrence Harris, with  
4 the Attorney General's Office.

5 And if I could have the two participants --

6 MS. BERKOWITZ: Carol Berkowitz with the  
7 Florida Health Care.

8 MS. GOLDSMITH: Karen Goldsmith with  
9 Goldsmith & Grout, and I'm Regulatory Counsel  
10 for the Florida Health Care.

11 MS. RODGERS: Thank you.

12 THE REPORTER: Could you spell your last  
13 name for me?

14 MS. BERKOWITZ: Berkowitz is spelled  
15 B-E-R-K-O-W-I-T-Z.

16 THE REPORTER: Thank you.

17 MS. GOLDSMITH: And Goldsmith is  
18 G-O-L-D-S-M-I-T-H.

19 THE REPORTER: Make sure you pull the  
20 microphone towards you when you're ready to  
21 talk. Thank you.

22 MS. GOLDSMITH: Yeah. It's a little harder  
23 to hear with the fan.

24 THE REPORTER: Yeah.

25 MS. RODGERS: This is a public meeting.

1 It's recorded. So when you speak please  
2 identify yourself.

3 Please also mute cellphones.

4 There are handouts of the Rules that can be  
5 made available to you.

6 We did not put out speaker forms this time.  
7 In fact, we didn't put out the Rules because  
8 we're only addressing 64B -- sorry, I lost my  
9 place -- 11.002, I believe, and --

10 DR. HANKERSON: Correct.

11 MS. RODGERS: -- and 003; is that correct?

12 DR. HANKERSON: 002, zero zero two.

13 Eligibility for Licensure.

14 MS. RODGERS: The rulemaking process is  
15 designed through Section 120.54, Florida  
16 Statutes.

17 It's an open and transparent process  
18 allowing for public input into the rulemaking  
19 process.

20 Workshops are an opportunity to exchange  
21 ideas on making the regulatory process better.

22 After the Workshop, the final rule will be  
23 proposed and then certified for adoption.

24 At this time, I'm going to turn it over to  
25 Board counsel so he can start the rulemaking

1 section of the meeting.

2 MR. HARRIS: Thank you.

3 Yes. And Board members, this is really  
4 your Workshop, but I thought the reason we  
5 should do this is, you know, there have been  
6 over the past year or so quite a bit -- you  
7 know, we have a new Rule, 11.002, that became  
8 effective -- I call it new. It became effective  
9 December, I want to say it was 1st, of 2013, and  
10 it was significantly different from the rule  
11 that was in place prior to that date. And as --  
12 you know, one of the things I like to tell  
13 boards is when you do a rule, it's not  
14 necessarily fixed in stone and you should  
15 consider it on a regular basis and see if  
16 anything needs to be amended or tweaked to make  
17 it comply with what you want to do.

18 And so I think over the past year you all  
19 have run into a number of situations where the  
20 rubber is starting to meet the road in terms of  
21 what do you want to do. Is the rule really  
22 working the way you all want it to. And, if  
23 not, is there anything that can be done from a  
24 rule perspective to maybe try to get the rule to  
25 where you want it to be so that it will meet the

1 needs that you have, and the community, and I'm  
2 glad that we have some representatives of the  
3 associations here because they're probably --  
4 and whether they're able to speak, you know,  
5 today, at least they can hear and listen and  
6 offer some advice, and then take any ideas back  
7 to their membership, and maybe you all would  
8 agree to allow some written comments after the  
9 Workshop, because they're sort of probably  
10 hearing from their members about stuff that is  
11 working or is not working, or some suggestions.

12 But one of the things that I thought that  
13 we should -- we should talk about today, if you  
14 all want to, and I think there's sort of three  
15 big areas. And the first big area is something  
16 that came up at the last Board meeting, and that  
17 is the 650-hour internship idea. And I think  
18 there's two issues in my mind there.

19 The first is do you all think 650 is the  
20 right number; and, if not, do you all want to  
21 change it.

22 But then second, what about that class of  
23 people we identified at that meeting who  
24 graduated from college before the rule's  
25 effective date, so prior to December 1st of

1 2013, who completed an internship that qualified  
2 back in the old rule, but now they're being told  
3 "you don't have 650 hours, you're not qualified  
4 for licensure". And if they're not in college  
5 anymore, if they've graduated, I don't see how  
6 they can go back and fix that because their  
7 college isn't going to be able to -- they're not  
8 necessarily going to re-enroll for purposes of  
9 getting extra internship hours.

10 So were you all interested in any kind of a  
11 grandfathering-type provision that would say for  
12 people who graduated prior to the effective date  
13 of this rule, you know, would you accept  
14 whatever internship they did, or do you want to,  
15 you know, have a case-by-case review?

16 So that's sort of the idea there I'm  
17 thinking that we can talk about.

18 The second area that I think might be worth  
19 exploring -- I guess this is really not a whole  
20 second area by itself, but what about the  
21 masters degree issue? Because currently the  
22 rule is sort of structured to have a  
23 bachelorette degree and, you know, I've told you  
24 all at meeting after meeting I think of it as  
25 the right degree and then the wrong degree. And

1 if you have the right degree, you have one sort  
2 of requirement for either an AIT program or  
3 hours. If you have the wrong degree, it's a  
4 different internship, or AIT program.

5 Do you all want to make an different --  
6 sort of a third category for an advanced degree,  
7 a masters degree of some type? And you don't  
8 have to, but are you interested in pursuing that  
9 where it could be you would specifically say "if  
10 you have a masters degree here's what applies,"  
11 and it could be the right masters or the wrong  
12 masters, or it could be any masters. But that  
13 would be something maybe you all wanted to  
14 explore.

15 And then a second big area that we've  
16 struggled with, or you all have struggled with,  
17 is this idea that all of the applicants for one  
18 year of supervised direct management experience  
19 will be individually reviewed by the full Board.  
20 And y'all might want to talk about whether you  
21 want to continue that.

22 There was an issue with delegation and, you  
23 know, in the past there was a -- I believe  
24 legally you absolutely have the right to  
25 delegate that review to a committee. But there

1 was some thought that maybe the rule should be  
2 changed to make that very clear. And if you're  
3 going to delegate it the Credentials Committee,  
4 are there any conditions on that delegation. Or  
5 do you want it to be the same way where every  
6 single person will have to appear before the  
7 full Board, which in effect has the affect of  
8 slowing down people who may be, on the face of  
9 it, are clearly qualified. You know, their  
10 documentation is one-hundred percent in place,  
11 but they still have to wait three months for a  
12 Board meeting. So that's sort of the second  
13 area.

14 And then the third area I thought we could  
15 maybe talk about is this idea for these  
16 out-of-state people who are trying to come in by  
17 endorsement. And, you know, we are bound by the  
18 statute that you all have. You operate as  
19 creatures of statute, and the statute says  
20 essentially to qualify by endorsement you have  
21 to have a degree -- a license in another state  
22 that's standard or substantially equivalent to  
23 or more stringent than Florida's, or meet the  
24 qualifications for licensure by examination and  
25 take the exam.

1           And I'm thinking that you all might want to  
2 consider tweaking the rule if you're going to  
3 allow people who have taken the exam in the past  
4 to qualify.

5           So the idea being, if you meet the  
6 qualifications for examination, but you're  
7 licensed in another state having taken the NAB,  
8 if you all are comfortable with allowing that  
9 previous NAB score to substitute for taking the  
10 exam as part of the Florida licensure process,  
11 maybe you want to put some language in to say  
12 either there's a look-back period, you would  
13 have to have taken it within the past two years  
14 or five years or ten years; and/or you all might  
15 want to think about an idea of did they have to  
16 achieve any particular passing score. You know,  
17 maybe their passing score had to be equivalent  
18 to what Florida requires, which I think right  
19 now is like a 113. And I don't know if that's a  
20 national thing or if other states have the  
21 ability to have lower scores. So maybe one  
22 thing you might want to say is if you've passed  
23 the NAB within a certain period of time and  
24 achieved a score of a certain score, we'll  
25 accept those results in lieu of requiring you to

1 take the examination as part of your application  
2 for licensure by examination.

3 And the reason I say that is that might  
4 help you avoid some inconsistencies and  
5 application of process. The last thing you all  
6 want is applicants in your -- you don't have any  
7 guidance on who you're going to approve or not  
8 in this out-of-state sort of hybrid endorse that  
9 meant nothing.

10 And then of course we have some  
11 representatives of the public who may or may not  
12 want to address you on other items that I  
13 haven't brought up. These were just items that  
14 I thought we sort of run into issues with, and  
15 that might be a good topic for discussion.

16 To the extent that you all are interested  
17 in -- in doing anything, I thought that as a  
18 result of any discussion that happens today,  
19 that I would go back and try to maybe draft some  
20 language if you all were interested in that, and  
21 then we would put that on the agenda for the  
22 December meeting, and maybe there would actually  
23 be some language then that would be out there.

24 It's hard for members of the public to  
25 really know what to comment on when they don't

1 have anything in front of them.

2 So in addition to these sort of general  
3 comments we would -- you know, I'm thinking you  
4 could open it up for maybe a week or ten days or  
5 two weeks to submit written comments and it  
6 wouldn't be just people in attendance. Anybody  
7 in the public who couldn't make it today, but  
8 might have an idea, they could submit something  
9 in writing. And then that would go before you  
10 all at your formal meeting to consider do you  
11 want to formally initiate rulemaking. And as  
12 Ms. Rodgers stated, if you all want to do  
13 rulemaking you would open the rule for  
14 development, propose language and then we would  
15 go through that process of, you know, is a SERC  
16 required for any reason, and then people could  
17 request a workshop on the actual language or  
18 request a hearing or something. So you would be  
19 going through the full rulemaking process.

20 So really today's, in my mind, an idea --  
21 the workshop today, in my mind, is to get ideas  
22 of do you all want to go forward with amending  
23 the rule; and, if so, what are the areas you'd  
24 like to look at; and do you want me to take a  
25 stab at trying to draft something, you know,

1 within those areas.

2 So that's sort of where I thought we could  
3 be today. And, Mr. Gerrity and Ms. Hankerson,  
4 you know, this is your workshop. If you have  
5 comments you'd like to make or like to talk  
6 first -- or if you'd like to hear from members  
7 of the public first, it's sort of up to you all.

8 MS. RODGERS: And I do have comments from  
9 Mr. Lipman that when you're ready to hear them,  
10 I can read them into the record.

11 DR. HANKERSON: I think the whole idea is  
12 we want to make the language understandable by  
13 people that are trying to come in to become  
14 nursing home administrators in our state, or  
15 those within our state being able to clearly  
16 understand what the requirements are, and I  
17 think that we don't find that in this. Where,  
18 at past board meetings, we haven't had clarity  
19 with that. And so there's been a lot of  
20 discussion with applicants.

21 So I'm glad we're doing this and maybe  
22 after we hear Mr. Lipman's comments and yours,  
23 Mr. Gerrity, that we could just go from the top  
24 and work our way down with the ones that you  
25 outline for us.

1           MR. HARRIS: Or anything else that you see  
2 as we're working our way through it.

3           DR. HANKERSON: Or if anyone from the  
4 audience is bringing in as well.

5           We want to keep our standards high, but we  
6 also want people to understand what those  
7 standards are and how they can meet them.

8           CHAIRMAN GERRITY: And one of the things,  
9 too, is prior -- in the last couple of years  
10 some of these things have become an issue, where  
11 prior it wasn't an issue. When I got licensed  
12 it wasn't an issue; I went the management route.  
13 And quite honestly, I mean, you know, I  
14 submitted everything I needed to submit and I  
15 didn't have to go in front of the full Board.  
16 It was Suyrea Reynolds at the time. She was my  
17 contact person. So that's where with some of  
18 the things that come up, I don't know the  
19 history on it, but I definitely think that's why  
20 we need to look at this and, you know, do it the  
21 appropriate way because it is frustrating, I  
22 know, for somebody if they're -- they're  
23 relocating to Florida. You know, they've been  
24 in NHA and that's where the gray area comes in.  
25 We'll they've already had ten state surveys and,

1           you know, now they're coming to Florida and  
2           we're saying, "Oh, well your AIP you had ten  
3           years ago wasn't as stringent, so now you've got  
4           to do AIP program and take the Florida laws."

5           So that's -- that's where I stand on it and  
6           I'm interested in hearing Mr. Lipman who's at  
7           the NAB meeting, and I'm sure he'll have some  
8           information at the next Board meeting.

9           So we want Mr. Lipman's comments --

10          MS. RODGERS: Okay.

11          CHAIRMAN GERRITY: -- if you want to go  
12          through them and then --

13          MS. RODGERS: And Mr. Harris, you want me  
14          to do just 11.002? Because Mr. Lipman has  
15          several comments.

16          MR. HARRIS: Yes. We just noticed 11.002  
17          today, so I think that's probably what we should  
18          sort of stick to.

19          MS. RODGERS: Okay.

20          MR. HARRIS: One of his comments was for  
21          the reexamination rule. You know, we had talked  
22          --

23          DR. HANKERSON: Uh-huh. Right.

24          MR. HARRIS: -- in previous meetings about  
25          wanting to tighten up that language because it's

1 fairly unclear about what you have to do for  
2 reexamination. The language is not clear. And  
3 in the interest of making it understandable to  
4 applicants we would want to probably consider  
5 that.

6 And then so -- but I think that might be a  
7 discussion best had at the actual Board meeting  
8 on the 12th.

9 MS. RODGERS: Okay. 64B10-11.002, the only  
10 comment regarding Subparagraph (2), Sub  
11 Subparagraph (a), which starts, "Bachelorette  
12 degree from an accredited college or university  
13 with a major in healthcare administration,  
14 health services administration, or an equivalent  
15 major, or has credit for at least 60 semester  
16 hours in subjects as defined under Rule  
17 64B10-11.007 FAC."

18 He has added to the first part of that a  
19 bachelorette degree or higher level degree from  
20 an accredited college. His second comment is  
21 with regard to 11.002, Subparagraph (3),  
22 Subparagraph (b), as in boy, which reads "have  
23 practiced as a nursing home administrator for  
24 two years within the five-year period  
25 immediately preceding the application by

1 endorsement," and his comment is, "If an  
2 applicant has been granted a nursing home  
3 administrator license in another state, the  
4 Board may waive the requirement that an  
5 applicant sit for the national licensure  
6 examination (NAB). In order to be granted a  
7 waiver, the applicant must have taken the NAB  
8 licensure examination in another state and  
9 attained a score which meets or exceeds the  
10 passing grade established in Florida. A  
11 national scale score of 113 is a passing grade  
12 accepted by the Board for licensure examinations  
13 offered on or after..." and then he's looking  
14 for a month, day and year.

15 He says, "It's easier for the candidates to  
16 apply for licensure by examination under the one  
17 year direct management experience than it is to  
18 go through endorsement. The following question  
19 for endorsement may allow for the endorsement  
20 rule to be viable, depending on the  
21 interpretation of the statute. There is no  
22 reason for anyone to apply via endorsement since  
23 we are not recognizing any state based on the  
24 statute and rule for endorsement. Since  
25 previous decisions made on the applicants

1 licensed in other states that applied via a  
2 one-year experience, all licensed applicants  
3 will get approved if they've been licensed and  
4 working for a year prior to applying to Florida  
5 for licensure."

6 And that ends his comments.

7 CHAIRMAN GERRITY: Would you like to -- do  
8 you have any comments?

9 MS. BERKOWITZ: I really don't have  
10 comments because I didn't know how to respond  
11 without language and you've already mentioned  
12 that. Overall, though, on behalf of Florida  
13 Health Care Association we don't want to make it  
14 so difficult for administrators to get licenses.  
15 It's really -- it looks like that you've run  
16 into some obstacles, so we want to work with  
17 you.

18 So if I understand correctly, I'll just ask  
19 the question. You're going to have language  
20 before the next Board --

21 MR. HARRIS: If that's what the Board  
22 instructs me, the intent would be to draft  
23 language and have it out there to the public  
24 prior to the next Board meeting so that there  
25 could be comments at that point or whatever.

1 MS. BERKOWITZ: What I'd like to do is  
2 bring it back to our members so they can review  
3 it. I know that you had mentioned you wanted  
4 written comments and that might help you with  
5 your draftsmanship -- is that --

6 MR. HARRIS: Yeah.

7 MS. BERKOWITZ: -- what you're thinking?

8 MR. HARRIS: Can I just sort of ask  
9 briefly? What kind of things are you hearing  
10 from the applicants and the membership in  
11 general? I mean, not that specific language,  
12 but what are you sort of hearing that they're  
13 concerned with?

14 MS. BERKOWITZ: Well, and watching the  
15 Board, too, and then watched the previous  
16 boards, the 650 hour, it seemed like there was a  
17 lot of discussion and a lot of research done on  
18 that number.

19 So in terms of the 650 hours, it is what it  
20 is because I think not having a number was more  
21 problematic. But then there were a lot of  
22 people who got caught. And being caught is the  
23 biggest problem, so maybe a grandfathering in  
24 needs to be done. I think that's become an  
25 obstacle for new applicants.

1           The masters degree, I think if I -- I've  
2           got to read Mr. Lipman's language, but I think  
3           when he inserts each applicant -- where was it  
4           -- in --

5           CHAIRMAN GERRITY:   (2) (a)?

6           MS. BERKOWITZ:  No.  It's (2).  I'm sorry.

7           DR. HANKERSON:  Three.

8           MR. HARRIS:  Well there's -- I think the  
9           masters degree is in Subsection (2) (a).

10          DR. HANKERSON:  Yes.

11          MS. BERKOWITZ:  Where he says "a  
12          bachelorette degree or high level," that might  
13          solve the problem.

14          MR. HARRIS:  Right.

15          MS. BERKOWITZ:  And that might just fix  
16          that --

17          MR. HARRIS:  Right.

18          MS. BERKOWITZ:  -- making it clear.

19          Again, this is all just --

20          MR. HARRIS:  Yeah, off the top of your  
21          head.

22          MS. BERKOWITZ:  You know, off the top of my  
23          head without really going back and getting the  
24          comments formally from my Rules and Regs  
25          Committee at Florida Health Care Association --

1           MR. HARRIS: Are you hearing from  
2 applicants that they're having difficulty with  
3 the new definition of supervised management  
4 experience?

5           MS. BERKOWITZ: That seems to be where the  
6 biggest hang-up is, and Karen probably has heard  
7 more than I have.

8           But I think that really does need  
9 tightening up. I personally -- and this is just  
10 me personally -- I think the delegation's there.  
11 I think that it doesn't have to go every case to  
12 the full Board. I think it needs to be case by  
13 case if there are questions by the Credentialing  
14 Committee. I mean, it makes sense to me that --  
15 that it could -- you know, a decision could be  
16 made at that level and then go forward.

17           It seems like that's going to bog this  
18 Board down if you have every applicant go before  
19 you for review. And we were watching in  
20 previous boards -- and no criticism really, but  
21 it seemed to be a longer process and they had to  
22 make sure they talked about each of the  
23 Departments and use the right buzz words that  
24 they actually, you know, fit in that pigeon hole  
25 and they did do that rotation for that

1 department to be approved, and that doesn't seem  
2 like that's really a good method for the Board  
3 either. If the Credentialing Committee can do  
4 their job, I think it works.

5 Karen, do you want to comment?

6 MS. GOLDSMITH: Yeah. I'll just comment  
7 that the business, the management one is the one  
8 we get the most questions about and the most  
9 frustrated clients that have called us and asked  
10 us to represent them because they were not  
11 allowed to sit for the exam or expected that  
12 they wouldn't be allowed to sit because they've  
13 sat through a Board meeting.

14 I think some of the confusion is that  
15 whether this means that the person is actually  
16 employed in all of these categories, or is a  
17 combination of working in the Department and  
18 being trained in the categories. For example,  
19 human resources is a good one. There's a lot of  
20 things a person has to do, and I think the  
21 confusion along the potential administrator is,  
22 "Well, do I have to be the head of human  
23 resources in order to meet that qualification,  
24 or could I be serving as the manager under the  
25 head of the department and being trained?"

1           And I know sometimes when I've sat through  
2           several Board meetings where if the person  
3           mentioned "trained" that was not a good thing.  
4           And I truly believe that this management part of  
5           it has to be training because there is no person  
6           unless they worked in another state who actually  
7           had these -- every one of these positions. So  
8           some of it would be a mixture of training.

9           And also and it says "in the role of an  
10          executive manager," and I think that's a little  
11          bit confusing because you may have been the  
12          accountant in one facility, or for one company,  
13          and you may have been in maintenance and  
14          housekeeping director in another, and that  
15          wouldn't necessarily be an executive position,  
16          but it certainly would be a good experience to  
17          carry with you.

18          So I'm not so sure that word is -- that  
19          phrase helpful to us. That's their big -- their  
20          big concern. And we do -- we have had some with  
21          the problem with the 650 hours because they were  
22          done with school and the program wasn't 650  
23          hours and the grandfathering would be really  
24          helpful there.

25                 CHAIRMAN GERRITY: Uh-huh. And I support

1 the grandfathering. With the executive duties  
2 for one year, and this is -- I open up a gray  
3 area again, but I think it would be good if --  
4 if they notified the Board that they were going  
5 into that, you know, if it's a credentialing,  
6 moving into -- and if you recall the assistant  
7 administrator --

8 MS. GOLDSMITH: Uh-huh.

9 CHAIRMAN GERRITY: -- that kind of -- it  
10 used to be if you're an assistant administrator  
11 that was the rule and then you could sit for the  
12 exam.

13 MS. GOLDSMITH: Uh-huh.

14 CHAIRMAN GERRITY: But if they at least  
15 notified the Board and, you know, credentialing  
16 -- because I'd like to suggest, too, anybody in  
17 credentialing should be in NHA. And then that  
18 way, in the future --

19 MS. GOLDSMITH: Right.

20 CHAIRMAN GERRITY: -- if the Board changes,  
21 it's still an NHA that can -- can look over  
22 these items. But if they notify the Board and  
23 then we knew that they were doing it and we had  
24 the date -- because sometimes it comes up that  
25 we don't know how long they were doing it.

1 There was questions before that will -- exactly  
2 when did you start it, at least if they notified  
3 the Board. But the gray area would be that an  
4 out-of-state person --

5 MR. HARRIS: Right.

6 CHAIRMAN GERRITY: -- then if they moved  
7 down here then obviously they wouldn't have  
8 notified the Board ahead of time.

9 So do we just say that you have to do one  
10 year executive experience in Florida and notify  
11 the Board when you took those -- those duties  
12 on? Because then we would know they have one  
13 year.

14 DR. HANKERSON: Again, I think the word  
15 "executive" is confusing. So we need to just  
16 say what we're trying to say and that they did  
17 administrative duties as a -- I mean, just make  
18 it simple so that people understand.

19 Because we know the terminology in all  
20 different companies are not the same. So what  
21 they're looking for is how do I become a nursing  
22 home administrator licensed in Florida. So I  
23 think we should use the same language that --  
24 that they're looking to apply.

25 Then when they go to their company then

1 they can be an executive or associate or  
2 assistant or whatever the language is.

3 CHAIRMAN GERRITY: And that would be  
4 something that the Association could help with  
5 when we open up the rule as to, you know, what  
6 wording makes sense and understand -- it's  
7 understandable to the members as to what it  
8 means.

9 DR. HANKERSON: Maybe we need some more  
10 clarification on what those duties and skills  
11 entail. We're talking about staffing. So what  
12 are we talking about with staffing? Are they  
13 interviewing people? Are they, you know -- what  
14 components does that include. And with  
15 budgeting, are they actually doing the line item  
16 budgets and presenting it, or are they just  
17 sitting there listening to what a budget is, and  
18 -- so I think that that's part of the problem  
19 that we've had. We've had people come in that  
20 have done on this end and people on this end,  
21 and we say, "Well, sorry. You were okay, but  
22 not you." And I think it's just too confusing  
23 for people. It is for me.

24 CHAIRMAN GERRITY: I always figured it as  
25 an assistant administrator. Once that terms got

1           --

2           DR. HANKERSON:  Yeah.

3           CHAIRMAN GERRITY:  -- thrown out, that  
4 confused me.

5           DR. HANKERSON:  Yeah.  Maybe we want to  
6 reintroduce that term back in so that people  
7 understand what that -- what that entails.

8           MR. HARRIS:  Yeah.  And so two things that  
9 I heard.  You know -- three things.

10           Number one, I absolutely agree.  The  
11 purpose of a rule in large part is to put  
12 everyone on notice of what the standard is.  You  
13 know, what's being looked at and how is it going  
14 to be applied.  And so the people know that, you  
15 know, this is what -- this is what applies to  
16 me, so they can look at it.  Maybe they're  
17 thinking about moving to Florida.

18           DR. HANKERSON:  Uh-huh.

19           MR. HARRIS:  They should be able to look at  
20 the rule --

21           DR. HANKERSON:  Exactly.

22           MR. HARRIS:  -- and decide, "Do I even want  
23 to move there?  Because if I'm not going to  
24 qualify for licensure, I don't want to waste a  
25 lot of time and effort."

1 DR. HANKERSON: Right.

2 MR. HARRIS: So they should be able to  
3 understand that. So that's always the goal.

4 Now, the competing issues are on the one  
5 hand you don't generally want to have a ruled so  
6 prescriptive that it ties your hands.

7 DR. HANKERSON: Right. Right.

8 MR. HARRIS: You know, nobody wants that.  
9 So if you go into detail about explaining what  
10 staffing is and you work really really hard.  
11 You spend ten hours talking to everybody about  
12 what is staffing and then you leave something  
13 out, and then somebody comes before you and  
14 they're that piece that was left out, so nobody  
15 wants that. On the other hand you want it to be  
16 something that people can understand.

17 So the flip side of that coin is I think  
18 that when this rule was worked on two years ago  
19 it was intended to be much more restrictive than  
20 the previous rule was. And so that might be  
21 part of the confusion that your -- your alluding  
22 to in the sense that by adding all these  
23 limiting terms to make it harder for people to  
24 qualify for the one year, we've added all that  
25 confusion. So this might be the kind of thing

1 where less is more in terms of clarity.

2 I liked what you said, say what we want to  
3 say. You know, define what you think it means.

4 --

5 DR. HANKERSON: Uh-huh.

6 MR. HARRIS: Maybe eliminate some of the --  
7 the confusing verbiage or the extra verbs --

8 DR. HANKERSON: Uh-huh.

9 MR. HARRIS: -- and just sort of say, We  
10 think one year supervised direct management  
11 experience is, you know, the equivalent of an  
12 administrator in training. I'm making this up,  
13 you know.

14 DR. HANKERSON: Right. Or an assistant  
15 administrator or --

16 MR. HARRIS: Yeah. As an assistant  
17 administrator.

18 DR. HANKERSON: -- whatever --

19 MR. HARRIS: And you know what an assistant  
20 administrator is. We -- the Credentialing  
21 Committee knows what an assistant administrator  
22 is.

23 DR. HANKERSON: Uh-huh. Uh-huh.

24 MR. HARRIS: If you come to us and say  
25 you're the assistant administrator, we're

1 looking for that --

2 DR. HANKERSON: Right.

3 MR. HARRIS: -- kind of a thing, you know.

4 And literally you could have words that say  
5 "supervises, direct management experience, is  
6 the equivalent of an assistant administrator."

7 DR. HANKERSON: Right.

8 MR. HARRIS: Something like that. And then  
9 you haven't defined the term "assistant  
10 administrator," but presumably somebody in this  
11 field with one year of management experience  
12 should know what an assistant administrator is,  
13 I would think.

14 Mr. Gerrity, I mean, is that a term in your  
15 profession that's pretty much understood?

16 CHAIRMAN GERRITY: Yes. A couple of times  
17 I think it got -- there was some confusion  
18 because somebody come in and they flip-flop and  
19 say "administrator assistant" or --

20 MR. HARRIS: Yeah.

21 CHAIRMAN GERRITY: -- so there's different  
22 -- but assistant administrator is, I think, a  
23 term that's widely used and widely known; would  
24 you agree?

25 MR. HARRIS: And you would say "or

1 equivalent" obviously so that somebody would  
2 come in and say, "I was not -- I don't have the  
3 title of an assistant administrator, but look  
4 what I did."

5 CHAIRMAN GERRITY: Yes.

6 MR. HARRIS: And so any time you include  
7 less words, but X or equivalent --

8 DR. HANKERSON: Right.

9 MR. HARRIS: -- that gives you guys a lot  
10 of discretion to get where you need to be. And  
11 it puts the burden where it should be which is  
12 on the applicant ultimately to demonstrate their  
13 entitlement.

14 CHAIRMAN GERRITY: Well and I think if  
15 there's the notification of the Board on it,  
16 too, that would allow credentialing to somehow  
17 follow up and make --

18 MR. HARRIS: Uh-huh.

19 CHAIRMAN GERRITY: -- sure that throughout  
20 the years, so they don't get to the one-year  
21 point and they don't --

22 DR. HANKERSON: Right.

23 CHAIRMAN GERRITY: -- they're aren't  
24 eligible. That they at least have somebody  
25 watching over what they're doing.

1 DR. HANKERSON: And the Credentialing  
2 Committee should be really a helper, not  
3 punitive where that -- so that when you have  
4 them along the way ask, you know, this is what  
5 I'm doing and get some feedback from them, I  
6 think that would be easy too.

7 I mean, the Nursing Board, we do those  
8 types of things and certainly I think it might  
9 help with the Nursing Home Administrator.

10 CHAIRMAN GERRITY: Just going over --

11 MS. GOLDSMITH: I just want to make one  
12 more comment.

13 I think when you start thinking about  
14 language, the use of the primary direction of  
15 all facility departments is confusing to some of  
16 the people because you are not going to give a  
17 person who's even an assistant administrator  
18 primary responsibility over nursing for example.  
19 There's always going to be a DON who has the  
20 responsibility over nursing. So that probably  
21 needs to be tweaked.

22 DR. HANKERSON: And we had -- we had one of  
23 those questions in our meeting that if I'm the  
24 DON then I am head of the center and that's not  
25 true. I mean, it always is -- they may step in

1 when the administrator is gone, but they are not  
2 -- their license is not what's hanging for that  
3 particular --

4 CHAIRMAN GERRITY: Right.

5 DR. HANKERSON: -- center. So I think it  
6 is confusing.

7 MR. HARRIS: And that I can tell you was a  
8 major point in the rewrite of this rule. There  
9 were lots and lots of -- in 2012/2013, there  
10 were lots of DONs who were coming in, I mean, on  
11 the order of five or six per meeting and saying,  
12 "Well I'm the DON and therefore I have this  
13 supervised -- the one year of experience and I  
14 want to be licensed."

15 And when the rule was being developed they  
16 were particularly concerned about that class of  
17 DONs and -- and the idea was from the  
18 professionals, your job as a DON is very  
19 challenging and that is a full-time job being a  
20 DON and so don't try to come and say that you're  
21 doing full-time DON, but you're also essentially  
22 an assistant administrator because you can't be  
23 doing both in 40 hours.

24 DR. HANKERSON: No.

25 MR. HARRIS: And they were very concerned

1 with that type of representation that I'm the  
2 full-time DON and that's what I do, but I'm also  
3 an assistant administrator.

4 DR. HANKERSON: Uh-huh.

5 MR. HARRIS: I mean -- and so that was  
6 specifically one of the scenarios they were  
7 concerned with.

8 DR. HANKERSON: So do we want to go from  
9 each of the points that Mr. Harris pointed out  
10 and talk about some of the things that have been  
11 presented and put some priorities, and then if  
12 others have comments, and then Mr. Harris can  
13 language things.

14 Do you think the December meeting is soon  
15 enough for people to be able to give feedback on  
16 the rule?

17 MR. HARRIS: Yes and no. And what I mean  
18 is I have a fairly intensive travel schedule  
19 between now and December 12th.

20 DR. HANKERSON: And it's the holidays, too.

21 MR. HARRIS: Yeah. It's going to be  
22 challenging for me. But what I can do is if you  
23 give me simple directions today and don't expect  
24 it to be anything approaching perfection, but  
25 just literally almost like rough draft ideas on

1 paper, these words in these kind of places, that  
2 you all are comfortable running with and  
3 tweaking, then, yeah, I can do it. I'm already  
4 going to have to work all weekend tomorrow and  
5 Sunday. So I can spend -- and I don't mean to  
6 minimize it, but I can spend an hour or an  
7 hour-and-a-half tomorrow when I'm in the office  
8 doing other stuff, pulling this rule up,  
9 throwing some -- and again, I'm not trying to  
10 minimize it, but throwing some language in;  
11 getting it in there what I think I hear you guys  
12 telling me to do, where I think it should be,  
13 and then getting that out to the Association,  
14 getting it out to the public. You know, maybe  
15 we even have it on the website, I don't know, to  
16 where that language is out there.

17 DR. HANKERSON: Just remember, two of us  
18 won't be at that meeting because of company  
19 commitments.

20 MR. HARRIS: Right.

21 DR. HANKERSON: And we have to make sure we  
22 have a quorum as well.

23 MR. HARRIS: Right. But if I can get --  
24 and I won't be at that meeting, honestly.

25 DR. HANKERSON: You won't?

1 MR. HARRIS: And so -- I will not be at  
2 that meeting.

3 DR. HANKERSON: Well, then that might be a  
4 consideration if we're talking about rule change  
5 and --

6 MR. HARRIS: But what I meant is, if I can  
7 get the language out there and -- you know, I  
8 can get a copy to you --

9 DR. HANKERSON: Uh-huh.

10 MR. HARRIS: -- I can get a copy to  
11 Mr. Gerrity --

12 DR. HANKERSON: Uh-huh.

13 MR. HARRIS: -- and you all can do written  
14 comments, like Mr. Lipman did.

15 DR. HANKERSON: Okay.

16 MR. HARRIS: And so you can --

17 DR. HANKERSON: All right. That would be  
18 fine.

19 MR. HARRIS: -- you know, red line it in my  
20 mind.

21 DR. HANKERSON: Okay.

22 MR. HARRIS: And all of the members and the  
23 members of the public could essentially red line  
24 that language.

25 DR. HANKERSON: Okay.

1 MR. HARRIS: And then in my mind, the  
2 December meeting -- and part of the reason I'm  
3 comfortable with it being on the agenda without  
4 me there is the attorney who's going to be  
5 covering for me is pretty competent, but also I  
6 don't anticipate that the language is  
7 necessarily -- she is, she's pretty good at her  
8 job.

9 DR. HANKERSON: She's pretty competent.

10 MR. HARRIS: Yeah. I'm pretty sure what's  
11 going to happen is you guys are going to have it  
12 all red lined and you'll either come up with a  
13 good first draft that you're comfortable  
14 proposing, knowing that we might get written  
15 comments still on that proposed language, or  
16 they'll say this is a good first start.

17 DR. HANKERSON: Okay.

18 MR. HARRIS: Now, Mr. Harris, go back and  
19 work on it some more and then we're going to  
20 have a special Board meeting by telephone  
21 conference call --

22 DR. HANKERSON: Okay.

23 MR. HARRIS: -- in January to go over all  
24 the changes we made.

25 So if you're comfortable with me sort of

1 producing a draft, getting that language to you  
2 all, getting it out to the public, there'd be  
3 discussion at the December 12th meeting --

4 DR. HANKERSON: All right.

5 MR. HARRIS: -- and then in my mind  
6 realistically either you guys would do a great  
7 job without me and come up with the language  
8 exactly the way you want it --

9 DR. HANKERSON: But we can probably pretty  
10 well do that.

11 MR. HARRIS: Yeah. I'm sure you could.  
12 You're pretty good.

13 Or you all would then say, "Here are the  
14 ideas. Now, go back and let's have a telephone  
15 conference call in January after the  
16 holidays..."

17 DR. HANKERSON: Okay.

18 MR. HARRIS: "...where, Mr. Harris, you can  
19 present us to something that you think is close  
20 enough to final form that we can think about  
21 proposing it."

22 So that's sort of -- and that's part of the  
23 reason I wanted to do this workshop now. I  
24 didn't want to wait till the December meeting to  
25 just have this discussion. I thought you guys

1 -- this is important. I mean, you're spending a  
2 lot of time in meetings. You've got a lot of  
3 applicants who are coming in who are getting  
4 held up. I think the public deserves to have  
5 this rule tweaked as quickly as possible, so  
6 that by the time of the next full Board meeting  
7 in whatever-it-is March, you know, even if the  
8 rule isn't effective, at least it would be help  
9 to the members to say this is the direction the  
10 Board is planning to go, and so maybe structure  
11 your presentation at the March meeting along  
12 these kind of lines.

13 DR. HANKERSON: Okay. So if we take it to  
14 each piece that you started with, the 650-hour  
15 internship, that was our first --

16 MR. HARRIS: It sounds like everyone is  
17 fine with the number of hours, but adding a  
18 grandfathering provision.

19 CHAIRMAN GERRITY: Uh-huh.

20 DR. HANKERSON: And that was the second,  
21 was the grandfather, the folks in, and then what  
22 would be the terms of that?

23 MR. HARRIS: Right. And so what I thought  
24 we would do, and just off the top of my head is,  
25 (2) (a) (1), "Completed a college affiliated or

1 university affiliated internship of at least 650  
2 hours worth of board-approved preceptor in a  
3 skilled nursing facility that has at least 60  
4 beds," or -- I thought I would try to break that  
5 up into two parts. And I'm not quite sure how  
6 I'm going to say this, but in my mind the  
7 language will say, completed a college  
8 affiliated internship of at least 650 hours. If  
9 the -- if the applicant graduated prior to the  
10 effective date, prior to December 1st, 2013 --  
11 or 2014 -- 2013? December 1st, 2013, the Board  
12 will accept an internship that qualified for  
13 graduation at that time. Something along those  
14 lines.

15 You know, whatever your school said was the  
16 appropriate internship, the Board would accept  
17 if you graduated prior to December 1st.  
18 Because, in my mind, if you're still in school  
19 after this rule becomes effective, and it might  
20 really suck for your career plans and your  
21 student loan plans and everything, but  
22 theoretically you could extend your internship  
23 to get the number of hours you needed to get to  
24 650, if you're still in school.

25 I'm worried about people who have graduated

1 and maybe graduated a year -- they graduated in  
2 May or June and then they go -- finally -- we  
3 heard two people who scraped up the money --

4 DR. HANKERSON: Right.

5 MR. HARRIS: -- took them six months to  
6 scape up the money and then they're told, "No,  
7 sorry, you don't qualify anymore."

8 DR. HANKERSON: Uh-huh.

9 MR. HARRIS: So I'm thinking we want a fix  
10 for people who graduated prior to the effective  
11 --

12 DR. HANKERSON: Prior to the rule.

13 MR. HARRIS: -- the December rule.

14 CHAIRMAN GERRITY: And then that would be  
15 effective as of when the rule takes effect.

16 MR. HARRIS: Uh-huh.

17 CHAIRMAN GERRITY: So anybody prior to  
18 that. So if somebody graduated this month --

19 MR. HARRIS: Uh-huh.

20 CHAIRMAN GERRITY: -- they would still be  
21 under the old --

22 MR. HARRIS: They're stuck with -- no.  
23 Nobody this month would be stuck with the 650  
24 hours because they're in school now.

25 CHAIRMAN GERRITY: Because they can extend

1 right now.

2 MR. HARRIS: Right.

3 DR. HANKERSON: Right.

4 MR. HARRIS: So that's, in my mind, the  
5 direction I was thinking about going with this.  
6 And I don't know artfully how to draft that  
7 right now, but, you know, if you were graduated  
8 prior to December 1st, the Board will accept  
9 whatever your college affiliated internship was.

10 DR. HANKERSON: Well, once the rule's in  
11 effect wouldn't --

12 MR. HARRIS: -- hours.

13 DR. HANKERSON: Wouldn't you just say that  
14 they're grandfathered in prior to the adoption  
15 of the rule of December -- January 2015?  
16 Whatever once it's decided, wouldn't that be the  
17 date?

18 MR. HARRIS: Well, you wouldn't want to do  
19 that because in my mind what -- we're going to  
20 amend this rule and we're going to have this new  
21 2015 effective date, but that leaves you in  
22 limbo all these people who -- between December  
23 1st of 2013 and the new rule going into effect.

24 And so we want to try to fix -- does that  
25 make sense?

1 DR. HANKERSON: No.

2 MR. HARRIS: Okay.

3 DR. HANKERSON: No. Because it seems like  
4 they'd be grandfathered in with -- up and to the  
5 point of the new rule, they'd still have to meet  
6 what was in effect until that rule --

7 MR. HARRIS: Okay. Right.

8 DR. HANKERSON: Right?

9 MR. HARRIS: Yeah. So people right now, in  
10 2014, would have to do the 650 hours. You're  
11 right.

12 DR. HANKERSON: Yes. Because there's no  
13 rule yet.

14 MR. HARRIS: Correct.

15 DR. HANKERSON: They have to still abide by  
16 the current rule.

17 MR. HARRIS: Right.

18 DR. HANKERSON: Right.

19 MR. HARRIS: But I guess what I'm saying is  
20 for the grandfathering, to take care of these  
21 people who graduated prior to knowing they  
22 needed 650 hours. Do we want to have a cutoff  
23 point for that?

24 DR. HANKERSON: Well, how could we if we  
25 only have one rule in effect which says that,

1 and then if we amend the rule to include  
2 grandfathering --

3 MR. HARRIS: Uh-huh.

4 DR. HANKERSON: -- I mean, legally, don't  
5 you think we have to have them abide -- would --  
6 there's probably going to be some folks in that  
7 kind of limbo area --

8 MR. HARRIS: Uh-huh.

9 DR. HANKERSON: -- but the rules are the  
10 rules up until the new ones are changed, right?

11 MR. HARRIS: That's true.

12 DR. HANKERSON: So they already know what  
13 the rule is now, so they have to stick with it.  
14 We're trying to make it better going forward,  
15 but until that point happens, you still have to  
16 -- you know, it's like a speed limit. They're  
17 going to change it, but up until the time that  
18 it becomes law, you still have to go that speed.

19 MS. BERKOWITZ: I'm actually thinking out  
20 loud, but it seems like individuals who finish  
21 school -- no. Individuals who started school  
22 after the December 1st rule would be clear  
23 because they know. But everybody before that  
24 would not be aware that this requirement -- I  
25 mean, they could be in the middle of school and

1           then the rule change.

2           MR. HARRIS: Yeah. But I think -- in my  
3           mind that's -- that's fine. Because in my mind,  
4           if I'm in a degree program, whether I'm in my  
5           first year of that program or my last semester  
6           of that program, it's incumbent upon me to know  
7           what the licensure rules are. And in my mind,  
8           again, this is what I -- and I could be wrong.  
9           This is just me, Larry.

10          In my mind, if Student Jane is in school  
11          and she's a senior and she's fixing to graduate,  
12          and she did her affiliated internship in her  
13          sophomore year and it was only 450 hours, and  
14          now she's still in school, she needs to know  
15          that it's 650 hours as of December 1st, 2013,  
16          and that means she better go back and get those  
17          extra 200 hours of internship before she  
18          graduates.

19          MS. BERKOWITZ: But, see, I think she put  
20          in her application to the graduate school or the  
21          undergraduate --

22          MR. HARRIS: Uh-huh.

23          MS. BERKOWITZ: -- school with the -- with  
24          the plan that she only needed 450 hours, and all  
25          of the sudden she gets to graduation and, oops,

1 I have to do another semester or I have to go  
2 find another internship. I think there's some  
3 sort of burden put on her. Had we not known --

4 DR. HANKERSON: But wouldn't she be looking  
5 --

6 MS. BERKOWITZ: -- when she first started  
7 that program --

8 DR. HANKERSON: But wouldn't you be looking  
9 all along the line to make sure that things  
10 haven't changed if you're going to apply for  
11 licensure? I mean, it seems we have to put some  
12 burden on the applicant themselves to keep up  
13 with whatever laws change.

14 Generally speaking, I mean, in our society,  
15 that you can't go by what was before until you  
16 get to the point of taking the test. You need  
17 to know what the rules are.

18 MS. GOLDSMITH: The concern I have is part  
19 of this problem was created by the schools  
20 because they had these short-term programs, and  
21 I'm not so sure that all the schools converted  
22 over to the 650 before this rule went into  
23 effect. So there may be some people who didn't  
24 even have the opportunity to get 650 because you  
25 just can't show up at a college and say, "I just

1 need 200 intern hours. Can I do it here?"

2 So I think maybe that's something we should  
3 look into if -- if it's going to be  
4 grandfathered as of 2013, and make sure that  
5 we're not precluding somebody who didn't have  
6 any choice.

7 MR. HARRIS: I have another idea that just  
8 occurred to me while you speaking actually.

9 I have a board -- actually I have two  
10 boards now that I think about it that have some  
11 specific language in their rule -- I was  
12 thinking about a rule waiver. And we don't want  
13 a situation where all these applicants are  
14 having to come in and petition for a waiver and  
15 meet the statutory requirement --

16 DR. HANKERSON: Right.

17 MR. HARRIS: -- of undue hardship or  
18 principles of fairness. But I have a couple of  
19 boards who have in their rules and various  
20 places that the Board may grant a -- basically  
21 the Board may grant a hardship exemption, and  
22 it's usually involved CE hours, basically, but  
23 the rule specifically says that the Board may  
24 grant an exception upon a showing of hardship.  
25 And then that means that people don't have to

1 follow that variance or waiver petitioner  
2 because the rule specifically says the Board can  
3 grant that. The Board can waive this 650-hour  
4 requirement.

5 So maybe that would be a way to go where  
6 the language -- instead of using grandfathering  
7 or a date or whatever, it would say the Board  
8 for -- the Board may accept, you know, literally  
9 650 hours. The Board may accept an internship  
10 of less than 650 hours upon a showing of good  
11 cause or upon, you know, something -- we don't  
12 -- we would need to use some language that puts  
13 some discretion on it, but basically then when  
14 they applied they wouldn't have to file for a  
15 variance and waiver that kicks in the statutory  
16 requirements of a variance and waiver. It would  
17 be at your discretion whether to grant or not.

18 That's not going to make them happy in the  
19 sense that they don't know whether you will  
20 grant it, but it means at least you wouldn't  
21 have to worry about them applying for a petition  
22 for variance or waiver, and you'd have more  
23 flexibility. You wouldn't need to require the  
24 showing of undue hardship or principles of  
25 fairness, and compliance with -- by other means;

1           you could just decide. And that would capture  
2           basically every single person. If they didn't  
3           have 650 hours they could come to you and  
4           explain my program didn't offer me 650, or when  
5           I graduated the requirement wasn't 650, or  
6           whatever.

7                     And over time, this is going to fix itself,  
8           right? Because people who are in school now  
9           presumably know its 650. We hope that the  
10          schools out there know it's 650. And we hope  
11          that the schools are implementing a 650-hour  
12          internship.

13                    So people who are freshman today presumably  
14          are going to fix this. So by two, three, four  
15          years from now the applicant pool is going to  
16          have the 650 hours.

17                    CHAIRMAN GERRITY: I can see being in  
18          school and not knowing, you know, you're  
19          graduating in June, you did your internship, and  
20          now I'm graduating, and I think that's the best  
21          way because -- then it would be up to the Board  
22          and then -- and that applicant talking to the  
23          Board.

24                    Because who would -- I wouldn't think -- if  
25          I was a student, I'd look at it and I wouldn't

1 be continuously checking. I would think, "Oh,  
2 okay. Well this is what I had to do. I did it  
3 already and I graduate."

4 MR. HARRIS: You expect your -- you expect  
5 your school --

6 CHAIRMAN GERRITY: Yes.

7 MR. HARRIS: -- to be preparing you for  
8 graduation.

9 (CROSSTALK.)

10 DR. HANKERSON: So back to what you talked  
11 about with the schools, is that something that  
12 we're seeing in Florida, that they're not -- the  
13 internship doesn't have consistency?

14 CHAIRMAN GERRITY: Mr. Lipman was talking  
15 about that at one of the meetings on the schools  
16 and their programs, but the communication, I  
17 think, was the issue and the rule changed and I  
18 don't know if -- you know, again, with the  
19 students, have you heard -- the ones we have had  
20 so far, I think all graduated prior to December.  
21 But I think we may have some in the future that  
22 might have graduated in June of this year or --  
23 or even now and they already did their  
24 internship. And from the sounds of it, the  
25 communication wasn't there with the schools and

1           them notifying.

2           DR. HANKERSON:   So how did the schools get  
3 notified of what the acceptances is or is that a  
4 burden on them to find that out?

5           CHAIRMAN GERRITY:   I don't know that.

6           MR. HARRIS:   I think it was probably on  
7 them in the sense that the Board -- I think the  
8 Board -- and I know the associations published  
9 notice that this rule was changing.  But it  
10 would have been up to the individual school's  
11 program director to realize that the  
12 requirements had changed and then bring their --  
13 their requirements up to -- up to speed.

14          DR. HANKERSON:   Well maybe as a Board we  
15 should notify schools who have programs that the  
16 rules have changed and now this is what you need  
17 to --

18          CHAIRMAN GERRITY:   Right.

19          DR. HANKERSON:   -- incorporate into your  
20 school.

21          MR. HARRIS:   Well with your permission I  
22 will go the drawing board and try to come up  
23 with something.

24          DR. HANKERSON:   Yeah.  I think the waiver  
25 is -- and then grandfather --

1           MR. HARRIS: Well we're not going to call  
2           it a waiver. We're going to call it a hardship  
3           exemption.

4           DR. HANKERSON: A hardship. A hardship,  
5           yes.

6           MR. HARRIS: And I will try to find some --  
7           some way to phrase it in a way that makes it  
8           every clear that, you know, we're not trying to  
9           open the flood gates, but at the same time we're  
10          not -- we want to get some certainly. And what  
11          we're trying to capture in my mind is this --  
12          this population of people who are in school,  
13          even maybe currently in school, whose program  
14          isn't offering the 650-hour internship, and to  
15          give them an opportunity to still sit for the  
16          examination, understanding that this problem  
17          will probably phase itself out of existence,  
18          especially if the Board is proactive in  
19          notifying programs. It's 650 hours, guys. You  
20          gotta -- you gotta comply with this.

21          DR. HANKERSON: Yeah. And it makes me  
22          think that when the Nursing Board just changed  
23          some things, we were all notified as licensed  
24          nurses of what the changes were through email or  
25          -- you know, and it seems that maybe that's what

1 we need to do with folks so that they're up to  
2 date.

3 We have a base with emails, I'm sure, that  
4 we could just do a blast email of new changes  
5 that are coming up so people are aware of it.

6 It helps with the Nursing Board when they  
7 do that for us. That they are -- you know,  
8 continuing education has changed. You have new  
9 things that now are required and, you know, it  
10 just keeps all of us informed because we all  
11 want to be compliant, and it's -- it's hard for  
12 people then that come and don't know that it's  
13 changed. So the emails, I think -- the base we  
14 have, we can send things out to folks.

15 CHAIRMAN GERRITY: I have one quick thing  
16 because I was just thinking, one of the ways of  
17 doing it might be if they did their internship  
18 prior to December of 2013, because then you  
19 would think when you go in to do the internship  
20 --

21 DR. HANKERSON: Uh-huh.

22 CHAIRMAN GERRITY: -- that that facility  
23 that you're doing it at --

24 MR. HARRIS: Yeah.

25 CHAIRMAN GERRITY: -- and everybody else

1 would know.

2 MR. HARRIS: Right.

3 CHAIRMAN GERRITY: So that would be simple  
4 enough. If you did the internship prior to  
5 December 2013 --

6 DR. HANKERSON: Uh-huh.

7 CHAIRMAN GERRITY: -- it counts. If it's  
8 after that --

9 MR. HARRIS: And that -- and that could  
10 certainly --

11 CHAIRMAN GERRITY: Yes.

12 MR. HARRIS: I mean, right there. If your  
13 internship was -- if you completed your  
14 internship prior to December 1st of 2013, the  
15 Board will accept that internship. Period.

16 CHAIRMAN GERRITY: Yeah. And then it's  
17 done.

18 MR. HARRIS: Then it's done.

19 DR. HANKERSON: So letting the schools know  
20 you represent the nursing homes, letting them  
21 know. So, you know, the more information that  
22 gets out, an email to somebody who's in our  
23 database, and then information gets disseminated  
24 to a lot of folks, and I think it's just easier  
25 for them to understand then. It's on the

1 website, Nursing Home Administrator website.

2 CHAIRMAN GERRITY: Yeah. Uh-huh.

3 DR. HANKERSON: And so there's a lot of  
4 avenues, so then people can't say, "Well, nobody  
5 told me. I didn't realize." Because there's a  
6 lot of resources for them to check it out.

7 CHAIRMAN GERRITY: I think that's  
8 excellent. And like I said, I think December --  
9 prior to December if they did the internship --

10 DR. HANKERSON: Uh-huh.

11 CHAIRMAN GERRITY: -- because then if it  
12 was after that, to me, the administrator should  
13 have known --

14 DR. HANKERSON: Right.

15 CHAIRMAN GERRITY: -- because they accepted  
16 the interns.

17 DR. HANKERSON: Right.

18 CHAIRMAN GERRITY: And that's where I think  
19 -- you know, that's a fair and reasonable --

20 DR. HANKERSON: Right.

21 CHAIRMAN GERRITY: -- expectation.

22 DR. HANKERSON: There has to be  
23 accountability on the part of the individual.

24 MR. HARRIS: Was there --

25 MS. BERKOWITZ: I was actually going to

1 comment on the hardship language, but now you've  
2 brought it back to the internship and the date  
3 of it.

4 I was concerned about the hardship. I like  
5 it, but it depends on which Board you've got  
6 here and their interpretation --

7 CHAIRMAN GERRITY: Uh-huh.

8 DR. HANKERSON: -- so it would have to be  
9 real clear. So that's where I was thinking that  
10 you could run into some problems because there's  
11 difference of interpretation. So maybe the --  
12 maybe you could say a hardship or circumstances  
13 such as internship prior to -- or, you know,  
14 name a couple of different scenarios.

15 CHAIRMAN GERRITY: Well, I do think the 650  
16 is a good number and I think that moving forward  
17 that'll be the expectation. But then if we just  
18 say if you did do the internship prior --  
19 because I had interns before and I looked it up  
20 to see what they need it for, and then prior to  
21 that we followed that.

22 So afterwards, it's one of those things  
23 that they should have known.

24 DR. HANKERSON: They should have known,  
25 yes.

1           CHAIRMAN GERRITY: Between the student,  
2 school and the administrator --

3           DR. HANKERSON: Uh-huh.

4           CHAIRMAN GERRITY: -- there had to be one  
5 that would have caught that, and I know Florida  
6 Health Care put it out there when -- when the  
7 change happened, so --

8           DR. HANKERSON: Uh-huh.

9           CHAIRMAN GERRITY: And then that way it  
10 becomes not an issue in the future. It's that  
11 or nothing.

12          DR. HANKERSON: Right. And send that email  
13 blast to the administrator's license and you're  
14 covering a lot of basis.

15          CHAIRMAN GERRITY: Uh-huh.

16          MS. ROGERS: My question was answered.  
17 Thank you.

18          DR. HANKERSON: So maybe you can think  
19 about what other word besides "hardship" --

20          MR. HARRIS: Right.

21          DR. HANKERSON: -- or, you know, some  
22 language that, you know, explains --

23          CHAIRMAN GERRITY: Would we even need  
24 "hardship"? We would just --

25          DR. HANKERSON: Maybe not.

1           CHAIRMAN GERRITY:  -- go off the previous  
2 rule.

3           MR. HARRIS:  Yeah.

4           DR. HANKERSON:  The previous rule.

5           CHAIRMAN GERRITY:  If you finished your  
6 internship before December 2013 --

7           DR. HANKERSON:  Yes.  And just -- and just  
8 take that out completely.

9           CHAIRMAN GERRITY:  Yeah.  Put that in.

10          MR. HARRIS:  Now let me ask you this  
11 question.  Should the 650 hours apply to  
12 everyone including the masters candidates?  
13 Because remember, Dr. Nolan, at the last meeting  
14 had filed the broad based petition saying that  
15 her graduate students in the graduate aging  
16 program at UNF, because they're a graduate  
17 school, shouldn't have to do the 650-hour  
18 internship.

19                 In my mind, the 650 hours should apply to  
20 everybody because -- just because you're getting  
21 a masters degree doesn't mean you're getting  
22 hands-on experience.  But, that's me.  You guys  
23 are the professionals.

24          DR. HANKERSON:  Well I think that's our  
25 next part that we talked about with the advanced

1 degree and what Mr. Lipman talked about with his  
2 remarks and higher degree.

3 MR. HARRIS: Well but his response was just  
4 to be -- basically to add to (2) (a). Where  
5 right now it says a bachelorette degree from an  
6 accredited college with a major -- well, I think  
7 he was planning it to say a bachelorette or  
8 higher degree --

9 DR. HANKERSON: Or higher degree.

10 MR. HARRIS: But then if you do that, and  
11 that's great, you're still requiring those  
12 masters or higher degrees to do the 650 hours.  
13 And I think that's eminently reasonable, but you  
14 should probably discuss it either now or at the  
15 meeting in December because Dr. Nolan was  
16 concerned about that, because she perceives that  
17 her graduate program, being a higher level of  
18 education, should -- in my mind essentially she  
19 was saying because these are masters students  
20 they should have to do less internship hours.

21 CHAIRMAN GERRITY: I still think that  
22 hands-on is really important. And especially --  
23 I mean, you're getting into a situation where  
24 you're responsible for a facility --

25 MR. HARRIS: Right.

1           CHAIRMAN GERRITY:  -- and you come out of a  
2 masters program and that's great, but the  
3 reality of being a nursing home administrator --

4           MR. HARRIS:  Yeah.

5           CHAIRMAN GERRITY:  -- and the decisions you  
6 have to make --

7           MR. HARRIS:  Right.

8           CHAIRMAN GERRITY:  -- I think the 650, you  
9 know, is reasonable because you could go all the  
10 way through school and never have a job, and  
11 then you come out and what do we say?  Oh, you  
12 only have to do 250 hours.  Well, it goes back  
13 to even with the assistant administrator role  
14 and executive duty.  I personally feel that  
15 that's one of the best routes to go because you  
16 have the hands-on experience for one full year.

17           And I think the same thing with the  
18 internship.  I think -- prior to this it was a  
19 little bit on the light end.  And some of the  
20 programs that the schools have are very limited.  
21 And Mr. Lipman was saying that, too, that the  
22 nursing home end of it, it was very limited.  So  
23 I think, you know, 650 hours, hopefully they  
24 might even experience a survey and some other  
25 things that we have to deal with in the

1 profession.

2 MR. HARRIS: Uh-huh.

3 DR. HANKERSON: Well how many masters  
4 degree programs in Florida are we talking about?

5 MR. HARRIS: We don't know.

6 DR. HANKERSON: Well, it's kind of hard to  
7 change what we want them to do if we don't know  
8 -- if that's the only school offering, you know,  
9 to change the rules for one school doesn't --

10 CHAIRMAN GERRITY: Right.

11 DR. HANKERSON: -- seem to make sense.

12 MR. HARRIS: That would be my thought, but  
13 I thought we should -- we should bring it up.

14 CHAIRMAN GERRITY: Is there any other  
15 thoughts on the --

16 MS. BERKOWITZ: I'm thinking that's -- I'm  
17 sorry -- that's about four months. I really  
18 don't have an opinion. I'd have to seek it, but  
19 it seems like from, you know, graduate to under  
20 graduate, the hands-on experience --

21 MR. HARRIS: Uh-huh.

22 MS. BERKOWITZ: -- and day-to-day  
23 experience is very important.

24 CHAIRMAN GERRITY: Yeah. If you put  
25 somebody in a building and they don't have that,

1 I mean, they could get told what to do and  
2 that's one of the problems that sometimes comes  
3 up with the lack of experience is, you know, at  
4 the end of the day they're responsible for that  
5 home, so they can't say that they're a corporate  
6 person or somebody else. They're the one that  
7 it's their license, so I think that that, you  
8 know, experience goes a long way in helping them  
9 in their career.

10 DR. HANKERSON: So let's see what the  
11 public -- if there's any feedback that we get,  
12 but just let it go. And I'd like to know how  
13 many masters programs there are in Florida that  
14 relate to the particular circumstance that --  
15 that they indicated from that school.

16 MS. RODGERS: And I can bring that  
17 information to the next meeting and --

18 DR. HANKERSON: That's great. We'll see it  
19 when you sent it out. We won't be there, but  
20 yeah.

21 MS. RODGERS: I'll get the information to  
22 you.

23 DR. HANKERSON: Great. Thank you.

24 MS. BERKOWITZ: If you do change it, the  
25 graduate programs may not have the 650-hour

1 internship programs, and so you may need to have  
2 some sort of grandfathering in for that.

3 CHAIRMAN GERRITY: Uh-huh.

4 DR. HANKERSON: Well, yeah. But I -- until  
5 we really know how many programs and what they  
6 entail and all that, I don't think that we can  
7 address it.

8 MR. HARRIS: And they can -- and they can  
9 obviously file individual variance and waiver  
10 petitions.

11 CHAIRMAN GERRITY: Again, it goes back to  
12 prior to December and now. I mean, I like the  
13 wording in here "or higher level degree". I  
14 mean --

15 DR. HANKERSON: Right. Right.

16 CHAIRMAN GERRITY: But again, it goes back  
17 to the 650's been out there all the time, so I  
18 say the December 2013's the cutoff --

19 MR. HARRIS: Uh-huh.

20 CHAIRMAN GERRITY: -- and there forward, I  
21 would be very hesitant to lower the 650 just  
22 because I think that the hands-on is --

23 MS. ROGERS: Mr. Gerrity, I just had --  
24 just for curiosity purposes, so the internship  
25 people who graduated and completed it prior to

1 the rule change would be automatically accepted  
2 is what you're proposing?

3 CHAIRMAN GERRITY: If they did their  
4 internships. So instead of having -- that's one  
5 of the conversations we were having. Well, if  
6 they were a freshman or whatever --

7 MS. ROGERS: Right.

8 CHAIRMAN GERRITY: -- if they did their  
9 internship. So if they were a freshman and they  
10 did their internship --

11 MS. ROGERS: So -- okay. That was what I  
12 was confused about.

13 CHAIRMAN GERRITY: -- completed. But that  
14 would be --

15 (CROSSTALK.)

16 MS. ROGERS: So they didn't necessarily  
17 have to graduate prior to then, but if the  
18 completed the --

19 CHAIRMAN GERRITY: Completed the --

20 MS. ROGERS: -- hours --

21 CHAIRMAN GERRITY: -- the internship would  
22 be the cut-off.

23 MS. ROGERS: -- before that.

24 CHAIRMAN GERRITY: Because then that's  
25 reasonable that --

1 MS. ROGERS: Okay.

2 CHAIRMAN GERRITY: -- the administrator  
3 should have known --

4 MS. ROGERS: That was my confusion.

5 CHAIRMAN GERRITY: -- and everyone else.

6 MS. ROGERS: Thank you.

7 THE REPORTER: Please make sure and try to  
8 talk one at a time.

9 CHAIRMAN GERRITY: Okay.

10 THE REPORTER: It's really hard. Thank  
11 you.

12 DR. HANKERSON: So the next was the  
13 one-year supervised and board review versus  
14 delegating to the Credentials Committee.

15 MS. RODGERS: If I could back you up just a  
16 second.

17 DR. HANKERSON: I'm sorry.

18 MS. RODGERS: Mr. Harris was talking about  
19 in Subparagraph (a)(1), breaking it into parts.  
20 Were you still interested in breaking it into  
21 parts, or are you okay with just adding  
22 additional language?

23 MR. HARRIS: I think I can add it to (1).  
24 Give me a chance to do that.

25 MS. RODGERS: Okay.

1 MR. HARRIS: (a) (1) without breaking it  
2 into parts.

3 MS. RODGERS: Thank you.

4 Sorry, Dr. Hankerson.

5 DR. HANKERSON: I was just going to say  
6 that I think that we have a Credentialing  
7 Committee for a reason.

8 CHAIRMAN GERRITY: Uh-huh.

9 DR. HANKERSON: And it doesn't make sense  
10 to have every single applicant come before the  
11 full Board; we would have week-long meetings.  
12 And I agree with you that it should be a nursing  
13 home administrator who chairs that. They go  
14 through the statutes and the rules and make the  
15 decision based on that, and if they have  
16 question bringing it, the Board still has to  
17 look over the recommendations. So I think that  
18 -- I think that's why we have to put trust in  
19 our Credentialing Board.

20 CHAIRMAN GERRITY: Right.

21 DR. HANKERSON: If they have everything  
22 spelled out for them, then I think it's fine and  
23 they can bring questions and then we can look  
24 over it as a group.

25 MR. HARRIS: I would think -- that's --

1 that's somewhat unusual language, you know, as  
2 you just said, Dr. Hankerson. That's exactly  
3 it.

4 You trust your Credentialing Committee to  
5 review these and bring to the full Board  
6 anything that --

7 DR. HANKERSON: Uh-huh.

8 MR. HARRIS: -- isn't very simple.

9 And that makes sense from a practical  
10 standpoint. Why would you as an individual  
11 board member want to put yourself out there for  
12 going out on a limb and licensing people you  
13 weren't absolutely sure qualified. So you --

14 DR. HANKERSON: But if we're -- if we're  
15 not going to do that then there's no point in  
16 having a Credentialing Committee.

17 CHAIRMAN GERRITY: Right.

18 DR. HANKERSON: Because that's their  
19 function, is to preview and make sure that  
20 people meet the requirements and then send it  
21 on.

22 MR. HARRIS: Yeah. So I would think if you  
23 just deleted that middle section there of  
24 Subsection whatever it is (c), where it says,  
25 "Each applicant who claims one year of

1 supervised direct management experience would be  
2 individually reviewed by the full Board to  
3 determine if that applicant experience meets the  
4 requirements of the rule."

5 If you delete that, you're back to what do  
6 you with every single other applicant, whether  
7 they have a criminal history background or a  
8 disciplinary background, or an educational  
9 deficiency background.

10 DR. HANKERSON: It goes to the Committee.

11 MR. HARRIS: Right. And then the Committee  
12 kicks it up to and says, "There's a problem with  
13 this applicant for this reason."

14 DR. HANKERSON: Right.

15 CHAIRMAN GERRITY: And when someone applies  
16 because they do need a letter from an NHA saying  
17 that they did the one-year experience, had -- I  
18 know of it was a trust issue whether or not they  
19 were actually doing those duties and things, but  
20 if an administrator sent a letter and saying the  
21 person did it, and hypothetically the Board  
22 found out that wasn't the case, there would be  
23 disciplinary action potentially --

24 MR. HARRIS: You would -- yeah.

25 CHAIRMAN GERRITY: -- for that

1 administrator.

2 MR. HARRIS: You would discipline the  
3 administrator and you would presumably revoke  
4 the license of the applicant because that would  
5 be an obtaining a license by fraudulent means  
6 which is an offense, a revocable offense under  
7 456.0721(c), I believe it is.

8 CHAIRMAN GERRITY: Uh-huh.

9 MR. HARRIS: And so obtaining a license by  
10 fraud and misrepresentation or deceit is grounds  
11 to revoke that license. And you would also the  
12 discipline the preceptor for essentially  
13 providing -- knowingly making a report which the  
14 preceptor knew to be false.

15 CHAIRMAN GERRITY: Uh-huh.

16 MR. HARRIS: And I think prosecution  
17 services would be all over that.

18 CHAIRMAN GERRITY: Uh-huh.

19 MR. HARRIS: If I was prosecuting, I'd be  
20 all over that.

21 DR. HANKERSON: Well, yeah, we have to take  
22 the word of the administrator who is now license  
23 hanging for that particular center that what  
24 they've put in writing is true and accurate.

25 CHAIRMAN GERRITY: Uh-huh.

1 DR. HANKERSON: You know, you can't  
2 micromanage everything.

3 CHAIRMAN GERRITY: And that's why I felt  
4 before was that there was a trust thing.

5 DR. HANKERSON: Yeah. And I think there  
6 has to be a level of trust.

7 CHAIRMAN GERRITY: Then there's kind of  
8 trust with AITs and everything else that they're  
9 doing.

10 DR. HANKERSON: Right. And if they put it  
11 in writing or they've coming before us to give  
12 information that this is honest and true, and  
13 that they are signing off on it, and then it  
14 turns out not to be, then there's means to be  
15 able to discipline as Mr. Harris said.

16 CHAIRMAN GERRITY: For the credentialing,  
17 do we need to look at any rules that it should  
18 be an NHA from the Board, so that if in the  
19 future Boards that it's one of the NHAs and not  
20 --

21 MR. HARRIS: I don't know. That would be  
22 -- that's something that I should -- I need to  
23 take a look at.

24 I don't think it would go in -- it would  
25 not go in this rule, certainly. So the question

1 is where would you put -- which rule would make  
2 the most sense to put some language like that  
3 about the composition of the Board's  
4 Credentialing Committee.

5 I certainly think you could do that in  
6 rule, but I don't think it would be in this  
7 rule. It might -- it's probably going to be in  
8 Chapter 10, Organization, and I'm thinking that  
9 that might be the right place to put something  
10 like that. And I can certainly take a look at  
11 that.

12 DR. HANKERSON: Yeah. Because our  
13 information that describes what the Board does,  
14 and then you can --

15 MR. HARRIS: Uh-huh. Right.

16 DR. HANKERSON: -- indicate that that Board  
17 should be a nursing home administrator.

18 MR. HARRIS: Right. I'm noticing that --  
19 you know, one thing that we just had an issue  
20 with this morning on a different board that I  
21 have, most of them have a rule about Probable  
22 Cause Panels and I noticed you don't. Not that  
23 you need one, but if we're going to open up  
24 Chapter 10, maybe we want to have that standard  
25 language that explains what a Probable Cause

1 Panel is. Almost all of my boards have those.  
2 And that would be a time to maybe sort of do a  
3 rule that talks about committees, and we would  
4 maybe talk about what the Probable Cause  
5 Committee is, what the Credentialing Committee  
6 is, and then any other committees you all wanted  
7 to designate. You know, sort of standing  
8 committees of the Board kind of a thing.

9 CHAIRMAN GERRITY: And I think that would  
10 be a good idea, because even with Probable Cause  
11 now, and I know -- right now we don't have an  
12 NHA on there --

13 MR. HARRIS: Uh-huh.

14 CHAIRMAN GERRITY: -- but it would be  
15 helpful to have an NHA because then they would  
16 know what's a reasonable expectation --

17 MR. HARRIS: Absolutely.

18 CHAIRMAN GERRITY: -- if something was  
19 going through Probable Cause.

20 MR. HARRIS: Right. So that's something I  
21 can definitely look at to -- to make some  
22 amendments to Chapter 64B10-10, the Board's  
23 organization, and we can look at those things.

24 CHAIRMAN GERRITY: Uh-huh. Okay.

25 MR. HARRIS: Another thing, you know,

1 bringing it back to Chapter -- the 11.002 rule,  
2 I think what I'm hearing you all tell me to do  
3 maybe is to look through that discussion of the  
4 supervised direct management experience, and for  
5 sure delete the word "executive" probably, where  
6 it says "executive duties and skills" and  
7 perform as a -- whatever -- an executive  
8 manager. At a minimum take that word  
9 "executive" out.

10 DR. HANKERSON: Yes. Because --

11 MR. HARRIS: And then maybe see if I can  
12 figure out a way to include something that talks  
13 about in the rule of an assistant -- because  
14 right now it says "he or she performing the role  
15 of an executive manager performing the same  
16 duties and skills expected of a Florida licensed  
17 nursing home administrator".

18 Maybe I could tweak that a little bit.  
19 Number one, we take out executive from  
20 everywhere, but then say sort of performing the  
21 duties and roles of an assistant administrator  
22 or --

23 CHAIRMAN GERRITY: What was it prior?  
24 Because it seems like about two/three years ago  
25 this all started becoming an issue and before

1 that it wasn't an issue. So I don't know --  
2 like I said, as far as being an administrator I  
3 started hearing about it about two years ago.

4 Prior to that it --

5 DR. HANKERSON: It made sense and it wasn't  
6 confusing.

7 CHAIRMAN GERRITY: Yes.

8 MR. HARRIS: The old rule, I think said has  
9 one -- I think this is the old rule. "Has one  
10 year of management experience by performing the  
11 skill -- the same duties and skills of a nursing  
12 home administrator, including..." and then we  
13 had some of that language about the staffing,  
14 dietary, accounting, bookkeeping, and that comes  
15 out of a statute. The statute tells, you know,  
16 you have to have those things.

17 So we had this language and it basically  
18 just said one year of management experience by  
19 performing the role of an executive manager  
20 duties and skills. So it didn't have any of  
21 that stuff. It was basically performing in the  
22 role of, you know, of a manager.

23 CHAIRMAN GERRITY: Do you know why it  
24 became such a big issue in the --

25 MR. HARRIS: I do. The previous -- the

1 previous board was very very concerned -- well,  
2 they had three things they were specifically  
3 concerned about.

4 Number one, they didn't like the directors  
5 of nursing coming in and try to say they had one  
6 year of experience.

7 Number two, they were concerned about these  
8 issues where they didn't believe that the  
9 paperwork that had been submitted with the  
10 application matched the testimony they were  
11 hearing from the letter of recommendation from  
12 the preceptor and/or the testimony of the  
13 applicant.

14 They were very concerned that the papers  
15 they had in front of them, including the  
16 facility organizational chart, didn't match what  
17 they were hearing, and they rightly or wrongly  
18 were concerned that perhaps the applicant was  
19 misrepresenting their actual experience, and  
20 they wanted to stop that.

21 And then the third thing they were  
22 concerned about is they didn't think -- they had  
23 really sort of tightened up on what they thought  
24 supervised management experience was and that  
25 wasn't in the rule. It sort of -- like the idea

1 of the 650 hours, it just said you had to do an  
2 internship and people were having it all over  
3 the board with the number of the hours, so the  
4 Board said we need 650 hours. The same thing  
5 with these executive duties, the management, the  
6 direct management experience, it didn't really  
7 sort of say what that was, other than  
8 reiterating staffing, planning and directing of  
9 budgeting, HR and facilities.

10 And they said, "We don't know what that  
11 means," so we want to make much more -- we  
12 really want to point out what we think the roles  
13 of the direct management experience are. You  
14 know, what do we think that really means. So  
15 they really wanted to provide some guidance to  
16 people. "Don't apply if you can't justify on  
17 paper that you did these things."

18 CHAIRMAN GERRITY: Maybe Karen can give  
19 some history.

20 MS. GOLDSMITH: I think -- yes. Part of --  
21 the problem from our side, from the applicant's  
22 side, was that language that said the role of  
23 the nursing home administrator or something,  
24 there's something like that in the old rule, and  
25 there was a concern that people were being --

1 the administrators were concerned that when they  
2 had someone in this management role, that they  
3 had to give them some of their responsibilities  
4 as administrator and they weren't willing to  
5 take the responsibility and the risk of being  
6 disciplined for something that they've now had  
7 to turn over to someone else because it says  
8 they were acting as an administrator. That's  
9 where the concern was from the provider side.

10 DR. HANKERSON: Well if we talk about --

11 MR. HARRIS: Oh, I'm sorry.

12 DR. HANKERSON: I'm just going to say if we  
13 talk about to perform the roles and duties as if  
14 one were licensed as a nursing home  
15 administrator or something like that, because  
16 they want to do the duties; they're just not  
17 having the licensure responsibility taken away.  
18 So some kind of language like that, that you  
19 perform the duties as a licensed home  
20 administrator does --

21 MR. HARRIS: What would you all think about  
22 -- and again, I don't mean to be wishy washy,  
23 but somebody just said basically performing  
24 duties substantially equivalent to those of a  
25 licensed administrator.

1 DR. HANKERSON: Yeah. Yeah.

2 CHAIRMAN GERRITY: Uh-huh.

3 MR. HARRIS: Good.

4 DR. HANKERSON: Yeah. And that basically  
5 says it.

6 MR. HARRIS: I mean, and that's going to be  
7 on the -- the burden is going to be on the  
8 applicant to say this is what I did and this is  
9 why it's substantially equivalent to a licensed  
10 administrator, or a licensed administrator does  
11 this, this and this, and I did this, this and  
12 this, kind of a thing. And you all would make  
13 that determination of equivalency.

14 DR. HANKERSON: And then you could get some  
15 feedback in the meantime from your members. Are  
16 they comfortable with that kind of language.  
17 And if not, what kind of language would they  
18 offer to us to be able to put in that they're  
19 comfortable with, but yet tells us that that  
20 individual substantially did do those duties.

21 MS. BERKOWITZ: But not leaving the  
22 administrator ultimately --

23 THE REPORTER: Can you --

24 MS. BERKOWITZ: I'm sorry. But not leaving  
25 the administrator ultimately responsible for

1 something somebody else has done as -- in  
2 training.

3 DR. HANKERSON: Well, as an administrator  
4 they shouldn't be allowing the end decision to  
5 be made by their intern anyway. It should  
6 really be their final decision. And I don't  
7 know how you put that in -- that's going to be a  
8 judgment call, that you're going to allow them  
9 to be in the decisionmaking process, but if you  
10 think it's something that's not going to fly  
11 with licensure to say, well that was a good  
12 idea, but we can't do it that way because of the  
13 rules or whatever it is. I mean, that's -- you  
14 know, you know, you can't really put that into  
15 language. That has to be a judgment of that  
16 administrator.

17 CHAIRMAN GERRITY: And I think, too -- I  
18 mean, and it goes back to what I said. It was  
19 never an issue for years and years forever in  
20 essence and then all of the sudden, 2012, and  
21 that's what -- you know, I don't know if it was  
22 the Board was just questioning it, but I go back  
23 to -- when I applied I just notified the Board,  
24 submitted the things and they did verify  
25 everything and that was it.

1           So I don't know why -- if it was just the  
2 feeling of the Board at the time, but all of the  
3 sudden that big shift happened and it didn't  
4 even sound like it was on the administrator's  
5 per se; it was just on the Board and then people  
6 were worried. It was a 50/50 shot whether you  
7 could apply that way.

8           But prior to that, I never heard of any  
9 issues with people that were in assistant  
10 administrator roles. That's the way I always  
11 envisioned it anyways and everybody I talked to  
12 was an assistant administrator role.

13           DR. HANKERSON: I think our climate in  
14 Florida has changed and the media and events  
15 that have happened recently that make people  
16 more aware of their license and, you know, I  
17 think probably that's where some of that comes  
18 from.

19           Community people and license people and,  
20 you know, we're driven by those types of events.

21           CHAIRMAN GERRITY: Uh-huh.

22           DR. HANKERSON: Surveyors and other  
23 regulatory people. So who knows what was  
24 happening two years ago in Florida as it relates  
25 to surveys and the media and we know they really

1           like to play up everything that happens in one,  
2           and the other 750 of us take that as a burden.  
3           So --

4           MR. HARRIS:  And in their defense you were  
5           -- they were down to three members, and so it --  
6           you sometimes -- when you have -- and those  
7           members had -- their terms had expired some  
8           years earlier so they were hold-overs.

9           Sometimes when you get down to that narrow  
10          of focus, people start -- you know, one of the  
11          advantages of a seven-member board obviously is  
12          you have seven points of view.

13          DR. HANKERSON:  Right.

14          MR. HARRIS:  When you start really bringing  
15          it down to two licensed administrator who have  
16          been hold-overs for a long long time, they do  
17          start to maybe sometimes narrow their focus and  
18          they, like you said, a couple of these events  
19          occurred and you don't have five other members  
20          to sort of say, "Whoa, whoa, you know --

21          DR. HANKERSON:  Right.

22          MR. HARRIS:  -- let's pull back a little  
23          bit from this.  We're overreacting."

24          DR. HANKERSON:  Well I think that this is a  
25          history of what we're getting, but that doesn't

1 mean that that has to be our decision, or we  
2 need to know what's going on now with people  
3 that are giving us input, applicants and making  
4 our determination by what we're seeing with  
5 folks coming before us. So it's good to have  
6 the history, but doesn't necessarily need to  
7 drive us on what we decide.

8 MR. HARRIS: So with that, I will take a  
9 stab at sort of basically rewriting those --  
10 those (2) (b) (2), paragraphs (a) and (b), along  
11 those lines to try to sort of -- I'll take out  
12 the "executive manager". I'll try to add the  
13 sort of performing substantially equivalent  
14 duties and maybe try to -- to bring in the  
15 concept of, you know, essentially to a licensed  
16 administrator or an assistant administrator,  
17 something like that to try to maybe include  
18 that.

19 It's always easier to edit out than it is  
20 to add. And so obviously you'll get this and if  
21 you guys, as Dr. Hankerson wisely suggested,  
22 have better suggestions or alternative  
23 selections.

24 DR. HANKERSON: Sometimes it's nice to ask  
25 the people that do the job every day, what their

1 input is.

2 CHAIRMAN GERRITY: Yeah.

3 MR. HARRIS: Uh-huh.

4 DR. HANKERSON: Because they're living it.  
5 And, you know, give us some suggestions.

6 CHAIRMAN GERRITY: And can we put up about  
7 notification of the Board when they --

8 MR. HARRIS: Yeah.

9 CHAIRMAN GERRITY: -- assume those duties?

10 MR. HARRIS: Yeah. I can certainly add  
11 something in about that. I'm a little -- I'm  
12 going to have to look at the statute a little  
13 bit more carefully on that and make sure you  
14 have -- that we think we can make an argument  
15 that there's statutory authority, because you're  
16 essentially adding a new requirement then and  
17 that is almost a preregistration requirement.

18 And I'm going to want to make sure you have  
19 firm -- if we're going to add essentially a new  
20 -- a new hurdle, you have to preregister for  
21 this, I can tell you right now, Marjorie  
22 Holiday, JAPC, is going to send me a letter  
23 saying what's your statutory authority for that.  
24 And so rather than put that in there and wait  
25 for her to comment on it and then draft it, I'm

1 going to look at it first. So I'll try to put  
2 something in there for this draft of the rule,  
3 but depending on when I'm able to do the  
4 research, I might have to come back to you with  
5 a suggestion about that, if I can't find what I  
6 think is enough statutory support to get it past  
7 JAPC.

8 CHAIRMAN GERRITY: What do you think with  
9 that suggestion? I mean, that's just my  
10 suggestion, but I'm obviously opened to whatever  
11 anybody else thinks with that.

12 DR. HANKERSON: Well I think unless it's  
13 like you said, regulatory in the statute, it's  
14 going to be hard to monitor it. And so somebody  
15 doesn't do it and then what happens? Does that  
16 jeopardize their application and -- again, it  
17 makes it more complicated.

18 So I think we have to take it based on the  
19 information that we talk about in rulemaking and  
20 what the statute says, and then balance it from  
21 there.

22 So I wouldn't put that in, but --

23 CHAIRMAN GERRITY: And I'm fine with that.  
24 So we'll just -- we'll get the word.

25 MR. HARRIS: You know, another thing you

1 can think about, rather than me putting this in  
2 here now, but maybe we could think about between  
3 now and down the road is -- and I don't know how  
4 to do this, but the concept might could be some  
5 kind of an optional, you know, as a way of -- as  
6 a way of --

7 DR. HANKERSON: Oh, like of a "may" instead  
8 of a "shall".

9 MR. HARRIS: Yeah. JAPC hates "mays"  
10 always, but if you made it as an option. Here's  
11 your one year of management experience. You  
12 know, in order to demonstrate this, an applicant  
13 may elect to register with the Board their  
14 intention to qualify for licensure by one year  
15 of management experience, and shall supply the  
16 following information. Something like that.

17 That might be a way to get there, because  
18 you're not requiring anybody to do anything.  
19 You're saying, look, here's what you have to  
20 show us. And, oh, by the way, if you -- you  
21 know, hint, hint. If you wanted to just sort of  
22 go through the Credentialing Committee, if you  
23 preregister and provide this information, that's  
24 what we're going to hold you to kind of a thing.

25 DR. HANKERSON: Yeah. The "mays" are good

1 even though she may not like them.

2 MR. HARRIS: Yeah. And I think --  
3 honestly, bit might be -- and it might be easier  
4 to get that passed her in the sense that you're  
5 saying, "We don't need statutory authority  
6 because we're not requiring somebody to do  
7 this."

8 DR. HANKERSON: It would be helpful, but --

9 MR. HARRIS: Right. Well you need  
10 statutory authority to do anything, but you're  
11 not adding an additional --

12 DR. HANKERSON: Right.

13 MR. HARRIS: -- hurdle that she's going to  
14 say, "Where in the statutes does it say you can  
15 require this preregistration?" You're saying  
16 the statute says you have to have -- the statute  
17 gives you one year of management experience.  
18 We've defined what that means. And we're giving  
19 people an option to help demonstrate that, which  
20 is an assistance to them. If they don't want to  
21 do it, they don't have to.

22 DR. HANKERSON: Uh-huh.

23 MR. HARRIS: It's harder for her, I think,  
24 to object than say, "You don't have the  
25 authority to do that." She might try, but I

1 think you can say, "Hey, it's optional, they  
2 don't have to."

3 CHAIRMAN GERRITY: Well and my thought  
4 behind it was it's helpful to the applicant --

5 MR. HARRIS: Right.

6 CHAIRMAN GERRITY: -- because you didn't  
7 spend a whole year and then find out at the end  
8 --

9 MR. HARRIS: Uh-huh.

10 CHAIRMAN GERRITY: -- they submitted it and  
11 didn't qualify.

12 MR. HARRIS: Exactly.

13 DR. HANKERSON: Yeah. I think having that  
14 language would be -- would be helpful.

15 MR. HARRIS: And I will work on it. I'm  
16 not sure if I can come -- that's going to be  
17 more tricky for me to draft. I don't know if I  
18 can come up with something, but I will work on  
19 it.

20 DR. HANKERSON: That will be input that  
21 we're going to get at the December.

22 MR. HARRIS: Right.

23 DR. HANKERSON: We're not voting on whether  
24 to accept all those, so I think that we need to  
25 be thoughtful that we're making sure that we're

1 not complicating it for people and we're making  
2 it more simple for them to be able to apply and  
3 knowing what the expectation is in Florida.

4 So I don't think we should rush to think  
5 that -- you know, we want to get it right.

6 MR. HARRIS: And obviously just because  
7 you're amending this rule, you don't have to do  
8 everything in one shot. You can amend -- I have  
9 literally got one rule for a different board  
10 that I think was amended like six times in eight  
11 months. I mean, it's got effective dates  
12 because, you know, we were tweaking it and  
13 trying to get it right and we were doing  
14 basically different sections.

15 DR. HANKERSON: Right. And I think it's  
16 really important with the sections that we're  
17 talking about with the supervision that we  
18 really get the input of those that supervise so  
19 that, you know, they give us a different point  
20 of view on what made them feel that their  
21 license might be in jeopardy, or that it wasn't  
22 clear enough and I think it'll be important to  
23 get their feedback.

24 CHAIRMAN GERRITY: And I think, too, when  
25 it goes, you know, out to the members and

1 everything that, you know, we want to have that  
2 level -- you know, we don't want just anybody to  
3 be able to get the license obviously. We're  
4 trying to make it fair and that's why even if  
5 they let the Board know ahead of time, it's just  
6 more so on their end so that they don't come a  
7 year later and get denied.

8 MR. HARRIS: In my mind -- I did my  
9 timesheet yesterday morning before I left the --  
10 before I left to come down here, and People's  
11 First has this little deal where you can click  
12 check timesheet and it goes to make sure your  
13 hours are right, you've entered the right  
14 billing codes and everything. I'm almost  
15 thinking something like that where somebody may  
16 choose to sort of submit either at the -- before  
17 they start the one year or sometime in the  
18 process sort of not a full application, but  
19 almost like a -- you know, a registration-type  
20 thing, which would give the Registration  
21 Committee or the Credentialing Committee an  
22 opportunity to look at that and -- because, you  
23 know, how many times have you seen people come  
24 before you and you said, "Ooh, you're three  
25 months short." You know, "Come back to us in

1 three months," kind of thing.

2 DR. HANKERSON: Uh-huh.

3 MR. HARRIS: Where somebody before they  
4 paid their application fee have the opportunity  
5 to register and present that information and  
6 then somebody could say to them, "Well, here are  
7 the issues that I see." Staff, whoever, could  
8 say, "You know, you understand one year means  
9 one year and you're saying you completed in  
10 December, but your one year doesn't run till the  
11 following March."

12 DR. HANKERSON: Well, I think electronic  
13 applications and updates, it's the wave. We  
14 have to go green. And sending in all this  
15 paperwork back and forth and -- it just gets to  
16 be too much.

17 If you belong to CD Broker they tell you,  
18 "Almost there for licensure. You just need  
19 this," and they add it up and you had too much  
20 and -- so there's no reason that we as a Board,  
21 you know, can't start going green. And I don't  
22 know what that impacts with the State of Florida  
23 for all Boards and stuff, but I think we need to  
24 start being a little innovative on what we're  
25 doing. Because some of the applications, it's

1 really hard to read, and then someone crosses  
2 out, I click the wrong box.

3 MR. HARRIS: Uh-huh.

4 DR. HANKERSON: You know, "I didn't do this  
5 right."

6 MR. HARRIS: Or the org charts that are so  
7 small you can't read them because the print is  
8 so small.

9 DR. HANKERSON: Exactly. But if you are  
10 filling out an application and it comes up red  
11 because you didn't do the right box, then that's  
12 a head's up that, "Ooh, I need to go back and  
13 read that because the information I had wasn't  
14 complete." So I think that's a really good  
15 idea.

16 MR. HARRIS: I think Edith's writing that  
17 she hates Larry and he's the worst guy in the  
18 world because that would be something -- one of  
19 her tasks. (Laughter.)

20 CHAIRMAN GERRITY: Do we want to move on to  
21 out-of-state endorsement?

22 DR. HANKERSON: Uh-huh.

23 MR. HARRIS: Yeah. And so for the  
24 out-of-state -- and this is down in Subsection  
25 (3), and what we have now in the rule is to

1 establish eligibility by endorsement the  
2 applicant must successfully pass the required  
3 examinations in Subsection (1) and hold a valid  
4 license, and prove substantially equivalent to  
5 or more stringent than the current requirements  
6 in the State, and have practiced for two out of  
7 the five years immediately proceeding.

8 Well, you can't do anything about the  
9 practice of two of the five years, and you can't  
10 do anything about the substantially equal to or  
11 more stringent than the current requirements  
12 because that's in the statute. So you can't get  
13 rid of those.

14 I think what you could do is add some  
15 language -- and I don't know if it would be in  
16 (3) or if it would be a new Subsection (4), or a  
17 new Subsection (3) and this would become (4),  
18 that would essentially get back to where the  
19 statute -- and this is 16 -- this is 468.1705,  
20 Licensure by Endorsement, and it says, "Meets  
21 one of the following requirements. Holds a  
22 valid active license to practice in another  
23 state provided that the current requirements are  
24 substantially equivalent to or more stringent  
25 than current, or meets qualifications for

1 licensure in -- by examination, 1695, and has  
2 successfully completed a national examination  
3 which is substantially equivalent to or more  
4 stringent than."

5 I think it would be very easy to sort of  
6 pull some of that language out, put it in your  
7 examination rule basically and say -- and again,  
8 I'm thinking out loud here. I don't know how  
9 this would actually be phrased, but it would say  
10 something to the effect of, "For applicants  
11 currently licensed in another state who have  
12 passed the NAB, the Boards find that -- the  
13 Board finds, you know, passage of the NAB -- and  
14 I'm thinking out loud. The Board finds that  
15 passage of the NAB within the five years  
16 immediately preceding application in Florida is  
17 presumed to be equivalent to or more stringent  
18 than the statutory requirements for licensure in  
19 Florida, and accordingly an applicant by  
20 examination -- or the Board will accept the NAB  
21 scores provided they meet or exceed the scale  
22 score of 113 or whatever it is.

23 Carol's saying she doesn't like that.

24 MS. BERKOWITZ: I'm not following. So in  
25 other words, you have NAB and you have a state

1 exam.

2 MR. HARRIS: Uh-huh.

3 MS. BERKOWITZ: Are they able to come in or  
4 do they have to sit for the Florida?

5 MR. HARRIS: No. So what we would say is  
6 instead of having to -- if you want to apply for  
7 licensure by examination, but you have a license  
8 in another state and have passed the NAB in your  
9 other state with a scaled score of more than  
10 113, the Board will accept that in lieu of  
11 requiring the examination again for licensure  
12 "by examination". So -- because we can't really  
13 do anything about the endorsement side of it.  
14 The statute is very clear. You have to have two  
15 of the five years and you have to have this more  
16 stringent than Florida. We can't fix that. But  
17 what we can fix is this method you've been doing  
18 where you've been saying if somebody's licensed  
19 in another state and has passed the NAB, we're  
20 not going to make them -- if they apply by  
21 examination in Florida, we're not going to make  
22 them take the NAB again.

23 (CROSSTALK.)

24 DR. HANKERSON: Except -- right, the  
25 Florida rules.

1 MR. HARRIS: Except to make Florida rules.

2 DR. HANKERSON: Right.

3 MS. BERKOWITZ: It's always been my  
4 understanding you take the NAB and then you sit  
5 for the state exam.

6 MR. HARRIS: Yeah, the Laws and Rules.

7 MS. BERKOWITZ: The Laws and Rules.

8 MR. HARRIS: Right.

9 MS. BERKOWITZ: So that would be the same  
10 thing that you're trying to accomplish? Are you  
11 --

12 MR. HARRIS: Well the way I've always -- in  
13 my mind, as a lawyer, I think the way the  
14 statute is probably supposed to work is you  
15 apply to the Board for certification for your  
16 eligibility for licensure. The Board certifies  
17 the applicant which allows them to then sit for  
18 examination -- and in Florida, that's the NAB --  
19 and Florida Laws and Rules.

20 MS. BERKOWITZ: But if you had the NAB from  
21 the other state you don't need it again.

22 MR. HARRIS: That is what the Board is  
23 saying now. They've allowed some licensees to  
24 go through who have the NAB from another state.

25 I don't like doing that without having it

1 -- well, I don't like doing it at all. But it  
2 doesn't matter what I like because I don't make  
3 the policy. So in my mind I'd be more  
4 comfortable if the Board were to include some  
5 language in the rule that says exactly that.

6 If you have the NAB from another state and  
7 you got a 113 or better, the Board will accept  
8 your application for licensure if the Board  
9 would otherwise certify you for examination.  
10 They're not going to make you take the NAB again  
11 because you're coming to Florida. They're going  
12 to accept that other score.

13 (CROSSTALK.)

14 MS. BERKOWITZ: And is that score going to  
15 be --

16 DR. HANKERSON: Within the five years if we  
17 put a timeframe.

18 CHAIRMAN GERRITY: I would prefer to stay  
19 away from a timeframe because if you're a good  
20 administrator in Pennsylvania for 20 years, then  
21 they come down and --

22 MR. HARRIS: Right.

23 CHAIRMAN GERRITY: -- so I think, you know  
24 -- and that's after we have them do the Florida  
25 Law and Rules if they had scored a --

1 MR. HARRIS: A 113 or better.

2 CHAIRMAN GERRITY: -- 113. I think that's  
3 -- that's fair enough.

4 MS. BERKOWITZ: And what if the score  
5 changes? I mean, do we really want that  
6 numerical value, the passed -- passed -- and  
7 that's enough.

8 (CROSSTALK.)

9 MR. HARRIS: I was just -- yeah.

10 MS. RODGERS: I was just going to say  
11 something, too, as a processor. When I receive  
12 -- or when I received letters from NAB  
13 confirming the individual's scores, down at the  
14 bottom it would have -- it will always have a  
15 statement, "At the time that this -- basically  
16 -- I'm summarizing here. Basically at the time  
17 that this person took the exam, NAB's minimum  
18 pass score for the scaled and raw was this  
19 number.

20 Nine out of ten times it's always been the  
21 113 scaled, but I have seen one or two where the  
22 scores were different because they took it so  
23 many years ago. But I just wanted to throw that  
24 out there, too, that they would indicate on  
25 those forms that the person passed based on

1           whatever NAB's passing score rate at that time  
2           was.

3           MS. BERKOWITZ: And also, I -- I tend to  
4           agree. I wouldn't want to put a timeframe. It  
5           seems like once you take that NAB you're done.  
6           I mean -- I know with the Bar exam, once we took  
7           the national, the multi -- I wouldn't want to  
8           take again.

9           DR. HANKERSON: And none of us want to take  
10          those tests --

11          MS. BERKOWITZ: Yeah.

12          DR. HANKERSON: -- or the exams again,  
13          right.

14          MS. BERKOWITZ: But you -- but the State's  
15          Laws and Rules, it makes sense.

16          CHAIRMAN GERRITY: Well, the NAB is the NAB  
17          score. It's not different in every -- in every  
18          state.

19          MS. RODGERS: Right. Yeah, that's true.  
20          It's NAB's -- it was NAB's thing. Because I  
21          think -- my understanding was that at one point  
22          in time that's just how it was. Before states,  
23          I guess, got involved. I don't know. I hadn't  
24          been around that long, I guess, but my  
25          assumption was that that's what it was for, is

1 because states maybe didn't have minimum  
2 requirements, passing rates, so they would use  
3 whatever NAB had come up with.

4 DR. HANKERSON: So it doesn't really matter  
5 if they passed it or not with whatever score,  
6 because they have the designation of -- of  
7 success with them, right?

8 CHAIRMAN GERRITY: I would just say if they  
9 pass the NAB --

10 DR. HANKERSON: If they pass the NAB.

11 MR. HARRIS: Yep, that's super easy. I  
12 mean, well I shouldn't super easy, but it's  
13 easier to literally include some language that  
14 essentially says, you know -- and I don't know  
15 where exactly to put it, but stick it in there  
16 somewhere that says, you know, for applicants  
17 who are currently licensed out of state and who  
18 have passed the NAB, the Board will accept that  
19 in lieu of requiring the NAB for licensure by  
20 examination in Florida.

21 DR. HANKERSON: Yeah. Because I think  
22 exams have definitely changed over the years.

23 When I took the nursing boards it was a  
24 three-day paper and pencil. Now they take it --  
25 it's how many questions on the computer and

1 they're good to go. So I don't know that we're  
2 going to want to characterize it with anything  
3 other than they passed.

4 CHAIRMAN GERRITY: Now the last meeting we  
5 did have a gray one and that was the person took  
6 the NAB and waiting to take -- I think it was  
7 the Illinois exam. So that's different than the  
8 scenario before with somebody 20 years, whatever  
9 amount of years, already in another state. So  
10 that person already took the NAB.

11 Do you recall that one?

12 MR. HARRIS: I do. And part of the issue  
13 was they were not licensed in that other state.  
14 But, to me, part of your comfort and security in  
15 protecting the public, health, safety and  
16 wellbeing is if they're licensed in another  
17 state, they did something to get licensed in  
18 another state. If they're practicing in another  
19 state, then you know they're doing it.

20 So to me, you, as the Board, have more  
21 comfort with somebody who is licensed and  
22 practicing in another state than somebody who  
23 either just took the NAB and never got licensed  
24 for whatever reason. And you say, well, you  
25 know, I took this exam but I never actually got

1 a license because I didn't do anything else, or,  
2 well, I took the NAB 20 years ago; I've never  
3 practiced a day in my life, but I have that  
4 score.

5 So, to me, by including the language that's  
6 -- you know, they're licensed and practicing --

7 DR. HANKERSON: Right.

8 MR. HARRIS: -- in another state, the Board  
9 will accept, you know, for -- you know, the  
10 Board will certify them for licensure by  
11 accepting the previous -- their passing score on  
12 the NAB from the state of licensure or whatever  
13 it is.

14 Because what that, to me, does is they're  
15 licensed, which means they had to pass the  
16 background checks and whatnot. I like the idea  
17 of practicing because that means they're doing  
18 something as opposed to just having -- you know,  
19 we hear about attorneys who pass the Bar 30  
20 years ago and never practiced a day in their  
21 life. I'm not sure I want them representing me  
22 in court.

23 DR. HANKERSON: Well, if they're  
24 disciplined we would want to know that.

25 MR. HARRIS: But you would have that -- but

1 that's part of the normal process.

2 DR. HANKERSON: Right. But I mean if they  
3 hadn't practiced, how would be know --

4 MR. HARRIS: Right.

5 DR. HANKERSON: -- that -- yeah. I mean,  
6 to me, that would be a problem.

7 MR. HARRIS: And then -- because really  
8 you're giving them a pass -- not a pass. You're  
9 saying whether you took the NAB a year ago or 20  
10 years ago, if you're -- if you have a valid  
11 license and your practicing -- and, you know,  
12 the two of the five years has eliminated a  
13 couple of people. Remember, we've had several  
14 people who've applied and unfortunately, for  
15 whatever reason -- I think one was maybe a  
16 working mother or whatever and she took some  
17 time off and wasn't able to produce -- she had  
18 practiced two of the five years, but she clearly  
19 was qualified in terms of her overall  
20 experience, but she didn't meet the terms of the  
21 statute.

22 So what you're trying to do is give people  
23 like that --

24 DR. HANKERSON: Right.

25 MR. HARRIS: -- you know, the ability to

1 apply for examination and then, in my mind,  
2 they're not taking the NAB. They're just taking  
3 the Florida laws and rules, which is an  
4 examination.

5 DR. HANKERSON: Right.

6 MR. HARRIS: And I think that -- that's  
7 going to hopefully open the doors for the  
8 qualified applicants --

9 DR. HANKERSON: Uh-huh.

10 MR. HARRIS: -- while still giving some  
11 level of flexibility to look at the people who  
12 are in the gray area and say, we agree with  
13 this, or, hmmm, no, this is not something that  
14 I'm comfortable with. I don't know that I want  
15 to do this.

16 CHAIRMAN GERRITY: And then they could also  
17 go through executive duties. Let me give you an  
18 example. Regional vice president in North  
19 Carolina comes to Florida. And if they wanted  
20 to apply they obviously didn't practice the last  
21 two out of five years --

22 MR. HARRIS: Right.

23 CHAIRMAN GERRITY: -- but then they could  
24 go through the exemption process, correct, as  
25 far as managerial experience.

1 MR. HARRIS: Right. I think -- that's what  
2 I think we're trying to capture here, these  
3 people who can't qualify for straight-up  
4 endorsement.

5 CHAIRMAN GERRITY: Uh-huh.

6 MR. HARRIS: It's not really fair to make  
7 them retake the NAB. And so you're really  
8 trying to look to see -- and in my mind,  
9 practice is a relatively ambiguous term, and you  
10 want it to be that way because you want to look  
11 at that vice president and see what did he do.

12 What was the vice president of operations  
13 with 12 nursing homes under him?

14 CHAIRMAN GERRITY: Uh-huh.

15 MR. HARRIS: He's probably qualified to be  
16 licensed. If he was the vice president of  
17 marketing with -- you know, responsible for a  
18 large nursing home group, but he hasn't actually  
19 practiced on his license because he's been busy  
20 -- he's never -- he hadn't done a site survey in  
21 ten years.

22 CHAIRMAN GERRITY: Uh-huh.

23 MR. HARRIS: Maybe you guys are a little  
24 less comfortable with that guy.

25 CHAIRMAN GERRITY: Well the practicing part

1 I always pictures, and I know other people have,  
2 as your license is the one hanging on the wall  
3 --

4 MR. HARRIS: Uh-huh. Right.

5 CHAIRMAN GERRITY: -- you know, two out of  
6 the five years.

7 MR. HARRIS: Well, you're a regional vice  
8 president. Do you think you're practicing  
9 nursing home administration today?

10 CHAIRMAN GERRITY: Arguably, no, because I  
11 don't have -- my license --

12 MR. HARRIS: Right.

13 CHAIRMAN GERRITY: I look at it as  
14 licensing hanging in a facility --

15 MR. HARRIS: Okay.

16 CHAIRMAN GERRITY: -- and I know a lot of  
17 other people I talk to --

18 MR. HARRIS: Right.

19 CHAIRMAN GERRITY: -- feel the same with  
20 that verbiage. And I don't know if y'all -- I  
21 mean, when you hear two out of five practicing,  
22 do you think of your license up, or do you think  
23 of --

24 MS. BERKOWITZ: (Unintelligible.)

25 THE REPORTER: You have to use your

1 microphone.

2 CHAIRMAN GERRITY: Yes.

3 MS. BERKOWITZ: Your license is on the  
4 wall. I mean, that's when you are responsible  
5 for the building.

6 CHAIRMAN GERRITY: Exactly. And that's why  
7 it says "practicing --

8 MS. BERKOWITZ: Two out of the --

9 CHAIRMAN GERRITY: -- two out -- so  
10 technically, you know, I would not be practicing  
11 because my license is not hung. Does that make  
12 sense?

13 MS. BERKOWITZ: Yes. Yes.

14 CHAIRMAN GERRITY: So that's where that  
15 verbiage there, that's -- and I know that it has  
16 been confusing for people for quite some time.  
17 Because you're exactly right. They have that  
18 experience and if we discussed it, yes, they  
19 were --

20 MS. BERKOWITZ: It's confusing.

21 MR. HARRIS: Well let me -- I think maybe I  
22 know at least where the discussion is today; try  
23 to -- try to come up with something. Again, it  
24 may be very inelegant to get it out there and  
25 have something before you that the Association

1 can look at, that everybody else in the world  
2 hopefully will want to comment.

3 I mean, we want as many comments as you can  
4 get. You want to hear from as many people in  
5 the public as you can get.

6 Get it out there, get it on the agenda for  
7 the December 12th meeting. You all -- the seven  
8 of you all -- well, the six of you all can  
9 discuss it. The Associations will have some  
10 time to look at it; maybe other members of the  
11 public will have some time to look at it. And  
12 then you guys can either refine it then or at  
13 least have sort of a list of concerns, areas  
14 that you want refined, and then maybe a special  
15 conference call January'ish, you know, to try to  
16 keep this thing moving.

17 I mean, we don't have to do that obviously.  
18 Mr. Chairman, you control the agenda, but I  
19 would think that the sooner we can get this  
20 rolling, if we're refining language, the sooner  
21 we get it proposed, the sooner you can get it  
22 effective and the more benefit that'll be to  
23 these licensees who are -- you know, right now  
24 at the December meeting, I'm sure you're going  
25 to have a whole slate of people with the

1 one-year direct management experience who are  
2 coming before the full board, you know, so --

3 CHAIRMAN GERRITY: And the next Board  
4 meeting -- because obviously I'm not going to be  
5 at the next Board meeting and I can review the  
6 rules, so if we were able to move forward on the  
7 rules, when would they take effect? The next  
8 Board meeting they would discuss this at the  
9 end, end of the meeting.

10 MR. HARRIS: Right.

11 CHAIRMAN GERRITY: And then if --

12 MR. HARRIS: So my idea would be on a  
13 timeframe, again, would be to allow this  
14 workshop to stay open for, I don't know, a week  
15 or ten days for written comments to come in. So  
16 let's say a week from Monday, whatever date that  
17 is. I think it's the 25th or 26th, something  
18 like that.

19 I don't know if we're going to get any  
20 written comments, but -- so maybe we should  
21 actually just leave it open for five days. So a  
22 week from today, so whatever day that is -- the  
23 21st.

24 Then I'm going to draft up language. I'm  
25 going to send that out. It's going to be on the

1 agenda. You'll have a copy of it,  
2 Dr. Hankerson, you'll have a copy of it.

3 You can send written comments into  
4 Ms. Rodgers who will then distribute them.

5 MS. RODGERS: Okay.

6 MR. HARRIS: And I'm thinking of like  
7 almost redlining. You know, redline it up,  
8 suggestions, whatever. The Associations will  
9 redline it.

10 At that meeting, on December 12th, there  
11 would be in my mind a discussion of the  
12 language, and does the Board like it? Do they  
13 dislike it? They would look at your comments,  
14 decide what do they want to do.

15 And in my mind, one of two things could  
16 happen. (A) the five -- the four members who  
17 are there could literally come up with language  
18 right then and there and say, we want to vote to  
19 propose this rule with this language. And they  
20 can do that, clearly.

21 In my mind, the better thing for them to do  
22 would probably be to make comments, you know,  
23 consider the comments from anybody in the public  
24 who's commented, consider redlines, consider  
25 what they hear at the meeting, discuss it.

1 Consider you guys' written comments. And then  
2 we would want to schedule a meeting in  
3 early-to-mid January, telephone conference call.  
4 One item on the agenda, fairly short, you know.  
5 Consideration of the rule.

6 So what I would do then is when I got back  
7 in December, take all of the stuff that I -- you  
8 know, I'll go back and listen to the transcript  
9 of the December meeting, get with the attorneys  
10 who are going to be covering it -- Deb Loucks,  
11 who's extremely competent. Get with her. Come  
12 up with writing language to accomplish these  
13 concerns. Then that would be on the January  
14 meeting for sort of a final redlining and an  
15 up/down vote. Okay. Here are the final tweaks,  
16 final changes. We're voting to propose this  
17 rule.

18 If that happened, we would -- we've either  
19 already opened this rule for development or I  
20 will open this rule for development so that -- I  
21 think we already opened it.

22 MS. RODGERS: I thought we did open it.

23 MR. HARRIS: Yeah. So that -- these  
24 comments.

25 So the day you guys you vote to propose

1 language I will beat my paralegal over the head  
2 and we'll get the language notices done and  
3 we'll get them published.

4 So if we published in -- let's say the  
5 meeting is in mid-January, we get them published  
6 in mid-January. It's 21 days for comments or a  
7 request for hearing, so that puts us to  
8 essentially the first week of February. I don't  
9 know if we would get any JAPC comments or not.  
10 If we did, we would either have to do another  
11 special meeting to deal with those, or we would  
12 have to put that on your March meeting agenda  
13 for final consideration.

14 If there were no comments, we could file  
15 it, you know, in mid-February. If there were  
16 comments, we would have to bring those comments  
17 back to you all for a vote on how to respond,  
18 and then we would do a notice of change which  
19 adds another 21 days.

20 So I guess what I'm saying is the earliest  
21 it could be done would be probably the end of  
22 February on this schedule with a special meeting  
23 in January.

24 If there are comments we'd probably need to  
25 bring it back to the Board at its next meeting

1 in March or whenever your next meeting is, and  
2 then that would add another roughly 40 days on  
3 top --

4 DR. HANKERSON: I think that's okay because  
5 we want to be thoughtful of what we do and not  
6 just keep changing back and forth and make sure  
7 that we get input from everybody.

8 MR. HARRIS: It's better to get it right.

9 CHAIRMAN GERRITY: For sure.

10 DR. HANKERSON: Yeah. I think it's better  
11 to get it right than to have to keep talking  
12 about it.

13 MR. HARRIS: And also, one other thing, you  
14 don't generally want to rely on this as a  
15 lawyer, but unadopted rule -- you know,  
16 unadopted rules -- Boards don't ever want to do  
17 that. But if you're in the process of fixing  
18 your rule, you have a little bit more freedom to  
19 start, you know -- to do the same thing over and  
20 over. If you're in the process of fixing your  
21 rule to allow that, it's harder to challenge you  
22 and say it's an unadopted rule if you're trying  
23 to adopt the rule.

24 So, these applicants we had before, if you  
25 all want to make the same decisions in December

1 and allow people from out of state to -- if you  
2 want to give them credit for the NAB, you're not  
3 going to get challenged for an unadopted rule if  
4 you're trying to amend the rule to allow that.

5 DR. HANKERSON: I see.

6 MR. HARRIS: So that's --

7 DR. HANKERSON: With the intent of what  
8 we're trying to do with the rule.

9 MR. HARRIS: Correct.

10 DR. HANKERSON: Okay.

11 MR. HARRIS: Right. Because the defense to  
12 any type of a challenge is we're trying to fix  
13 it.

14 DR. HANKERSON: Right.

15 MR. HARRIS: You know, we're already  
16 working on it. And it's not fair to keep these  
17 people held up until we get it fixed.

18 MS. RODGERS: Mr. Harris, one question.  
19 You wanted to allow five days for comment.

20 MR. HARRIS: I was thinking seven days from  
21 today; close of business next Friday.

22 MS. RODGERS: From today. If you give us a  
23 couple more days I can actually put it on the  
24 slider on the web that comments are being  
25 solicited.

1 MR. HARRIS: Okay. Whatever -- whatever  
2 works best for you.

3 MS. RODGERS: That would be like Monday to  
4 Monday.

5 MR. HARRIS: Okay.

6 DR. HANKERSON: I think that's good. We  
7 should make use of our website because people  
8 have access to that and -- then again, we're  
9 serving notice in many different areas. Yeah.

10 MR. HARRIS: Yeah. Whatever works best for  
11 you. I was just sort of throwing a date out  
12 there.

13 DR. HANKERSON: Well I think the more  
14 information you get out to people the happier  
15 they are thinking that we're not trying to do  
16 something underhanded, and that it becomes clear  
17 for them, and that they have a part of the  
18 process, and that's important, I think.

19 CHAIRMAN GERRITY: So is there anything  
20 else or --

21 MR. HARRIS: I don't have anything. I  
22 think I understand my instructions and we'll  
23 endeavor to comply with that.

24 Do you all have anything, anything that we  
25 need to talk about?

1 MS. RODGERS: No. Thank you.

2 Thank you all for attending.

3 MR. HARRIS: Thank you so much.

4 CHAIRMAN GERRITY: Thank you everybody.

5 DR. HANKERSON: Thanks.

6 (The November 2014 Florida Board of Nursing

7 Home Administrators, Rule Development Workshop

8 concluded at 2:54 p.m.)

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**C E R T I F I C A T E**

STATE OF FLORIDA )

COUNTY OF ORANGE )

I, DIANA C. GARCIA, Court Reporter, certify that I was authorized to and did report the aforementioned November 2014 Board of Nursing Home Administrators, Rule Development Workshop meeting, and that the transcript is a true and complete record of my notes and recordings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I financially interested in the outcome of the foregoing action.

DATED this 5th day of December, 2014.

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DIANA C. GARCIA, Court Reporter  
Notary Public, State of Florida

Commission No: EE 121442  
Commission Expiration: 08/14/15