

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

FLORIDA | Board of Nursing Home Administrators

DRAFT MINUTES

June 26, 2015

Department of Health
4042 Bald Cypress Way
Tallahassee, FL 32399

Conference Call Meet Me Number: (888) 670-3525

Participant Code: 7342425515



Henry Gerrity, III, NHA
Chair

Scott Lipman, MHSA, NHA
Vice-Chair

Anthony Spivey, DBA
Executive Director

1 **General Board Business started: 9:00 a.m.**

2 The meeting was called to order by Mr. Lipman, Vice-Chair. Those present for all or part of the meeting included the following:

3
4 **MEMBERS PRESENT:**

5 Scott Lipman, MHSA, NHA, Vice-Chair
6 Chantelle Fernandez, MBA, NHA
7 Michael Helmer, BA
8 Patricia Feeney, RN, BSN, HCRM
9 Christine Hankerson, MSN, MS/P, PhD, RN
10 Bill Phelan

4 **STAFF PRESENT:**

Anthony Spivey, DBA, Executive Director
Joseph Lesho, Program Operations Administrator
Michele Jackson, Regulatory Supervisor/Consultant
Kellee Crowson, RSII
Keri Meany, RSII
Edith Rogers, AAI

11
12 **EXCUSED:**

13 Henry Gerrity, III, NHA, Chair

14
15 **Action:** Motion to excuse the absence of Henry Gerrity, III, NHA was made by Dr. Hankerson Seconded by Mr. Helmer.

16 Vote: 6 yeas / 0 opposed; motion carried / failed

17
18 **BOARD COUNSEL:**

19 Lawrence Harris, Assistant Attorney General
20 Office of the Attorney General

21
22 **PROSECUTION COUNSEL:**

23 Carrie McNamara, Assistant General Counsel

24
25 **OTHERS PRESENT:**

26 Carol Berkowitz, Esq.
27 Florida Health Care Association

28
29 **COURT REPORTER:**

30 Court Reporter: For the Record Reporting
31 Phone: (850) 222-5491
32 Contact: Kay Fitchner

33
34 *Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda outline. AUDIO from*
35 *this meeting can be found online: <http://floridasnursinghomeadmin.gov/meeting-information/>*

36
37 **Section II started at 9:03 a.m.**

38
39 **II. APPROVAL OF MEETING MINUTES:**

40 Minutes of the April 17, 2015 Full Board meeting were reviewed.

41
42
43 **Board Action:** Motion to accept the minutes as written was made by Helmer Seconded by Fernandez

44 Vote: 6 yeas / 0 opposed; motion carried

45
46 **Section II concluded at 9:04 a.m.**

47 **Section III started at 9:04 a.m.**

48
49 **III. APPLICANTS PRESENTED FOR BOARD REVIEW:**

50
51 **a. Nursing Home Administrator**

52
53 **i. Uchenamee Vital Durulawrence:**

54 Mr. Durulawrence was not present, so the board agreed to revisit this item after 30 minutes to allow him time to
55 join the call.

56
57 **Section III concluded at 9:06 a.m.**

58 **Section IV started at 9:06 a.m.**

1
2 **IV. LICENSURE RATIFICATIONS**
3

4 **a. Nursing Home Administrators**
5

6 **Action:** Motion to ratify the issuance of Nursing Home Administrator licenses listed on page 36 of the agenda (Alvin
7 Jerard Barriner through Steel Gaven Dutton) made by Dr. Hankerson. Seconded by Ms. Feeney.
8 Vote: 6 yeas / 0 opposed; motion carried
9

10 **b. Nursing Home Administrators (Exam)**
11

12 **Action:** Motion to ratify individuals approved by Board Staff, Credentialing Committee, or Full Board to sit for the
13 Nursing Home Administrator laws and rules examination and/or the NAB examination listed on page 37 of the agenda
14 (Kelly Ann McIntyre through Shalonda Michelle Morton) made by Mr. Helmer. Seconded by Ms. Fernandez.
15 Vote: 6 yeas / 0 opposed; motion carried
16

17 **c. Administrators-in-Training**
18

19 **Action:** Motion to ratify the issuance of Administrator-in-Training licenses listed on page 38 of the agenda (Benjamin
20 Stevens through Cameron Gordon-Forbes) made by Mr. Helmer. Seconded by Dr. Hankerson.
21 Vote: 6 yeas / 0 opposed; motion carried
22

23 **d. Preceptors**
24

25 **Action:** Motion to ratify the issuance of Preceptor licenses listed on page 39 of the agenda (Dana Nokley through Samantha
26 Bailey) made by Dr. Hankerson. Seconded by Mr. Phelan.
27 Vote: 6 yeas / 0 opposed; motion carried
28
29

30 **Section IV concluded at 9:12 a.m.**

31 **Section V started at 9:12 a.m.**
32

33 **V. CONTINUING EDUCATION:**
34

35 **a. Ratification –**
36

37 **i. Ratification of Continuing Education Providers and Courses approved by CE Committee Chair**
38

39 **Board Action:** Motion to ratify Continuing Education courses approved by CE Committee Chair made by Ms.
40 Feeney. Seconded by Mr. Helmer.
41 Vote: 6 yeas / 0 opposed; motion carried
42

43 Discussion ensued to clear up some confusion regarding the ratification of courses versus the ratification of
44 providers. Mr. Helmer then made a motion to ratify Training & Etracking Solutions as an approved provider,
45 which was seconded by Ms. Feeney. No vote was taken.
46

47 After additional discussion, a new motion was made.
48

49 **Board Action:** Motion to ratify Continuing Education courses and providers approved by CE Committee Chair
50 made by Ms. Feeney. Seconded by Mr. Helmer.
51 Vote: 6 yeas / 0 opposed; motion carried
52

53 **b. CE Course Application –**
54

55 **i. Provider: Approved Medical CEUs**
56

57 **1. “Medical Errors and How to Prevent Them” Course #20-371594**
58

1 This issue was tabled at the April 17, 2015 Full Board meeting because the application was deemed
2 incomplete. The board office attempted to contact the provider to obtain the missing information both by
3 phone and through the CE Broker system. The provider has not provided the requested information, so the
4 application is once again before the board for final action.
5

6 **Action:** Motion to deny CE course #20-371594 made by Dr. Hankerson. Seconded by Mr. Phelan.

7 Vote: 6 yeas / 0 opposed; motion carried
8

9 **Section V concluded at 9:22 a.m.**

10 **Section VI started at 9:22 a.m.**

11
12 **VI. PROSECUTION REPORT:**

13 Ms. McNamara told the board that prosecution has five open cases, two of which are ready for the Probable Cause Panel,
14 with the other three under legal review.
15

16 **Section VI concluded at 9:25 a.m.**

17 **Section VII started at 9:25 a.m.**

18
19 **VII. CHAIR/VICE-CHAIR REPORT:**

20
21 **a. Future Agenda Items – Nothing to report**
22

23 **Section VII concluded at 9:26 a.m.**

24 **Section VIII started at 9:26 a.m.**

25
26 **VIII. EXECUTIVE DIRECTOR'S REPORT:**

27
28 **a. Annual Delegation of Authority**

29
30 Dr. Spivey presented the 2015-2016 Annual Delegation of Authority to the board.
31

32 **Discussion:**

33 It was noted that the "Authority to act on motions affecting an individual appearance at board meetings" was
34 mistakenly left blank on the chart presented in the agenda materials, and that such authority should be granted to the
35 board chair.
36

37
38 **Action:** Motion to accept the Annual Delegation of Authority with the noted correction made by Dr. Hankerson.

39 Seconded by Mr. Phelan.

40 Vote: 6 yeas / 0 opposed; motion carried
41

42 **Section VIII concluded at 9:29 a.m.**

43 **Section III resumed at 9:29 a.m.**

44
45 **III. APPLICANTS PRESENTED FOR BOARD REVIEW:**

46
47 **a. Nursing Home Administrator**

48
49 **ii. Uchenamee Vital Durulawrence:**

50
51 At this time, the board decided to return to Section III.
52

53 Mr. Durulawrence was not present, and was not represented by counsel.

54 Mr. Durulawrence submitted an application for licensure as a nursing home administrator based on one year of
55 management experience. Upon review of the application by the Credentialing Committee, it was determined that
56 the applicant does not meet the requirements for licensure pursuant to Rule 64B10-11.002, F.A.C., so the applicant
57 requested that his file be reviewed by the full board.
58

1 **Discussion:**

2 Since Mr. Durulawrence was not present, Mr. Harris presented the board with different options to proceed. He said
3 that upon his review, he felt the application wasn't legally sufficient, but that the decision was up to the board.
4

5 Mr. Lipman stated that his review also lead him to believe that the application was not sufficient.
6

7 Dr. Hankerson made a motion to deny the application for licensure, which was seconded by Ms. Fernandez.
8 Before a vote was taken, Mr. Harris explained to the board that in past cases of denial, the board allowed the
9 applicant the opportunity to withdraw the application so as to not have a denial appear on their application history.
10 After discussion, Dr. Hankerson amended her motion.
11

12 **Action:** Motion to deny the application for licensure and allow the applicant to withdraw the application within 5
13 business days of receipt of the Notice of Intent to Deny was made by Dr. Hankerson. Seconded by Ms. Fernandez.
14 Vote: 6 yeas / 0 opposed; motion carried
15

16 **Section III concluded at 9:37 a.m.**

17 **Section VIII resumed at 9:37 a.m.**

18
19 **VIII. EXECUTIVE DIRECTOR'S REPORT:**

20
21 **b. Discussion regarding Provisional License**

22
23 Dr. Spivey explained to the board that the board office received correspondence from Duane Gallagher asking the
24 board to review the previously repealed rule that allowed for the issuance of provisional licenses because he felt that
25 these licenses could still be useful.
26

27 Mr. Harris explained that provisional licenses used to be issued to individuals who were taking the place of a nursing
28 home administrator on a temporary basis, but that they are no longer necessary in the current environment because of
29 the existence of staffing agencies that can fill this need with fully licensed nursing home administrators.
30

31 Discussion ensued and the board agreed that there is no advantage to reinstating this license type at this time. No
32 further action was necessary.
33

34 **Section VIII concluded at 9:47 a.m.**

35 **Section IX started at 9:47 a.m.**

36
37 **IX. BOARD COUNSEL'S REPORT**

38
39 **a. Rules Status Report – May 2015**

40 Mr. Harris updated the board on Rules 64B10-11.002-003, F.A.C., which were filed for adoption and should be
41 effective by the second week of July.
42

43 **b. Rule 64B10-11.012, F.A.C. – Review and Discussion**

44 Mr. Harris reminded the board that at the last meeting, the board asked what, if any information the rule/form would
45 add that isn't already captured by other systems. He explained that licensees are already required to update their
46 address information pursuant to Chapter 456, F.S., and that facility names are regulated by AHCA. Mr. Lesho stated
47 that there's nowhere in the DOH systems to add the information even if it were to be captured.
48

49 Ms. Feeney asked about possibly repealing the rule, and Mr. Harris said that they could if they wished to.
50

51 Carol Berkowitz asked about the timeline and effective date of repealing the rule. Mr. Harris explained that it would be
52 the same timeframe as other types of rule changes, which is approximately 70 days.
53

54 **Action:** Motion to repeal Rule 64B10-11.012, F.A.C. made by Dr. Hankerson. Seconded by Mr. Helmer.
55 Vote: 6 yeas / 0 opposed; motion carried
56

57 **c. Rule 64B10-16, F.A.C. – Review and Discussion**

1 Mr. Harris explained that this rule has been in process for a while, and that he feels it would be best to work with board
2 staff, members of the board, and Ms. Berkowitz to come up with draft language to bring to a future meeting.

3
4 Dr. Hankerson emphasized the importance of gathering input from affected parties, such as members of the
5 community.

6
7 Ms. Berkowitz said she would be happy to work with Mr. Harris to create this draft.

8
9 **d. Suggestions for Draft New Rule – Responsibilities of Administrators Within a Facility**

10 Mr. Harris explained that this proposed rule has been presented in the past and then tabled, and that he came up with
11 language based on past discussions. He said he feels that it may be an instance of finding a solution without a problem.

12
13 Ms. Berkowitz said that FHCA’s Rules and Regulation committee reviewed the draft, and they are concerned that it
14 may be duplicating the statutes, as this is already addressed in Chapter 400, F.S. She said they also expressed concern
15 about the “ultimate responsibility” of other licensed administrators because it would be unfair to discipline the head
16 administrator for the actions of other licensees.

17
18 Mr. Lipman explained that the original intent of this rule was to identify and define “assistant administrator,” and that
19 this draft still doesn’t achieve that. He went on to say that there are other rules that use the term, but they’re
20 complicated by the fact that the term is not defined.

21
22 Mr. Harris said that he could identify any and all rules that use the term and assess whether or not changes should be
23 made.

24
25 **e. Rule 64B10-12.017 – Revisions/Draft Language**

26 Mr. Harris explained that the fee in the existing rule was incorrect per the statute, and that it must be amended to
27 correct the fee.

28
29 **Action:** Motion to open Rule 64B10-12.017, F.A.C. for development and to propose language as contained in the
30 meeting materials made by Mr. Phelan. Seconded by Dr. Hankerson.

31 **Vote:** 6 yeas / 0 opposed; motion carried

32
33 Mr. Harris asked the board if the proposed change to the rule would have an impact on small business or increase
34 regulatory costs by more than \$200,000 in the aggregate in the state of Florida within 1 year of implementation. Mr.
35 Phelan motioned to respond “no.”

36
37 Mr. Helmer asked if an analysis of financial impact should be done even if it’s not greater than \$200,000. Mr. Harris
38 stated that the department provides a long-term financial outlook each year, and the impact of this change would be
39 addressed in that report. Mr. Helmer then seconded the motion that was on the floor.

40
41 **Action:** Motion to find that the proposed rule change will not have an adverse impact on small business or increase
42 regulatory costs by more than \$200,000 in the aggregate in the state of Florida within 1 year of implementation made
43 by Mr. Phelan. Seconded by Mr. Helmer.

44 **Vote:** 6 yeas / 0 opposed; motion carried

45
46 **f. Rule 64B10-15 – Suggested Revisions**

47 Mr. Harris reminded the board that they previously proposed revisions to rewrite the CE rules to update and restructure
48 the rule chapter. The Joint Administrative Procedures Committee (JAPC) responded with a letter expressing concern
49 over some of the proposed language. Mr. Harris provided the board with possible changes to address these concerns:

- 50
51
- 52 • 64B10-15.001(9)-(11), F.A.C.: Add the words “in the area of risk management” to these three subsections.
 - 53 • 64B10-15.002, F.A.C.: JAPC recommended the removal of a comma in this section, but Mr. Harris did not
54 agree with the change.
 - 55 • 64B10-15.0021(4), F.A.C.: JAPC recommended removal of this subsection because it reiterates what’s
56 already written in the Florida Statutes.
 - 57 • 64B10-15.0021(6)(b), F.A.C.: The reference to Rule 64B10-15.002(10), F.A.C. should be changed to Rule
58 64B10-15.002(1), F.A.C.
 - 64B10-15.001(2), F.A.C. – Add the words “of instruction” after the phrase “50 clock minutes.”

- 64B10-15.001(8), F.A.C. – Add the words “identification of the domain(s) of practice as identified in Rule 64B10-16.005, F.A.C.”; strike the phrase “contributed to the enhancement of the licensee’s skills,” and replace with “promoted the continued development of knowledge and skills of the licensee’s professional practice.”

Mr. Harris then explained that JAPC had concerns regarding the board’s statutory authority to grant CE credit for certain activities. Mr. Harris said he reviewed the practice act and agreed that statutory authority may not exist, and that the board may have to repeal these sections of the rule [Rule 64B10-15.001(3)-(8), (12)-(13), F.A.C.].

After discussion regarding possible solutions to this issue, the board agreed to have additional research conducted to be presented at the next meeting.

Mr. Harris then asked for authorization to contact JAPC to toll the rule. The board agreed; no motion was necessary.

Section IX concluded at 10:48 a.m.

Section X started at 10:48 a.m.

X. COMMITTEE REPORTS

a. **AIT/Preceptor – Ms. Fernandez/Mr. Gerrity/Mr. Lipman** – Nothing new to report.

b. **Budget – Mr. Helmer** – Nothing new to report.

c. **Continuing Education – Ms. Feeney**

i. **Discussion – Correspondence from Que Tech, LLC.**

On April 2, 2015, a letter was sent from Adrienne Rodgers, BSN, JD to Que Tech, LLC regarding irregularities in the number of hours awarded to CE course participants that were discovered during a CE audit of the provider. A response from the provider was received by the board office on April 23, 2015. The response was placed on the agenda for board discussion.

Discussion:

Ms. Feeney expressed that she was confused by Que Tech’s response and said that she wasn’t comfortable with it. Mr. Phelan agreed.

The board agreed that the courses should be removed from the CE Broker system, and directed board staff work with the provider to help them get their courses in compliance. A motion was made to that effect.

Action: Motion to suspend approval of courses in Florida, effective immediately, until they comply with the boards CE rules with the assistance of board staff made by Dr. Hankerson. Seconded by Mr. Phelan.

Vote: 6 yeas / 0 opposed; motion carried

d. **Credentials – Mr. Lipman**

i. **NHA Licensure Requirement Summary:** Mr. Lipman expressed that he’s noticed a decrease in the number of applicants appearing before the board, and sees that as evidence that the process is working well.

He also discussed his attendance of the NAB meeting at the beginning of June, specifically mentioning that representatives from some states expressed to him that they are not getting sufficient documentation from the state of Florida when trying to license candidates by endorsement. Dr. Spivey said that he will review what’s being submitted and will work with Licensure Services to make sure the proper documentation is given in these situations.

Mr. Lipman concluded his report by informing board staff that NAB has asked that the information on their website pertaining to the state of Florida be updated. Board staff agreed to handle the matter.

e. **Disciplinary Compliance – Dr. Hankerson:** Nothing to report.

1 f. **Healthiest Weight – Dr. Hankerson:** No further updates since the last report.

2
3 g. **Legislation – Mr. Helmer:** Nothing new to report.

4
5 h. **Probable Cause**

6 i. **Stats:** Reviewed earlier

7
8 i. **Rules – Ms. Feeney:** Nothing to add to Mr. Harris’s rules discussion.

9
10 j. **Unlicensed Activity – Ms. Feeney:** Ms. Feeney had nothing to report, and asked how she would go about getting a
11 report for future meetings. Board staff agreed to work with the Unlicensed Activity team to get reports.

12
13
14 **Section X concluded at 11:17 a.m.**

15 **Section XI started at 11:17 a.m.**

16
17 **XI. OLD BUSINESS**

18
19 **XII. NEW BUSINESS**

20 Dr. Hankerson asked board staff about what is required when a CE provider requests to change the name of a course that
21 has already been approved. Ms. Meany explained that the provider is required to submit a new course application to
22 complete a course name change.

23
24 Dr. Hankerson then asked about performing audits to ensure that CE providers remain in compliance with the CE rules.

25
26 **Section XII concluded at 11:26 a.m.**

27 **Section XIII started at 11:26 a.m.**

28
29 **XIII. NEXT MEETING DATE: August 28, 2015 – Teleconference Call –**

30
31 Mr. Lipman stated that he won’t be in attendance for the August 28 meeting. Due to the vast amount of rules that need to be
32 discussed, Mr. Harris suggested that the next meeting be in person.

33
34 Due to various conflicts, the board agreed to reschedule the meeting for September 18, 2015, and instructed board staff to
35 try to schedule the meeting in Orlando.

36
37 **XIV. ADJOURNMENT**

38
39 **Action:** Motion to adjourn made by Dr. Hankerson. Seconded by Mr. Helmer

40 **Vote:** 6 yeas / 0 opposed; motion carried

41
42 **General Board Business concluded at 11:32 a.m.**

43 The meeting was adjourned at 11:32 a.m.