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
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
American Court Reporting
407.896.1813

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PROCEEDINGS

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.
Edith Rogers is an Administrative Assistant and Board Staff.

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

And if I could have the two participants --

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

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

MS. RODGERS: Thank you.

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

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

THE REPORTER: Thank you.

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

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

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

THE REPORTER: Yeah.

MS. RODGERS: This is a public meeting.
It's recorded. So when you speak please identify yourself.

Please also mute cellphones.

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

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

DR. HANKERSON: Correct.

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

DR. HANKERSON: 002, zero zero two.

Eligibility for Licensure.

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

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

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

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

At this time, I'm going to turn it over to Board counsel so he can start the rulemaking
section of the meeting.

MR. HARRIS: Thank you.

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

And so I think over the past year you all have run into a number of situations where the rubber is starting to meet the road in terms of what do you want to do. Is the rule really working the way you all want it to. And, if not, is there anything that can be done from a rule perspective to maybe try to get the rule to where you want it to be so that it will meet the
needs that you have, and the community, and I'm
glad that we have some representatives of the
associations here because they're probably --
and whether they're able to speak, you know,
today, at least they can hear and listen and
offer some advice, and then take any ideas back
to their membership, and maybe you all would
agree to allow some written comments after the
Workshop, because they're sort of probably
hearing from their members about stuff that is
working or is not working, or some suggestions.

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

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

But then second, what about that class of
people we identified at that meeting who
graduated from college before the rule's
effective date, so prior to December 1st of
2013, who completed an internship that qualified back in the old rule, but now they're being told "you don't have 650 hours, you're not qualified for licensure". And if they're not in college anymore, if they've graduated, I don't see how they can go back and fix that because their college isn't going to be able to -- they're not necessarily going to re-enroll for purposes of getting extra internship hours.

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

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

The second area that I think might be worth exploring -- I guess this is really not a whole second area by itself, but what about the masters degree issue? Because currently the rule is sort of structured to have a bachelorette degree and, you know, I've told you all at meeting after meeting I think of it as the right degree and then the wrong degree. And
if you have the right degree, you have one sort of requirement for either an AIT program or hours. If you have the wrong degree, it's a different internship, or AIT program.

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

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

There was an issue with delegation and, you know, in the past there was a -- I believe legally you absolutely have the right to delegate that review to a committee. But there
was some thought that maybe the rule should be changed to make that very clear. And if you're going to delegate it the Credentials Committee, are there any conditions on that delegation. Or do you want it to be the same way where every single person will have to appear before the full Board, which in effect has the affect of slowing down people who may be, on the face of it, are clearly qualified. You know, their documentation is one-hundred percent in place, but they still have to wait three months for a Board meeting. So that's sort of the second area.

And then the third area I thought we could maybe talk about is this idea for these out-of-state people who are trying to come in by endorsement. And, you know, we are bound by the statute that you all have. You operate as creatures of statute, and the statute says essentially to qualify by endorsement you have to have a degree -- a license in another state that's standard or substantially equivalent to or more stringent than Florida's, or meet the qualifications for licensure by examination and take the exam.
And I'm thinking that you all might want to consider tweaking the rule if you're going to allow people who have taken the exam in the past to qualify.

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

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

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

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

It's hard for members of the public to really know what to comment on when they don't
have anything in front of them.

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

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

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

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

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

So I'm glad we're doing this and maybe after we hear Mr. Lipman's comments and yours, Mr. Gerrity, that we could just go from the top and work our way down with the ones that you outline for us.
MR. HARRIS: Or anything else that you see as we're working our way through it.

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

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

CHAIRMAN GERRITY: And one of the things, too, is prior -- in the last couple of years some of these things have become an issue, where prior it wasn't an issue. When I got licensed it wasn't an issue; I went the management route. And quite honestly, I mean, you know, I submitted everything I needed to submit and I didn't have to go in front of the full Board. It was Suyrea Reynolds at the time. She was my contact person. So that's where with some of the things that come up, I don't know the history on it, but I definitely think that's why we need to look at this and, you know, do it the appropriate way because it is frustrating, I know, for somebody if they're -- they're relocating to Florida. You know, they've been in NHA and that's where the gray area comes in. We'll they've already had ten state surveys and,
you know, now they're coming to Florida and we're saying, "Oh, well your AIP you had ten years ago wasn't as stringent, so now you've got to do AIP program and take the Florida laws."

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

So we want Mr. Lipman's comments --

MS. RODGERS: Okay.

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

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

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

MS. RODGERS: Okay.

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

DR. HANKERSON: Uh-huh. Right.

MR. HARRIS: -- in previous meetings about wanting to tighten up that language because it's
fairly unclear about what you have to do for reexamination. The language is not clear. And in the interest of making it understandable to applicants we would want to probably consider that.

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

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

He has added to the first part of that a bachelorette degree or higher level degree from an accredited college. His second comment is with regard to 11.002, Subparagraph (3), Subparagraph (b), as in boy, which reads "have practiced as a nursing home administrator for two years within the five-year period immediately preceding the application by
endorsement," and his comment is, "If an applicant has been granted a nursing home administrator license in another state, the Board may waive the requirement that an applicant sit for the national licensure examination (NAB). In order to be granted a waiver, the applicant must have taken the NAB licensure examination in another state and attained a score which meets or exceeds the passing grade established in Florida. A national scale score of 113 is a passing grade accepted by the Board for licensure examinations offered on or after...," and then he's looking for a month, day and year.

He says, "It's easier for the candidates to apply for licensure by examination under the one year direct management experience than it is to go through endorsement. The following question for endorsement may allow for the endorsement rule to be viable, depending on the interpretation of the statute. There is no reason for anyone to apply via endorsement since we are not recognizing any state based on the statute and rule for endorsement. Since previous decisions made on the applicants
licensed in other states that applied via a
one-year experience, all licensed applicants
will get approved if they've been licensed and
working for a year prior to applying to Florida
for licensure."

And that ends his comments.

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

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

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

MR. HARRIS: If that's what the Board
instructs me, the intent would be to draft
language and have it out there to the public
prior to the next Board meeting so that there
could be comments at that point or whatever.
MS. BERKOWITZ: What I'd like to do is bring it back to our members so they can review it. I know that you had mentioned you wanted written comments and that might help you with your draftsmanship -- is that --

MR. HARRIS: Yeah.

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

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

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

So in terms of the 650 hours, it is what it is because I think not having a number was more problematic. But then there were a lot of people who got caught. And being caught is the biggest problem, so maybe a grandfathering in needs to be done. I think that's become an obstacle for new applicants.
The masters degree, I think if I -- I've got to read Mr. Lipman's language, but I think when he inserts each applicant -- where was it -- in --

CHAIRMAN GERRITY: (2)(a)?

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

DR. HANKERSON: Three.

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

DR. HANKERSON: Yes.

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

MR. HARRIS: Right.

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

MR. HARRIS: Right.

MS. BERKOWITZ: -- making it clear.

Again, this is all just --

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

MS. BERKOWITZ: You know, off the top of my head without really going back and getting the comments formally from my Rules and Regs Committee at Florida Health Care Association --
MR. HARRIS: Are you hearing from applicants that they're having difficulty with the new definition of supervised management experience?

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

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

It seems like that's going to bog this Board down if you have every applicant go before you for review. And we were watching in previous boards -- and no criticism really, but it seemed to be a longer process and they had to make sure they talked about each of the Departments and use the right buzz words that they actually, you know, fit in that pigeon hole and they did do that rotation for that
department to be approved, and that doesn't seem like that's really a good method for the Board either. If the Credentialing Committee can do their job, I think it works.

Karen, do you want to comment?

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

I think some of the confusion is that whether this means that the person is actually employed in all of these categories, or is a combination of working in the Department and being trained in the categories. For example, human resources is a good one. There's a lot of things a person has to do, and I think the confusion along the potential administrator is, "Well, do I have to be the head of human resources in order to meet that qualification, or could I be serving as the manager under the head of the department and being trained?"
And I know sometimes when I've sat through several Board meetings where if the person mentioned "trained" that was not a good thing. And I truly believe that this management part of it has to be training because there is no person unless they worked in another state who actually had these -- every one of these positions. So some of it would be a mixture of training.

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

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

CHAIRMAN GERRITY: Uh-huh. And I support
the grandfathering. With the executive duties for one year, and this is -- I open up a gray area again, but I think it would be good if -- if they notified the Board that they were going into that, you know, if it's a credentialing, moving into -- and if you recall the assistant administrator --

MS. GOLDSMITH: Uh-huh.

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

MS. GOLDSMITH: Uh-huh.

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

MS. GOLDSMITH: Right.

CHAIRMAN GERRITY: -- if the Board changes, it's still an NHA that can -- can look over these items. But if they notify the Board and then we knew that they were doing it and we had the date -- because sometimes it comes up that we don't know how long they were doing it.
There was questions before that will -- exactly when did you start it, at least if they notified the Board. But the gray area would be that an out-of-state person --

MR. HARRIS: Right.

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

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

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

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

Then when they go to their company then
they can be an executive or associate or assistant or whatever the language is.

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

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

CHAIRMAN GERRITY: I always figured it as an assistant administrator. Once that terms got
DR. HANKERSON: Yeah.

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

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

MR. HARRIS: Yeah. And so two things that I heard. You know -- three things. Number one, I absolutely agree. The purpose of a rule in large part is to put everyone on notice of what the standard is. You know, what's being looked at and how is it going to be applied. And so the people know that, you know, this is what -- this is what applies to me, so they can look at it. Maybe they're thinking about moving to Florida.

DR. HANKERSON: Uh-huh.

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

DR. HANKERSON: Exactly.

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

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

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

DR. HANKERSON: Right. Right.

MR. HARRIS: You know, nobody wants that.

So if you go into detail about explaining what staffing is and you work really really hard.
You spend ten hours talking to everybody about what is staffing and then you leave something out, and then somebody comes before you and they're that piece that was left out, so nobody wants that. On the other hand you want it to be something that people can understand.

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

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

DR. HANKERSON: Uh-huh.

MR. HARRIS: Maybe eliminate some of the --

DR. HANKERSON: Uh-huh.

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

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

MR. HARRIS: Yeah. As an assistant administrator.

DR. HANKERSON: -- whatever --

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


MR. HARRIS: If you come to us and say you're the assistant administrator, we're
looking for that --

DR. HANKERSON: Right.

MR. HARRIS: -- kind of a thing, you know. And literally you could have words that say "supervises, direct management experience, is the equivalent of an assistant administrator."

DR. HANKERSON: Right.

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

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

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

MR. HARRIS: Yeah.

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

MR. HARRIS: And you would say "or
"equivalent" obviously so that somebody would come in and say, "I was not -- I don't have the title of an assistant administrator, but look what I did."

CHAIRMAN GERRITY: Yes.

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

DR. HANKERSON: Right.

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

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

MR. HARRIS: Uh-huh.

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

DR. HANKERSON: Right.

CHAIRMAN GERRITY: -- they're aren't eligible. That they at least have somebody watching over what they're doing.
DR. HANKERSON: And the Credentialing Committee should be really a helper, not punitive where that -- so that when you have them along the way ask, you know, this is what I'm doing and get some feedback from them, I think that would be easy too.

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

CHAIRMAN GERRITY: Just going over --

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

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

DR. HANKERSON: And we had -- we had one of those questions in our meeting that if I'm the DON then I am head of the center and that's not true. I mean, it always is -- they may step in
when the administrator is gone, but they are not
-- their license is not what's hanging for that
particular --

CHAIRMAN GERRITY: Right.

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

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

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

DR. HANKERSON: No.

MR. HARRIS: And they were very concerned
with that type of representation that I'm the full-time DON and that's what I do, but I'm also an assistant administrator.

    DR. HANKERSON: Uh-huh.
    MR. HARRIS: I mean -- and so that was specifically one of the scenarios they were concerned with.

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

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

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

    DR. HANKERSON: And it's the holidays, too.
    MR. HARRIS: Yeah. It's going to be challenging for me. But what I can do is if you give me simple directions today and don't expect it to be anything approaching perfection, but just literally almost like rough draft ideas on
paper, these words in these kind of places, that you all are comfortable running with and tweaking, then, yeah, I can do it. I'm already going to have to work all weekend tomorrow and Sunday. So I can spend -- and I don't mean to minimize it, but I can spend an hour or an hour-and-a-half tomorrow when I'm in the office doing other stuff, pulling this rule up, throwing some -- and again, I'm not trying to minimize it, but throwing some language in; getting it in there what I think I hear you guys telling me to do, where I think it should be, and then getting that out to the Association, getting it out to the public. You know, maybe we even have it on the website, I don't know, to where that language is out there.

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

MR. HARRIS: Right.

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

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

DR. HANKERSON: You won't?
MR. HARRIS: And so -- I will not be at that meeting.

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

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

DR. HANKERSON: Uh-huh.

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

DR. HANKERSON: Uh-huh.

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

DR. HANKERSON: Okay.

MR. HARRIS: And so you can --

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

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

DR. HANKERSON: Okay.

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

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

DR. HANKERSON: She's pretty competent.

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

DR. HANKERSON: Okay.

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

DR. HANKERSON: Okay.

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

So if you're comfortable with me sort of
producing a draft, getting that language to you all, getting it out to the public, there'd be discussion at the December 12th meeting --

   DR. HANKERSON: All right.

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

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

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

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

   DR. HANKERSON: Okay.

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

   So that's sort of -- and that's part of the reason I wanted to do this workshop now. I didn't want to wait till the December meeting to just have this discussion. I thought you guys
-- this is important. I mean, you're spending a lot of time in meetings. You've got a lot of applicants who are coming in who are getting held up. I think the public deserves to have this rule tweaked as quickly as possible, so that by the time of the next full Board meeting in whatever-it-is March, you know, even if the rule isn't effective, at least it would be help to the members to say this is the direction the Board is planning to go, and so maybe structure your presentation at the March meeting along these kind of lines.

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

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

CHAIRMAN GERRITY: Uh-huh.

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

MR. HARRIS: Right. And so what I thought we would do, and just off the top of my head is, (2)(a)(1), "Completed a college affiliated or
university affiliated internship of at least 650 hours worth of board-approved preceptor in a skilled nursing facility that has at least 60 beds," or -- I thought I would try to break that up into two parts. And I'm not quite sure how I'm going to say this, but in my mind the language will say, completed a college affiliated internship of at least 650 hours. If the -- if the applicant graduated prior to the effective date, prior to December 1st, 2013 -- or 2014 -- 2013? December 1st, 2013, the Board will accept an internship that qualified for graduation at that time. Something along those lines.

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

I'm worried about people who have graduated
and maybe graduated a year -- they graduated in May or June and then they go -- finally -- we heard two people who scraped up the money --

DR. HANKERSON: Right.

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

DR. HANKERSON: Uh-huh.

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

DR. HANKERSON: Prior to the rule.

MR. HARRIS: -- the December rule.

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

MR. HARRIS: Uh-huh.

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

MR. HARRIS: Uh-huh.

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

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

CHAIRMAN GERRITY: Because they can extend
right now.

    MR. HARRIS: Right.

    DR. HANKERSON: Right.

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

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

    MR. HARRIS: -- hours.

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

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

    And so we want to try to fix -- does that make sense?
DR. HANKERSON: No.

MR. HARRIS: Okay.

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

MR. HARRIS: Okay. Right.

DR. HANKERSON: Right?

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

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

MR. HARRIS: Correct.

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

MR. HARRIS: Right.

DR. HANKERSON: Right.

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

DR. HANKERSON: Well, how could we if we only have one rule in effect which says that,
and then if we amend the rule to include 
grandfathering --

    MR. HARRIS: Uh-huh.

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

    MR. HARRIS: Uh-huh.

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

    MR. HARRIS: That's true.

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

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

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

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

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

MR. HARRIS: Uh-huh.

MS. BERKOWITZ: -- school with the -- with the plan that she only needed 450 hours, and all of the sudden she gets to graduation and, ooops,
I have to do another semester or I have to go find another internship. I think there's some sort of burden put on her. Had we not known --

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

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

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

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

MS. GOLDSMITH: The concern I have is part of this problem was created by the schools because they had these short-term programs, and I'm not so sure that all the schools converted over to the 650 before this rule went into effect. So there may be some people who didn't even have the opportunity to get 650 because you just can't show up at a college and say, "I just
need 200 intern hours. Can I do it here?"

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

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

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

DR. HANKERSON: Right.

MR. HARRIS: -- of undue hardship or principles of fairness. But I have a couple of boards who have in their rules and various places that the Board may grant a -- basically the Board may grant a hardship exemption, and it's usually involved CE hours, basically, but the rule specifically says that the Board may grant an exception upon a showing of hardship.

And then that means that people don't have to
follow that variance or waiver petitioner because the rule specifically says the Board can grant that. The Board can waive this 650-hour requirement.

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

That's not going to make them happy in the sense that they don't know whether you will grant it, but it means at least you wouldn't have to worry about them applying for a petition for variance or waiver, and you'd have more flexibility. You wouldn't need to require the showing of undue hardship or principles of fairness, and compliance with -- by other means;
you could just decide. And that would capture basically every single person. If they didn't have 650 hours they could come to you and explain my program didn't offer me 650, or when I graduated the requirement wasn't 650, or whatever.

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

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

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

Because who would -- I wouldn't think -- if I was a student, I'd look at it and I wouldn't
be continuously checking. I would think, "Oh, okay. Well this is what I had to do. I did it already and I graduate."

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

CHAIRMAN GERRITY: Yes.

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

(CROSSTALK.)

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

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

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

CHAIRMAN GERRITY: I don't know that.

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

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

CHAIRMAN GERRITY: Right.

DR. HANKERSON: -- incorporate into your school.

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

DR. HANKERSON: Yeah. I think the waiver is -- and then grandfather --
MR. HARRIS: Well we're not going to call it a waiver. We're going to call it a hardship exemption.

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

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

DR. HANKERSON: Yeah. And it makes me think that when the Nursing Board just changed some things, we were all notified as licensed nurses of what the changes were through email or -- you know, and it seems that maybe that's what
we need to do with folks so that they're up to date.

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

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

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

DR. HANKERSON: Uh-huh.

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

MR. HARRIS: Yeah.

CHAIRMAN GERRITY: -- and everybody else
would know.

    MR. HARRIS: Right.

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

    DR. HANKERSON: Uh-huh.

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

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

    CHAIRMAN GERRITY: Yes.

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

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

    MR. HARRIS: Then it's done.

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

CHAIRMAN GERRITY: Yeah. Uh-huh.

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

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

DR. HANKERSON: Uh-huh.

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

DR. HANKERSON: Right.

CHAIRMAN GERRITY: -- because they accepted the interns.

DR. HANKERSON: Right.

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

DR. HANKERSON: Right.

CHAIRMAN GERRITY: -- expectation.

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

MR. HARRIS: Was there --

MS. BERKOWITZ: I was actually going to
comment on the hardship language, but now you've
brought it back to the internship and the date
of it.

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

CHAIRMAN GERRITY: Uh-huh.

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

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

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

DR. HANKERSON: They should have known,
yes.
CHAIRMAN GERRITY: Between the student, school and the administrator --

DR. HANKERSON: Uh-huh.

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

DR. HANKERSON: Uh-huh.

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

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

CHAIRMAN GERRITY: Uh-huh.

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

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

MR. HARRIS: Right.

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

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

DR. HANKERSON: Maybe not.
CHAIRMAN GERRITY: -- go off the previous rule.

MR. HARRIS: Yeah.

DR. HANKERSON: The previous rule.

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

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

CHAIRMAN GERRITY: Yeah. Put that in.

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

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

DR. HANKERSON: Well I think that's our next part that we talked about with the advanced
degree and what Mr. Lipman talked about with his remarks and higher degree.

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

DR. HANKERSON: Or higher degree.

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

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

MR. HARRIS: Right.
CHAIRMAN GERRITY: -- and you come out of a masters program and that's great, but the reality of being a nursing home administrator --

MR. HARRIS: Yeah.

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

MR. HARRIS: Right.

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

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

MR. HARRIS: Uh-huh.

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

MR. HARRIS: We don't know.

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

CHAIRMAN GERRITY: Right.

DR. HANKERSON: -- seem to make sense.

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

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

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

MR. HARRIS: Uh-huh.

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

CHAIRMAN GERRITY: Yeah. If you put somebody in a building and they don't have that,
I mean, they could get told what to do and
that's one of the problems that sometimes comes
up with the lack of experience is, you know, at
the end of the day they're responsible for that
home, so they can't say that they're a corporate
person or somebody else. They're the one that
it's their license, so I think that that, you
know, experience goes a long way in helping them
in their career.

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

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

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

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

DR. HANKERSON: Great. Thank you.

MS. BERKOWITZ: If you do change it, the
graduate programs may not have the 650-hour
internship programs, and so you may need to have some sort of grandfathering in for that.

CHAIRMAN GERRITY: Uh-huh.

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

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

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

DR. HANKERSON: Right. Right.

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

MR. HARRIS: Uh-huh.

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

MS. ROGERS: Mr. Gerrity, I just had -- just for curiosity purposes, so the internship people who graduated and completed it prior to
the rule change would be automatically accepted
is what you're proposing?

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

MS. ROGERS: Right.

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

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

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

(CROSSTALK.)

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

CHAIRMAN GERRITY: Completed the --

MS. ROGERS: -- hours --

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

MS. ROGERS: -- before that.

CHAIRMAN GERRITY: Because then that's
reasonable that --
MS. ROGERS: Okay.

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

MS. ROGERS: That was my confusion.

CHAIRMAN GERRITY: -- and everyone else.

MS. ROGERS: Thank you.

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

CHAIRMAN GERRITY: Okay.

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

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

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

DR. HANKERSON: I'm sorry.

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

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

MS. RODGERS: Okay.
MR. HARRIS: (a)(1) without breaking it into parts.

MS. RODGERS: Thank you.

Sorry, Dr. Hankerson.

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

CHAIRMAN GERRITY: Uh-huh.

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

CHAIRMAN GERRITY: Right.

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

MR. HARRIS: I would think -- that's --
that's somewhat unusual language, you know, as
you just said, Dr. Hankerson. That's exactly
it.

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

DR. HANKERSON: Uh-huh.

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

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

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

CHAIRMAN GERRITY: Right.

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

MR. HARRIS: Yeah. So I would think if you
just deleted that middle section there of
Subsection whatever it is (c), where it says,
"Each applicant who claims one year of
supervised direct management experience would be
individually reviewed by the full Board to
determine if that applicant experience meets the
requirements of the rule."

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

DR. HANKERSON: It goes to the Committee.

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

DR. HANKERSON: Right.

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

MR. HARRIS: You would -- yeah.

CHAIRMAN GERRITY: -- for that
MR. HARRIS: You would discipline the administrator and you would presumably revoke the license of the applicant because that would be an obtaining a license by fraudulent means which is an offense, a revocable offense under 456.0721(c), I believe it is.

CHAIRMAN GERRITY: Uh-huh.

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

CHAIRMAN GERRITY: Uh-huh.

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

CHAIRMAN GERRITY: Uh-huh.

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

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

CHAIRMAN GERRITY: Uh-huh.
DR. HANKERSON: You know, you can't micromanage everything.

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

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

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

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

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

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

I don't think it would go in -- it would not go in this rule, certainly. So the question
is where would you put -- which rule would make
the most sense to put some language like that
about the composition of the Board's
Credentialing Committee.

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

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

MR. HARRIS: Uh-huh. Right.

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

MR. HARRIS: Right. I'm noticing that --
you know, one thing that we just had an issue
with this morning on a different board that I
have, most of them have a rule about Probable
Cause Panels and I noticed you don't. Not that
you need one, but if we're going to open up
Chapter 10, maybe we want to have that standard
language that explains what a Probable Cause
Panel is. Almost all of my boards have those. And that would be a time to maybe sort of do a rule that talks about committees, and we would maybe talk about what the Probable Cause Committee is, what the Credentialing Committee is, and then any other committees you all wanted to designate. You know, sort of standing committees of the Board kind of a thing.

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

MR. HARRIS: Uh-huh.

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

MR. HARRIS: Absolutely.

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

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


MR. HARRIS: Another thing, you know,
bringing it back to Chapter -- the 11.002 rule, I think what I'm hearing you all tell me to do maybe is to look through that discussion of the supervised direct management experience, and for sure delete the word "executive" probably, where it says "executive duties and skills" and perform as a -- whatever -- an executive manager. At a minimum take that word "executive" out.

DR. HANKERSON: Yes. Because --

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

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

CHAIRMAN GERRITY: What was it prior? Because it seems like about two/three years ago this all started becoming an issue and before
that it wasn't an issue. So I don't know --
like I said, as far as being an administrator I
started hearing about it about two years ago.

Prior to that it --

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

CHAIRMAN GERRITY: Yes.

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

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

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

MR. HARRIS: I do. The previous -- the
previous board was very very concerned -- well, they had three things they were specifically concerned about.

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

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

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

   And then the third thing they were concerned about is they didn't think -- they had really sort of tightened up on what they thought supervised management experience was and that wasn't in the rule. It sort of -- like the idea
of the 650 hours, it just said you had to do an internship and people were having it all over the board with the number of the hours, so the Board said we need 650 hours. The same thing with these executive duties, the management, the direct management experience, it didn't really sort of say what that was, other than reiterating staffing, planning and directing of budgeting, HR and facilities.

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

CHAIRMAN GERRITY: Maybe Karen can give some history.

MS. GOLDSMITH: I think -- yes. Part of -- the problem from our side, from the applicant's side, was that language that said the role of the nursing home administrator or something, there's something like that in the old rule, and there was a concern that people were being --
the administrators were concerned that when they
had someone in this management role, that they
had to give them some of their responsibilities
as administrator and they weren't willing to
take the responsibility and the risk of being
disciplined for something that they've now had
to turn over to someone else because it says
they were acting as an administrator. That's
where the concern was from the provider side.

DR. HANKERSON: Well if we talk about --

MR. HARRIS: Oh, I'm sorry.

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

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

CHAIRMAN GERRITY: Uh-huh.

MR. HARRIS: Good.

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

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

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

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

THE REPORTER: Can you --

MS. BERKOWITZ: I'm sorry. But not leaving the administrator ultimately responsible for
something somebody else has done as -- in training.

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

CHAIRMAN GERRITY: And I think, too -- I mean, and it goes back to what I said. It was never an issue for years and years forever in essence and then all of the sudden, 2012, and that's what -- you know, I don't know if it was the Board was just questioning it, but I go back to -- when I applied I just notified the Board, submitted the things and they did verify everything and that was it.
So I don't know why -- if it was just the feeling of the Board at the time, but all of the sudden that big shift happened and it didn't even sound like it was on the administrator's per se; it was just on the Board and then people were worried. It was a 50/50 shot whether you could apply that way.

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

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

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

CHAIRMAN GERRITY: Uh-huh.

DR. HANKERSON: Surveyors and other regulatory people. So who knows what was happening two years ago in Florida as it relates to surveys and the media and we know they really
like to play up everything that happens in one, and the other 750 of us take that as a burden. So --

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

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

DR. HANKERSON: Right.

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

DR. HANKERSON: Right.

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

DR. HANKERSON: Well I think that this is a history of what we're getting, but that doesn't
mean that that has to be our decision, or we
need to know what's going on now with people
that are giving us input, applicants and making
our determination by what we're seeing with
folks coming before us. So it's good to have
the history, but doesn't necessarily need to
drive us on what we decide.

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

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

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

CHAIRMAN GERRITY: Yeah.

MR. HARRIS: Uh-huh.

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

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

MR. HARRIS: Yeah.

CHAIRMAN GERRITY: -- assume those duties?

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

And I'm going to want to make sure you have
firm -- if we're going to add essentially a new
-- a new hurdle, you have to preregister for
this, I can tell you right now, Marjorie
Holiday, JAPC, is going to send me a letter
saying what's your statutory authority for that.
And so rather than put that in there and wait
for her to comment on it and then draft it, I'm
going to look at it first. So I'll try to put something in there for this draft of the rule, but depending on when I'm able to do the research, I might have to come back to you with a suggestion about that, if I can't find what I think is enough statutory support to get it past JAPC.

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

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

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

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

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

MR. HARRIS: You know, another thing you
can think about, rather than me putting this in here now, but maybe we could think about between now and down the road is -- and I don't know how to do this, but the concept might could be some kind of an optional, you know, as a way of -- as a way of --

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

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

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

DR. HANKERSON: Yeah. The "mays" are good
even though she may not like them.

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

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

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

DR. HANKERSON: Right.

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

DR. HANKERSON: Uh-huh.

MR. HARRIS: It's harder for her, I think, to object than say, "You don't have the authority to do that." She might try, but I
think you can say, "Hey, it's optional, they don't have to."

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

MR. HARRIS: Right.

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

MR. HARRIS: Uh-huh.

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

MR. HARRIS: Exactly.

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

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

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

MR. HARRIS: Right.

DR. HANKERSON: We're not voting on whether to accept all those, so I think that we need to be thoughtful that we're making sure that we're
not complicating it for people and we're making it more simple for them to be able to apply and knowing what the expectation is in Florida.

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

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

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

CHAIRMAN GERRITY: And I think, too, when it goes, you know, out to the members and
everything that, you know, we want to have that level -- you know, we don't want just anybody to be able to get the license obviously. We're trying to make it fair and that's why even if they let the Board know ahead of time, it's just more so on their end so that they don't come a year later and get denied.

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

DR. HANKERSON: Uh-huh.

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

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

If you belong to CD Broker they tell you, "Almost there for licensure. You just need this," and they add it up and you had too much and -- so there's no reason that we as a Board, you know, can't start going green. And I don't know what that impacts with the State of Florida for all Boards and stuff, but I think we need to start being a little innovative on what we're doing. Because some of the applications, it's
really hard to read, and then someone crosses out, I click the wrong box.

MR. HARRIS: Uh-huh.

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

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

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

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

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

DR. HANKERSON: Uh-huh.

MR. HARRIS: Yeah. And so for the out-of-state -- and this is down in Subsection (3), and what we have now in the rule is to
establish eligibility by endorsement the applicant must successfully pass the required examinations in Subsection (1) and hold a valid license, and prove substantially equivalent to or more stringent than the current requirements in the State, and have practiced for two out of the five years immediately proceeding.

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

I think what you could do is add some language -- and I don't know if it would be in (3) or if it would be a new Subsection (4), or a new Subsection (3) and this would become (4), that would essentially get back to where the statute -- and this is 16 -- this is 468.1705, Licensure by Endorsement, and it says, "Meets one of the following requirements. Holds a valid active license to practice in another state provided that the current requirements are substantially equivalent to or more stringent than current, or meets qualifications for
licensure in -- by examination, 1695, and has successfully completed a national examination which is substantially equivalent to or more stringent than."

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

Carol's saying she doesn't like that.

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

MR. HARRIS: Uh-huh.

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

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

(CROSSTALK.)

DR. HANKERSON: Except -- right, the Florida rules.
MR. HARRIS: Except to make Florida rules.

DR. HANKERSON: Right.

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

MR. HARRIS: Yeah, the Laws and Rules.

MS. BERKOWITZ: The Laws and Rules.

MR. HARRIS: Right.

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

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

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

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

I don't like doing that without having it
-- well, I don't like doing it at all. But it doesn't matter what I like because I don't make the policy. So in my mind I'd be more comfortable if the Board were to include some language in the rule that says exactly that.

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

(CROSSTALK.)

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

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

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

MR. HARRIS: Right.

CHAIRMAN GERRITY: -- so I think, you know -- and that's after we have them do the Florida Law and Rules if they had scored a --
MR. HARRIS: A 113 or better.

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

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

(CROSSTALK.)

MR. HARRIS: I was just -- yeah.

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

Nine out of ten times it's always been the 113 scaled, but I have seen one or two where the scores were different because they took it so many years ago. But I just wanted to throw that out there, too, that they would indicate on those forms that the person passed based on
whatever NAB's passing score rate at that time
was.

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

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

    MS. BERKOWITZ: Yeah.

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

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

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

    MS. RODGERS: Right. Yeah, that's true.
It's NAB's -- it was NAB's thing. Because I
think -- my understanding was that at one point
in time that's just how it was. Before states,
I guess, got involved. I don't know. I hadn't
been around that long, I guess, but my
assumption was that that's what it was for, is
because states maybe didn't have minimum requirements, passing rates, so they would use whatever NAB had come up with.

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

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

DR. HANKERSON: If they pass the NAB.

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

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

When I took the nursing boards it was a three-day paper and pencil. Now they take it -- it's how many questions on the computer and
they're good to go. So I don't know that we're going to want to characterize it with anything other than they passed.

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

Do you recall that one?

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

So to me, you, as the Board, have more comfort with somebody who is licensed and practicing in another state then somebody who either just took the NAB and never got licensed for whatever reason. And you say, well, you know, I took this exam but I never actually got
a license because I didn't do anything else, or, well, I took the NAB 20 years ago; I've never practiced a day in my life, but I have that score.

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

DR. HANKERSON: Right.

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

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

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

MR. HARRIS: But you would have that -- but
that's part of the normal process.

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

MR. HARRIS: Right.

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

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

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

DR. HANKERSON: Right.

MR. HARRIS: -- you know, the ability to
apply for examination and then, in my mind,
they're not taking the NAB. They're just taking
the Florida laws and rules, which is an
examination.

DR. HANKERSON: Right.

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

DR. HANKERSON: Uh-huh.

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

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

MR. HARRIS: Right.

CHAIRMAN GERRITY: -- but then they could
go through the exemption process, correct, as
far as managerial experience.
MR. HARRIS: Right. I think -- that's what I think we're trying to capture here, these people who can't qualify for straight-up endorsement.

CHAIRMAN GERRITY: Uh-huh.

MR. HARRIS: It's not really fair to make them retake the NAB. And so you're really trying to look to see -- and in my mind, practice is a relatively ambiguous term, and you want it to be that way because you want to look at that vice president and see what did he do. What was the vice president of operations with 12 nursing homes under him?

CHAIRMAN GERRITY: Uh-huh.

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

CHAIRMAN GERRITY: Uh-huh.

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

CHAIRMAN GERRITY: Well the practicing part
I always pictures, and I know other people have, as your license is the one hanging on the wall --

        MR. HARRIS: Uh-huh. Right.
        CHAIRMAN GERRITY: -- you know, two out of the five years.
        MR. HARRIS: Well, you're a regional vice president. Do you think you're practicing nursing home administration today?
        CHAIRMAN GERRITY: Arguably, no, because I don't have -- my license --
        MR. HARRIS: Right.
        CHAIRMAN GERRITY: I look at it as licensing hanging in a facility --
        MR. HARRIS: Okay.
        CHAIRMAN GERRITY: -- and I know a lot of other people I talk to --
        MR. HARRIS: Right.
        CHAIRMAN GERRITY: -- feel the same with that verbiage. And I don't know if y'all -- I mean, when you hear two out of five practicing, do you think of your license up, or do you think of --
        MS. BERKOWITZ: (Unintelligible.)
        THE REPORTER: You have to use your
microphone.

CHAIRMAN GERRITY: Yes.

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

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

MS. BERKOWITZ: Two out of the --

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

MS. BERKOWITZ: Yes. Yes.

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

MS. BERKOWITZ: It's confusing.

MR. HARRIS: Well let me -- I think maybe I know at least where the discussion is today; try to -- try to come up with something. Again, it may be very inelegant to get it out there and have something before you that the Association
can look at, that everybody else in the world hopefully will want to comment.

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

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

I mean, we don't have to do that obviously. Mr. Chairman, you control the agenda, but I would think that the sooner we can get this rolling, if we're refining language, the sooner we get it proposed, the sooner you can get it effective and the more benefit that'll be to these licensees who are -- you know, right now at the December meeting, I'm sure you're going to have a whole slate of people with the
one-year direct management experience who are coming before the full board, you know, so --

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

MR. HARRIS: Right.

CHAIRMAN GERRITY: And then if --

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

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

Then I'm going to draft up language. I'm going to send that out. It's going to be on the
agenda. You'll have a copy of it, Dr. Hankerson, you'll have a copy of it. You can send written comments into Ms. Rodgers who will then distribute them.

MS. RODGERS: Okay.

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

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

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

In my mind, the better thing for them to do would probably be to make comments, you know, consider the comments from anybody in the public who's commented, consider redlines, consider what they hear at the meeting, discuss it.
Consider you guys' written comments. And then we would want to schedule a meeting in early-to-mid January, telephone conference call. One item on the agenda, fairly short, you know. Consideration of the rule.

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

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

MS. RODGERS: I thought we did open it.

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

So the day you guys you vote to propose
language I will beat my paralegal over the head and we'll get the language notices done and we'll get them published.

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

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

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

If there are comments we'd probably need to bring it back to the Board at its next meeting
in March or whenever your next meeting is, and then that would add another roughly 40 days on top --

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

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

CHAIRMAN GERRITY: For sure.

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

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

So, these applicants we had before, if you all want to make the same decisions in December
and allow people from out of state to -- if you want to give them credit for the NAB, you're not going to get challenged for an unadopted rule if you're trying to amend the rule to allow that.

DR. HANKERSON: I see.

MR. HARRIS: So that's --

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

MR. HARRIS: Correct.

DR. HANKERSON: Okay.

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

DR. HANKERSON: Right.

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

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

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

MS. RODGERS: From today. If you give us a couple more days I can actually put it on the slider on the web that comments are being solicited.
MR. HARRIS: Okay. Whatever -- whatever works best for you.

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

MR. HARRIS: Okay.

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

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

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

CHAIRMAN GERRITY: So is there anything else or --

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

Do you all have anything, anything that we need to talk about?
MS. RODGERS: No. Thank you.
Thank you all for attending.
MR. HARRIS: Thank you so much.
CHAIRMAN GERRITY: Thank you everybody.
DR. HANKERSON: Thanks.

(The November 2014 Florida Board of Nursing
Home Administrators, Rule Development Workshop
concluded at 2:54 p.m.)
CERTIFICATE

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.

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

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