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FLORIDA | Board of Nursing Home Administrators

MEETING MINUTES

April 17, 2015

Department of Health
4042 Bald Cypress Way
Tallahassee, FL 32399

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

Participant Code: 7342425515



Henry Gerrity, III, NHA
Chair

Scott Lipman, MHSA, NHA
Vice-Chair

Anthony Spivey, DBA
Executive Director

1 **General Board Business started: 9:01 a.m.**

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

3
4 **MEMBERS PRESENT:**

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

4 **STAFF PRESENT:**

Adrienne Rodgers, BSN, JD, Bureau Chief
Anthony Spivey, DBA, Executive Director
Joseph Lesho, Program Operations Administrator
Michele Jackson, Regulatory Supervisor/Consultant
Keri Meany, RSII
Samantha Thompson, RSII
Kellee Crowson, RSII

11
12
13 **BOARD COUNSEL:**

14 Lawrence Harris, Assistant Attorney General
15 Office of the Attorney General

16
17 **OTHERS PRESENT:**

18 Carol Berkowitz, Esq.
19 Florida Health Care Association

20
21 **COURT REPORTER:**

22 Court Reporter: For the Record Reporting
23 Phone: (850) 222-5491
24 Contact: Kay Fitchner

25
26 *Please note the minutes reflect the actual order agenda items were discussed and may differ from the agenda outline. AUDIO from*
27 *this meeting can be found online: <http://floridasnursinghomeadmin.gov/meeting-information/>*

28
29 **Section II started at 9:02 a.m.**

30
31 **II. APPROVAL OF MEETING MINUTES:**

32
33 Minutes of the February 20, 2015 Full Board Meeting were reviewed. Board Staff noted corrections on page 2, line 20; and
34 page 4, lines 10-13.

35
36 **Board Action:** Motion to accept the minutes as amended was made by Mr. Helmer. Seconded by Mr. Gerrity.
37 Vote: 6 ayes / 0 opposed; motion carried

38
39 **Section II concluded at 9:03 a.m.**

40 **Section III started at 9:03 a.m.**

41
42 **III. PETITION FOR VARIANCE/WAIVER:**

43
44 **a. Carolyn Moore**

45 Petitioner was and was not represented by counsel.

46
47 Ms. Moore initially submitted a Petition for Waiver/Variance from Rule 64B10-15.002(3), F.A.C., to the Board for the
48 December 12, 2014 meeting. At that meeting, the Board tabled the issue until Ms. Moore could provide additional
49 Continuing Education (CE) documentation to the CE Chair for review. On March 30, 2015, Ms. Moore provided the
50 requested documentation to the Board Staff. The petition was once again presented to the Board for final review.

51
52 **Discussion:**

53 Ms. Moore stated that she would like Ms. Feeney to recuse herself due to a “malicious” complaint that she filed against
54 her. After a brief discussion between Mr. Harris and Ms. Moore regarding the issue, it was determined that Ms. Feeney
55 was not required to recuse herself.

56
57 Mr. Harris then explained to the Board the terms by which a petition must be granted or denied.
58

1 Discussion ensued regarding the requirements for Continuing Education, and how they apply to the 25 hours being
2 requested per the petition.
3

4 Ms. Fernandez asked Ms. Moore if she knew prior to taking the courses that they were not Board-approved, and stated
5 that the materials should have let her know that they were not. Ms. Moore explained that they were advertised as Board-
6 approved, but was not aware that they were not until she tried to enter the hours into CE Broker.
7

8 Dr. Hankerson stated that she was inclined to deny the petition and made a motion.
9

10 **Board Action:** Motion to deny the Petition for Waiver/Variance based on the petitioner's failure to demonstrate that the
11 application of the rule would create a substantial hardship or violate the principles of fairness was made by Dr.
12 Hankerson. Seconded by Fernandez.

13 Vote: 6 ayes / 0 opposed; motion carried
14

15 **b. George Hanley**

16 Mr. Hanley withdrew his petition on April 8.
17

18 **Section III concluded at 9:44 a.m.**

19 **Section IV started at 9:44 a.m.**
20

21 **IV. APPLICANTS PRESENTED FOR BOARD REVIEW**
22

23 **a. Nursing Home Administrator**

24 **i. James Chandler Ransone**

25 Applicant was present and was not represented by counsel. James Burns, NHA was also present in support of Mr.
26 Ransone.
27

28 On February 25, 2015, Mr. Ransone submitted an examination application based on one year of management
29 experience. The Credentialing Committee determined that Mr. Ransone did not appear to meet the requirements
30 outlined in Rule 64B10-11.002, F.A.C.
31

32 **Discussion:**

33 Dr. Hankerson noted that Mr. Burns had submitted a notarized statement stating that Mr. Ransone's role within the
34 facility was the same as an assistant administrator, even though the position was designated otherwise. She said that
35 according to the statement, Mr. Burns believes that Mr. Ransone has exceeded what was required.
36
37

38 Mr. Ransone provided the Board with an explanation of his background, and explained that because the facility in
39 which he is employed is a Continuing Care Retirement Community (CCRC), there was a dual role reporting
40 structure, which he believed was sufficient in satisfying the one year of management experience requirement.
41

42 Mr. Gerrity noted that he has worked for a CCRC, and confirmed Mr. Ransone's statement.
43

44 **Board Action:** Motion to approve the application was made by Mr. Gerrity. Seconded by Dr. Hankerson

45 Vote: 6 ayes / 0 opposed; motion carried
46

47 **ii. David Ira Weiner**

48 Applicant was present and was not represented by counsel.
49

50 On March 3, 2015, Mr. Weiner submitted an endorsement application. The Credentialing Committee determined
51 that Mr. Weiner's application did not meet the requirements for licensure by endorse, so Mr. Weiner submitted an
52 amended application requesting licensure based on one year of management experience.
53

54 **Discussion:**

55 Mr. Lipman stated that he had problems with the application.
56

57 Mr. Weiner provided the Board with his background and explained his experience in management.
58

1 **Board Action:** Motion to approve the application was made by Mr. Lipman. Seconded by Dr. Hankerson.
2 Vote: 6 ayes / 0 opposed; motion carried
3

4 **iii. Gregory Fisher**

5 Applicant was present and was not represented by counsel.
6

7 Mr. Fisher submitted an endorsement application on April 8, 2014. A review of the application revealed disciplinary
8 history in the state of Texas. The state of Texas has provided proof that all obligations imposed as a result of the
9 discipline have been fulfilled.
10

11 **Discussion:**

12 Mr. Fisher explained that the discipline was a result of issues within his facility that occurred under the tenure of a
13 previous administrator, and that he has since had two deficiency-free surveys.
14

15 Dr. Hankerson asked Mr. Fisher why he answered “no” to the prior discipline question on his application. Mr. Fisher
16 stated that he misinterpreted the question.
17

18 Mr. Gerrity asked for additional clarification on the circumstances of the discipline, and Mr. Fisher explained that he
19 was cited for issues that were 5-months old when he had only been employed for 3 months, but because he was the
20 administrator at the time of the survey, the discipline was brought against his license.
21

22 Dr. Hankerson stated that she would like to see an updated application correcting the prior discipline question before
23 granting the license.
24

25 The Board also recommended that Mr. Fisher amend his application to request licensure based on one year of
26 management experience, rather than by endorsement.
27

28 Mr. Gerrity delegated the approval of the updated application to Dr. Hankerson so that an additional appearance
29 before the Board would not be required if no issues were found.
30

31 **Board Action:** Motion to allow Dr. Hankerson to approve the application upon receipt of an amended version in
32 accordance with the Board’s discussion was made by Mr. Lipman. Seconded by Mr. Gerrity.
33 Vote: 6 ayes / 0 opposed; motion carried
34

35 **Section IV concluded at 10:03 a.m.**

36 **Section V started at 10:03 a.m.**
37

38 **V. RATIFICATION OF LICENSURE:**

39 **a. Nursing Home Administrators**

40 **Board Action:** Motion to ratify the issuance of Nursing Home Administrator licenses listed on page 155 of the agenda
41 (Christopher Thomas Ray through Marie Emelyne Cherenfant) made by Mr. Gerrity. Seconded by Dr. Hankerson
42 Vote: 6 ayes / 0 opposed; motion carried
43
44

45 **b. Nursing Home Administrators (Exam)**

46 **Board Action:** Motion to ratify individuals listed on page 156 of the agenda (Jelise Dannette Brown through Jennifer
47 Ann Angel) approved by Board Staff, Credentialing Committee, or Full Board to sit for the Nursing Home Administrator
48 laws and rules examination and/or the NAB examination made by Mr. Gerrity. Seconded by Dr. Hankerson.
49 Vote: 6 ayes / 0 opposed; motion carried
50

51 **c. Administrators-in-Training**

52 **Board Action:** Motion to ratify the issuance of Administrator-in-Training licenses listed on page 157 of the agenda
53 (Amber Gant through Simon Marquez) made by Mr. Gerrity. Seconded by Ms. Feeney.
54 Vote: 6 ayes / 0 opposed; motion carried
55

56 **d. Preceptors**

57 **Board Action:** Motion to ratify the issuance of Preceptor license 4575 (Brian Bickett) made by Mr. Gerrity. Seconded
58 by Ms. Feeney.

1 Vote: 6 ayes / 0 opposed; motion carried

2
3 **Section V concluded at 10:05 a.m.**

4 **Section VI started at 10:05 a.m.**

5
6 **VI. CHAIR/VICE-CHAIR REPORT:**

7
8 **a. Future Agenda Items –**

9 Mr. Gerrity had nothing to report, but did note that the Department will be holding its annual Chair/Vice-Chair meeting
10 in September.

11
12 Mr. Lipman noted that The National Association of Long Term Care Administrator Boards (NAB) will hold their annual
13 meeting in June, and it was decided that he will attend.

14
15 **Section VI concluded at 10:06 a.m.**

16 **Section VII started at 10:06 a.m.**

17
18 **VII. EXECUTIVE DIRECTOR'S REPORT:**

19 Ms. Rodgers introduced Dr. Anthony Spivey as the Board's new Executive Director.

20
21 Dr. Spivey introduced himself and provided the Board with his background and experience.

22
23 The Board welcomed Dr. Spivey.

24
25 **Section VII concluded at 10:07 a.m.**

26 **Section VIII started at 10:07 a.m.**

27
28 **VIII. BOARD COUNSEL'S REPORT**

29
30 **a. Rules Status Report:**

31 Mr. Harris informed the Board that at the time of the meeting there were three rules open for development, and that the
32 proposed changes to Rules 64B10-11.002-.003, F.A.C., were being held up due to concerns expressed by the Joint
33 Administrative Procedures Committee (JAPC). He then explained JAPC's concerns, the main issue being that the Board
34 lacks statutory authority for certain provisions of the draft language. He then presented the Board with proposed
35 amended language that he believed would address those concerns.

36
37 Discussion ensued regarding how to obtain statutory authority, and Board Staff was directed to do research and work
38 with the Board to get a package submitted to the legislature to attempt to gain the statutory authority needed to
39 implement the original draft of the rule.

40
41 Mr. Gerrity also directed Board Staff to research the average number of examination attempts per applicant and report
42 back at the next meeting.

43
44 In light of the lack of statutory authority, Mr. Harris recommended that the Board accept the newest proposed draft as
45 written.

46
47 **Board Action:** Motion to publish a Notice of Change and approve changes to the proposed draft of Rules 64B10-
48 11.002-.003, F.A.C., as written made by Dr. Hankerson. Seconded by Ms. Fernandez.

49 Vote: 6 ayes / 0 opposed; motion carried

50
51 **Board Action:** Motion to find that the proposed changes would not have an adverse impact on small business, increase
52 regulatory costs by more than \$200,000 in the aggregate within one year of implementation, or increase regulatory costs
53 by more than \$1,000,000 in the aggregate within five years of implementation in the state of Florida made by Dr.
54 Hankerson. Seconded by Mr. Lipman.

55 Vote: 6 ayes / 0 opposed; motion carried

56
57 **b. Draft Amendments to Rule 64B10-11.012, F.A.C. and Form MQA 1130 (Rev 04/15)**

1 Mr. Harris explained to the Board the proposed language and the accompanying form. He explained that the draft
2 proposed that licensees that leave or change positions within a facility must notify the Board within 48 hours of the
3 change, and also required facilities to report changes in identity to notify the Board within 48 hours of the change. He
4 expressed his belief that the changes address the Board's concerns, and recommended that they approve them.
5

6 Discussion ensued regarding the purpose of the rule. The Board tabled the issue until the June meeting and instructed
7 Board Staff and Board Counsel to do more research to determine the purpose of the rule, what information it gathers that
8 is not otherwise available to the board/staff/department, and to determine whether this rule and form are still needed, and
9 if so, exactly what information is necessary and why
10

11 **c. Draft Amendments to Rule 64B10-15, F.A.C.**

12 Mr. Harris explained his belief that the Board's Continuing Education rule should be reviewed and rewritten, and
13 presented proposed language for the Board to review.
14

15 Dr. Hankerson stated that she believes that the definition of a contact hour should be 60 minutes, rather than 50. After
16 additional discussion regarding this and other proposed changes, the Board voted to open the rules for development.
17

18 **Board Action:** Motion to open Rules 64B10-15.001, 64B10-15.002, and 64B10-15.0021, F.A.C., for development made
19 by Mr. Gerrity. Seconded by Dr. Hankerson.

20 Vote: 6 ayes / 0 opposed; motion carried
21

22 **Board Action:** Motion to propose amendments to the above listed rules, as contained in the meeting materials on pp.
23 162-165, with the deletion of the words "a maximum of" in 15.001(5), and changing the definition of a contact hour from
24 50 minutes to 60 minutes made by Dr. Hankerson. Seconded by Mr. Helmer.

25 2 yeas / 4 opposed (Gerrity, Lipman, Feeney, Fernandez); motion failed
26

27 Additional discussion ensued regarding the definition of a contact hour.
28

29 **Board Action:** Motion to propose amendments to the above listed rules, as contained in the meeting materials on pp.
30 162-165, with the deletion of the words "a maximum of" in 15.001(5), and make no changes to the definition of a contact
31 hour made by Mr. Gerrity. Seconded by Mr. Lipman.

32 Vote: 5 ayes / 1 opposed (Hankerson); motion carried
33

34 **Board Action:** Motion to find that the proposed amendments will have no adverse impact on small business made by
35 Mr. Lipman. Seconded by Mr. Gerrity.

36 Vote: 6 ayes / 0 opposed; motion carried
37

38 **Board Action:** Motion to find that the proposed amendments are not likely to directly or indirectly increase regulatory
39 costs in excess of \$200,000 in the aggregate within one year of implementation made by Mr. Gerrity. Seconded by Mr.
40 Lipman. Vote: 6 ayes / 0 opposed; motion carried
41

42 **Board Action:** Motion to find that the proposed amendments are not likely to directly or indirectly increase regulatory
43 costs in the excess of \$1,000,000 in the aggregate within 5 years of implementation made by Mr. Gerrity. Seconded by
44 Mr. Lipman.

45 Vote: 6 ayes / 0 opposed; motion carried
46

47 **d. FYI – Notice of Proposed Rule**

48 **i. Discussion/Decision of Rule 64B10-11.002, F.A.C. and Rule 64B10-11.003, F.A.C.**

49 This matter was discussed during Part a. of this report.
50

51 **e. Draft Language – Suggestion for Draft New Rule**

52 Mr. Harris presented draft language for a proposed rule which would define the responsibilities of administrators within
53 a facility. After discussion, specifically regarding the designation of "Assistant Administrator," "Associate
54 Administrator," or other similar title," the issue was tabled until the next meeting.
55

56 **f. North Carolina State Board of Dental Examiners v. FTC**
57

1 Mr. Harris explained that this issue stemmed from Cease and Desist letters sent out from the North Carolina Board of
2 Dental Examiners, which the FTC found to be anti-competitive. He went on to explain that because the Florida
3 regulatory boards are created and structured differently than those of North Carolina, it should not be an issue for this
4 board.
5

6 **Section VII concluded at 10:07 a.m.**

7 **Section VIII started at 11:32 a.m.**
8

9 **IX. NEW BUSINESS**

10 None
11

12 **X. COMMITTEE REPORTS**

13 **a. AIT/Preceptor – Ms. Fernandez/Mr. Gerrity/Mr. Lipman**

14 Mr. Gerrity stated that there were no new issues, and that he is continuing to interview preceptors.

15 Mr. Lipman also stated that there was nothing new to report.

16 Ms. Fernandez stated that she had one AIT with an issue, which she was working to resolve.
17

18 **b. Budget – Mr. Helmer**

19 Nothing to report
20

21 **c. Continuing Education – Ms. Feeney was excused from this meeting.**

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

23 **Board Action:** Motion to ratify courses approved by CE Committee Chair made by Mr. Gerrity. Seconded by
24 Ms. Feeney.

25 Vote: 6 ayes / 0 opposed; motion carried
26

27 **ii. Provider – Approved Medical CEUS**

28 **1. Course #20-37159 – Medical Errors and How to Prevent Them I**

29 **Discussion:**

30 A review in the materials revealed a discrepancy between the course title and the title listed on the
31 documentation provided by the provider. The issue was tabled until more information could be provided to
32 the Board. Board Staff was directed to contact the provider to obtain this information.
33

34 **iii. Provider – Training and Etracking Solutions**

35 **1. Course #20-470830 – Infection Control: Universal Precautions and Safety Basics**

36 Amy Lewkovich and Nancy Grimm were present on behalf of the provider.
37

38 **Discussion:**

39 Upon review of the application, it was discovered that the documentation that the provider submitted was
40 incomplete.
41

42 Ms. Lewkovich explained that she was told by CE broker that because the course had already been
43 approved by the Florida Board of Nursing, she would not have to submit the documentation.
44

45 Board Staff clarified that the information that she was given was incorrect. The Board directed Board Staff
46 to work with the provider to obtain the information, and stated that Ms. Feeney could approve the
47 application upon review if she felt comfortable doing so; otherwise, the complete application would need to
48 be reviewed by the Board.
49

50 **iv. Provider – Pedagogy Incorporated (Additional Information)**
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- 1 **1. Course #20-466753 – Reducing Medication Errors: A Focus On the Med Pass for Administrators**
2 This course was initially brought before the Board at the February 20, 2015 meeting. The issue was
3 continued to this meeting because the original course description did not identify the domain of practice,
4 and did not appear to meet the requirements of the prevention of medication errors required under Chapter
5 456, F.S. The provider has provided additional information, which is being presented before the Board for
6 review.
7

8 **Discussion:**

9 Ms. Hankerson explained that she was not sure whether or not this course meets the requirements for a
10 medical errors course under Board rules.
11

12 Ms. Feeney agreed, and expressed her belief that the course is better suited for nurses.
13

14 **Board Action:** Motion to deny the course made by Ms. Feeney. Seconded by Mr. Gerrity.
15 Vote: 6 ayes / 0 opposed; motion carried
16

17 **d. Credentials – Mr. Lipman**

18 **i. NHA Licensure Requirement Summary**
19

20 **e. Disciplinary Compliance – Dr. Hankerson**

21 Nothing to report
22

23 **f. Healthiest Weight – Dr. Hankerson**

24 Nothing to report
25

26 **g. Legislation – Mr. Helmer**

27 Nothing to report
28

29 **h. Probable Cause**

30 **i. Stats**

31 Mr. Harris explained that there was nothing new to report, and that this board has only found probable cause on
32 three cases over the past three years. He recommended that the Board invite a representative from Investigation
33 or Prosecution Services to come speak at the next meeting to explain the reasons for the lack of disciplinary
34 cases.
35

36 **i. Rules – Ms. Feeney**

37 Ms. Feeney discussed a letter from Ms. Rodgers sent to a CE provider regarding their non-compliance with Board rules.
38

39 **j. Unlicensed Activity – Ms. Feeney**

40 Nothing to report
41

42 **XI. NEXT MEETING DATE: June 26, 2015 – Teleconference Call**
43

44 **XII. ADJOURNMENT**

45 Motion to adjourn
46

47 **General Board Business concluded at 12:11 p.m.**

48 The meeting was adjourned at 12:11 p.m.
49
50