

**FLORIDA** | Board of Nursing Home Administrators

**MINUTES**  
August 14, 2020

Florida Department of Health  
4042 Bald Cypress Way  
Tallahassee, Florida 32399



Scott Lipman, MHA, *Vice-Chair*  
Anthony Spivey, DBA, *Executive Director*

The Florida Board of Nursing Home Administrators will hold a meeting on Friday, August 14, 2020, commencing at 9:00 a.m., or shortly thereafter. This meeting will be held at the Department of Health, 4042 Bald Cypress Way, Tallahassee, Florida, at meet me number <https://global.gotomeeting.com/join/715290413> to which all persons are invited to attend. Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the board's website.

## AGENDA

### **Section I began: 9:15 a.m.**

#### **I. CALL TO ORDER (Roll Call):**

Dr. Anthony Spivey called roll

#### **BOARD MEMBERS PRESENT:**

Henry Gerrity, III, NHA Chair  
Scott Lipman, MHSA, Vice- Chair  
Christine Hankerson, MSN, MS/P, Ph.D., RN  
Michael Helmer, BA

#### **BOARD STAFF PRESENT:**

Dr. Anthony Spivey, DBA, Executive Director  
Carla Raby, Regulatory Supervisor  
Frank Grunewald, Regulatory Specialist II  
Keri Kilgore, Regulatory Specialist II

#### **BOARD COUNSEL PRESENT:**

Rachelle Munson, Assistant Attorney General  
Office of the Attorney General

#### **PROSECUTION COUNSEL:**

Zachary Bell, Assistant General Counsel

#### **COURT REPORTER:**

For the Record  
(850) 222-5491

**Section I ended: 9:17 a.m.**  
**Section II began: 9:17 a.m.**

The meeting was turned over by Dr. Spivey to Chair, Henry Gerrity.

**II. APPROVAL OF MINUTES:**

- a. June 16, 2020
- b. May 20, 2020
- c. April 10, 2020

**ACTION:** Ms. Hankerson made a motion to approve minutes from the June 16, 2020, May 20, 2020 and April 10, 2020 meetings. Seconded by Mr. Gerrity.

**Vote:** 4 yeas/0 opposed motion carried.

**Section II ended: 9:20 a.m.**  
**Section III began: 9:21 a.m.**

**III. PROSECUTORS REPORT:**

Report was presented by Assistant General Counsel Zachary Bell.

Total cases: 32

2 of those cases are with the Emergency Action Unit. 27 cases are under legal review. 1 case where probable cause recommendation has been made. 4 cases where probable cause has been found. Of the 32 cases 7 are 1 year or older. Mr. Bell requests that the Board authorize the Department to continue prosecuting year and older cases.

Ms. Hankerson asked about the increase of year and older cases to 7. Ms. Hankerson wanted to know if there was any indication when that number will go back down. Mr. Bell responded by saying that he has just taken over this board. Mr. Bell will be reviewing the cases to get them taken care of quickly as possible. In a way that is safe to the public and fair to everyone involved.

**ACTION:** Mr. Gerrity made a motion to continue prosecution of the 7 year and older cases. With the expectation that by the October meeting there will be a decrease in cases. Seconded by Ms. Hankerson.

**Vote:** 4 yeas/0 opposed motion carried.

**Section III ended: 9:23 a.m.**  
**Section IV began: 9:23 a.m.**

#### IV. PETITION FOR WAIVER/VARIANCE:

Chair Gerrity addressed the Board. The Petitions for Waiver/Variance are for Administrators who went delinquent and are requesting a waiver for online CE's. Mr. Gerrity also stated that there are some online CE's that are being counted as live CE's. Mr. Gerrity asked Ms. Franklin with Florida Health Care to address the upcoming virtual conference. Whether those CE's will be counted as live or online.

Ms. Franklin stated that some of them will be live. Where you are able chat in and interact. Part of them are on demand and considered virtual online. It is about half and half, so possible to get the live credits.

Rachelle Munson, Assistant Attorney General. Clarified that there are 4 petitions for review. Three (3) hold a license status of Delinquent and the other one (1) holds a license status of Inactive. Ms. Munson also further stated that the Board of Nursing Home Administrators approved emergency rule 64B10ER20-27 on May 22, 2020 to help reduce the spread of COVID-19 by allowing the completion of continuing education (CE) hours in an online format. The twenty (20) hours of live CE presentation required in Rule 64B10-15.001(a), Florida Administrative Code can now be taken online for this current biennium. This adjustment applies only to clear/active licensees. This emergency rule only will last for 90 days.

##### **a. James Lucas**

Not present, not represented by counsel. Ms. Hankerson had questions for Mr. Lucas. Ms. Hankerson addressed her concerns to the Board. Ms. Hankerson did not feel that she could approve the variance for online CE's for persons not having a clear/active license.

**ACTION:** Ms. Hankerson made a motion to deny Mr. Lucas's request for a variance. There was no second from the Board. Motion failed.

**ACTION:** Mr. Gerrity made a motion to allow Mr. Lucas's request to obtain CE's online. Seconded by Mr. Lipman.

**VOTE:** 3 yeas/ 1 opposed motion carried.

##### **b. Joan Foy**

Ms. Foy was present. Ms. Foy presented her request for variance that she be allowed to complete her remaining CE's online. Ms. Foy also requested reactivation of her license to clear/active once she completes the required CE's. She has been living out of state and has been very active in the long-term care industry.

**ACTION:** Ms. Hankerson made a motion to approve Ms. Foy's reactivation of her license based on her request for the remaining CE's online. Seconded by Mr. Helmer.

**VOTE:** 4 yeas/ 0 opposed motion carried.

**ACTION:** Ms. Hankerson amended her motion to have Board staff review Ms. Foy's information before reactivation. This meeting will count for Ms. Foy's appearance before the board. Seconded by Mr. Gerrity.

**VOTE:** 4 yeas/ 0 opposed motion carried.

**c. Nicole Barnett**

Ms. Barnett was present. Ms. Barnett presented her request for variance. Ms. Barnett is lacking 7 CE's to be able to complete CE requirements. She is requesting that she be able to receive the last 7 CE's online.

**ACTION:** Mr. Lipman made a motion that Ms. Barnett be allowed to take the remaining of her CE's virtually or online. Seconded by Ms. Hankerson.

**VOTE:** 4 yeas/ 0 opposed motion carried.

**d. Randy Keene**

Mr. Keene was not present, not represented by counsel. Ms. Hankerson raised the concern that Mr. Keene had contacted several Board members either by mail or email. Ms. Hankerson is recusing herself from the vote on Mr. Keene's petition.

**ACTION:** Mr. Gerrity made a motion to approve Mr. Keene's request to do online CE's. Seconded by Mr. Lipman.

**VOTE:** 3 yeas/ 0 opposed motion carried.

**Section IV ended: 10:02 a.m.**

**Section V began: 10:02 a.m.**

**V. APPLICATION FOR REVIEW:**

**a. Mark Hansen**

Mr. Hansen was present. Mr. Gerrity asked if any Board members had any questions. Mr. Hansen had discipline for survey issues in 2015. No one had any questions.

**ACTION:** Mr. Gerrity made a motion to approve Mr. Hansen. Seconded by Mr. Lipman.

**VOTE:** 4 yeas/ 0 opposed motion carried.

**b. Elizabeth Allen**

Not present not represented by counsel. Ms. Hankerson asked what the requirements were for applying for licensure by exam. Her application is before the Board due to having discipline.

**ACTION:** Ms. Hankerson made a motion to accept Ms. Allen’s application for exam. Seconded by Mr. Gerrity.

**VOTE:** 4 yeas/0 opposed motion carried.

**Section V ended: 10:11 a.m.**

**Section VI began: 10:11 a.m.**

**VI. RATIFICATION:**

**a. Licensure**

**i. Nursing Home Administrators**

**ACTION:** Mr. Gerrity made a motion to approve license numbers 6541 - 6586. Seconded by Mr. Lipman.

**VOTE:** 4 yeas/0 opposed motion carried.

**ii. Administrators-in-Training**

**ACTION:** Mr. Gerrity made a motion to approve the 1,000-hour licensees file numbers 6201 – 6249. Seconded by Ms. Hankerson.

**VOTE:** 4 yeas/0 opposed motion carried.

**ACTION:** Mr. Gerrity made a motion to approve the 2,000-hour licensees file numbers 6217 – 6238. Seconded by Ms. Hankerson.

**VOTE:** 4 yeas/0 opposed motion carried.

**iii. Preceptors**

**ACTION:** Mr. Gerrity made a motion to approve the ratification of file number 4934. Seconded by Ms. Hankerson.

**VOTE:** 4 yeas/0 opposed motion carried.

**b. Continuing Education**

**i. Courses approved by CE Chair**

**ACTION:** Ms. Hankerson made a motion to approve the courses that she approved as submitted. Seconded by Mr. Lipman.

**VOTE:** 4 yeas/0 opposed motion carried.

**Section VI ended: 10:14 a.m.**

**Section VII began: 10:14 a.m.**

**VII. BOARD COUNSEL REPORT:**

- i. Rules Report for June 2020**
- ii. Rules Report for July 2020**
- iii. Rules Report for August 2020**

Ms. Munson presented the rules reports. The Board has before them the Rules Reports for June, July and August. The August report reflects the most current activity. The applications have been moving along. Ms. Munson advised the Rule 64B10-11.001 which is the application for licensure. We received a JAPC letter in July and was responded to in August. This was a technical change and clarification of a statutory reference for rule making and law implementation.

- iv. 2020-2021 Annual Regulatory Plan**

Ms. Munson presented the Annual Regulatory Plan for Board vote and ratification at this time. There have been no laws this session that would impact the Board of Nursing Home Administrators. The report will be submitted to the Board Chair for signature if the Board approves the plan.

**ACTION:** Mr. Lipman made a motion to approve and ratify the rules. Seconded by Ms. Hankerson.

**VOTE:** 4 yeas/0 opposed motion carried.

- v. 64B10-11.002**

Ms. Munson presented information on the above rule to change some of the language. Rule 64B10-11.002 currently reads Eligibility for Licensure. Ms. Munson would like to change it to Eligibility Requirements for Licensure for better clarification. Also, in the subsections within the rule to add Licensure by Examination and Licensure by Endorsement. Ms. Munson also requested to remove the language that refers to an Assistant Administrator. In a previous meeting the minutes reflect that the Board does not recognize an Assistant Administrator.

Mr. Gerrity requested that the requirement that reads mandatory HIV/AIDS be changed to Mandatory Infection Control in rule 64B10-11.0011.

**ACTION:** Mr. Lipman made a motion to approve the language change to 64B10-11.002.

Seconded by Ms. Hankerson.

**VOTE:** 4 yeas/0 opposed motion carried.

### **Statement of Estimated Regulatory Costs (SERC) Question**

1. Will the proposed Rule amendment have an adverse impact on the small business or be likely to directly or indirectly increase regulatory cost to any industry including Government in excess of \$200,000 in the aggregate in Florida within 1 year of after the implementation of the rule?

**ACTION:** Mr. Gerrity made a motion that it will not. Seconded by Ms. Hankerson.

**VOTE:** 4 yeas/0 opposed motion carried.

2. Should a violation of this rule or any part of this rule be designated a minor violation?

**ACTION:** Ms. Hankerson made a motion that it will not. Seconded by Mr. Gerrity.

**VOTE:** 4 yeas/0 opposed motion carried.

3. Does this Board feel we should include a Sun Set Provision regarding these changes?

**ACTION:** Ms. Hankerson made a motion that it will not. Seconded by Mr. Gerrity.

**VOTE:** 4 yeas/0 opposed motion carried.

Ms. Munson addressed the Board on the question that Mr. Gerrity asked regarding changing the language to 64B10-11.0011. Ms. Munson would like the opportunity to research 456 FS to see if the proposed change can be made. Ms. Munson will address this further at the October meeting.

#### **vi. 64B10-11.010**

Ms. Munson discussed with the Board if they want to reinstate the Provisional License that was previously repealed. The consensus of the Board is that it is currently not necessary.

#### **vii. 64B10-16.001**

Ms. Munson advised the Board that this rule language is being brought back before the Board to ask the SERC questions. When previously voted on by the Board the SERC questions were not asked. Therefore, to move this forward. The questions are now being asked.



## **Statement of Estimated Regulatory Costs (SERC) Question**

1. Will the proposed Rule amendment have an adverse impact on the small business or be likely to directly or indirectly increase regulatory cost to any industry including Government in excess of \$200,000 in the aggregate in Florida within 1 year of after the implementation of the rule?

**ACTION:** Ms. Hankerson made the motion that it will not. Seconded by Mr. Gerrity.

**VOTE:** 4 yeas/0 opposed motion carried.

2. Should a violation of this rule or any part of this rule be designated a minor violation?

**ACTION:** Ms. Hankerson made the motion that it will not. Seconded by Mr. Gerrity.

**VOTE:** 4 yeas/0 opposed motion carried.

3. Does this Board feel we should include a Sun Set Provision regarding these changes?

**ACTION:** Mr. Gerrity made a motion that it will not. Seconded by Ms. Hankerson.

**VOTE:** 4 yeas/0 opposed motion carried.

**Section VII ended: 10:40 a.m.**

**Section VIII began: 10:40 a.m.**

### **VIII. CHAIR/VICE CHAIR REPORT:**

Mr. Gerrity stated that they are continuing to receive AIT reports. They are still receiving calls for people who want to become preceptors.

**Section VIII ended: 10:41 a.m.**

**Section XI began: 10:41 a.m.**

### **IX. EXECUTIVE DIRECTOR'S REPORT:**

Dr. Spivey discussed the Board appointment process. The Department is working with the Governors Office. They are in the process of making new Board appointments. Once Board members are appointed. There will be a training once the new members are appointed.

**Section XI ended: 10:43 a.m.**

**Section XII began: 10:43 a.m.**

### **XII. OLD BUSINESS:**

Ms. Hankerson addressed having the Healthiest Weight link added to the Boards website. The Board was advised by Board staff that the ticket had been placed to have this added to the website. Board staff will look further into the matter and give an update at the next meeting.

**Section XII ended: 10:44 a.m.**

**Section XIII began: 10:44 a.m.**

### **XIII. NEW BUSINESS:**

Mr. Gerrity discussed Director of Nurse's qualifying to become Nursing Home Administrators. With the possibility of some rule making. To establish specific criteria for the Directors of Nursing to be able to become an Administrator. Ms. Munson clarified that the requirements for the Nursing Home Administrators are in statute no in rule. Mr. Lipman suggested that the Florida Health Care could possibly put it before legislation. Ms. Franklin stated that she would take it to the legislative committee.

**Section XIII ended: 10:48 a.m.**

**Section XIV began: 10:48 a.m.**

### **XIV. COMMITTEE REPORTS:**

#### **a. AIT/Preceptor – Gerrity/Lipman**

Nothing new to report.

#### **b. Budget – Helmer**

Gave an update.

#### **c. Continuing Education – Hankerson**

Gave an update on the approval of courses.

#### **d. Credentials – Lipman**

Nothing to report.

#### **e. Disciplinary Compliance – Hankerson**

Nothing to report

#### **f. Healthiest Weight – Hankerson**

Nothing new to report. Just to add the banner on the website.

**g. Legislation – Helmer**

Nothing to report

**h. Probable Cause – Lipman**

Nothing new to report.

**i. Rules**

Nothing to report.

**j. Unlicensed Activity**

Nothing to report.

**Section XIV ended: 10:51 a.m.**

**Section XV began: 10:51 a.m.**

**XV. PUBLIC COMMENTS:**

Comments were made by Lyndsey Peterson Director of the Long-Term Care Internship program at the University of South Florida. She discussed possibly allowing the students to do some online remote learning to go towards their 650 hours.

Ms. Munson advised the Board that Ms. Peterson has filed a Petition that will be heard at the October meeting.

**Section XV ended: 10:58 a.m.**

**Section XVI began: 10:58 a.m.**

**XVI. NEXT MEETING DATE:**

October 23, 2020

Ms. Munson request to change the date due to a conflict with another meeting. Board staff will look at the available dates given and set a new date.

**Section XVI ended: 11:05 a.m.**

**Section XVII began: 11:05 a.m.**

**XVII. ADJOURNMENT:**

Mr. Gerrity adjourned the meeting at 11:05 a.m.