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FLORIDA | Board of Nursing Home Administrators

MINUTES
August 14, 2020

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



Henry Gerrity III, NHA, *Chair*
Scott Lipman, MHSA, *Vice-Chair*
Anthony Spivey, DBA, *Executive Director*

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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

POSECUTION COUNSEL:

Zachary Bell, Assistant General Counsel

COURT REPORTER:

For the Record
(850) 222-5491

61 **Section I ended: 9:17 a.m.**
62 **Section II began: 9:17 a.m.**
63

64 The meeting was turned over by Dr. Spivey to Chair, Henry Gerrity.
65

66 **II. APPROVAL OF MINUTES:**
67

- 68 a. June 16, 2020
 - 69 b. May 20, 2020
 - 70 c. April 10, 2020
- 71

72 **ACTION:** Ms. Hankerson made a motion to approve minutes from the June 16, 2020,
73 May 20, 2020 and April 10, 2020 meetings. Seconded by Mr. Gerrity.
74

75 **Vote:** 4 yeas/0 opposed motion carried.
76

77 **Section II ended: 9:20 a.m.**
78 **Section III began: 9:21 a.m.**
79

80 **III. PROSECUTORS REPORT:**

81 Report was presented by Assistant General Counsel Zachary Bell.
82

83 Total cases: 32

84 2 of those cases are with the Emergency Action Unit. 27 cases are under legal review.
85 1 case were probable cause recommendation has been made. 4 cases where probable
86 cause has been found. Of the 32 cases 7 are 1 year or older. Mr. Bell requests that the
87 Board authorize the Department to continue prosecuting year and older cases.
88

89 Ms. Hankerson asked about the increase of year and older cases to 7. Ms. Hankerson
90 wanted to know if there was any indication when that number will go back down. Mr.
91 Bell responded by saying that he has just taken over this board. Mr. Bell will be
92 reviewing the cases to get them taken care of quickly as possible. In a way that is safe
93 to the public and fair to everyone involved.
94

95 **ACTION:** Mr. Gerrity made a motion to continue prosecution of the 7 year and older
96 cases. With the expectation that by the October meeting there will be a decrease in
97 cases. Seconded by Ms. Hankerson.
98

99 **Vote:** 4 yeas/0 opposed motion carried.
100

101 **Section III ended: 9:23 a.m.**
102 **Section IV began: 9:23 a.m.**
103
104
105

106 **IV. PETITION FOR WAIVER/VARIANCE:**

107
108 Chair Gerrity addressed the Board. The Petitions for Waiver/Variance are for
109 Administrators who went delinquent and are requesting a waiver for online CE's. Mr.
110 Gerrity also stated that there are some online CE's that are being counted as live CE's.
111 Mr. Gerrity asked Ms. Franklin with Florida Health Care to address the upcoming
112 virtual conference. Whether those CE's will be counted as live or online.

113
114 Ms. Franklin stated that some of them will be live. Where you are able chat in and
115 interact. Part of them are on demand and considered virtual online. It is about half and
116 half, so possible to get the live credits.

117
118 Rachele Munson, Assistant Attorney General. Clarified that there are 4 petitions for
119 review. Three (3) hold a license status of Delinquent and the other one (1) holds a
120 license status of Inactive. Ms. Munson also further stated that the Board of Nursing
121 Home Administrators approved emergency rule 64B10ER20-27 on May 22, 2020 to help
122 reduce the spread of COVID-19 by allowing the completion of continuing education (CE)
123 hours in an online format. The twenty (20) hours of live CE presentation required in Rule
124 64B10-15.001(a), Florida Administrative Code can now be taken online for this current
125 biennium. This adjustment applies only to clear/active licensees. This emergency rule only
126 will last for 90 days.

127
128 **a. James Lucas**

129
130 Not present, not represented by counsel. Ms. Hankerson had questions for Mr. Lucas.
131 Ms. Hankerson addressed her concerns to the Board. Ms. Hankerson did not feel that
132 she could approve the variance for online CE's for persons not having a clear/active
133 license.

134
135 **ACTION:** Ms. Hankerson made a motion to deny Mr. Lucas's request for a variance.
136 There was no second from the Board. Motion failed.

137
138 **ACTION:** Mr. Gerrity made a motion to allow Mr. Lucas's request to obtain CE's
139 online. Seconded by Mr. Lipman.

140
141 **VOTE:** 3 yeas/ 1 opposed motion carried.

142
143 **b. Joan Foy**

144
145 Ms. Foy was present. Ms. Foy presented her request for variance that she be allowed to
146 complete her remaining CE's online. Ms. Foy also requested reactivation of her license
147 to clear/active once she completes the required CE's. She has been living out of state
148 and has been very active in the long-term care industry.

149
150 **ACTION:** Ms. Hankerson made a motion to approve Ms. Foy's reactivation of her
151 license based on her request for the remaining CE's online. Seconded by Mr. Helmer.

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

153
154 **ACTION:** Ms. Hankerson amended her motion to have Board staff review Ms. Foy's
155 information before reactivation. This meeting will count for Ms. Foy's appearance
156 before the board. Seconded by Mr. Gerrity.

157
158 **VOTE:** 4 yeas/ 0 opposed motion carried.

159
160 **c. Nicole Barnett**

161
162 Ms. Barnett was present. Ms. Barnett presented her request for variance. Ms. Barnett is
163 lacking 7 CE's to be able to complete CE requirements. She is requesting that she be
164 able to receive the last 7 CE's online.

165
166 **ACTION:** Mr. Lipman made a motion that Ms. Barnett be allowed to take the
167 remaining of her CE's virtually or online. Seconded by Ms. Hankerson.

168
169 **VOTE:** 4 yeas/ 0 opposed motion carried.

170
171 **d. Randy Keene**

172
173 Mr. Keene was not present, not represented by counsel. Ms. Hankerson raised the
174 concern that Mr. Keene had contacted several Board members either by mail or email.
175 Ms. Hankerson is recusing herself from the vote on Mr. Keene's petition.

176
177 **ACTION:** Mr. Gerrity made a motion to approve Mr. Keene's request to do online
178 CE's. Seconded by Mr. Lipman.

179
180 **VOTE:** 3 yeas/ 0 opposed motion carried.

181
182 **Section IV ended: 10:02 a.m.**
183 **Section V began: 10:02 a.m.**

184
185 **V. APPLICATION FOR REVIEW:**

186
187 **a. Mark Hansen**

188
189 Mr. Hansen was present. Mr. Gerrity asked if any Board members had any questions.
190 Mr. Hansen had discipline for survey issues in 2015. No one had any questions.

191
192 **ACTION:** Mr. Gerrity made a motion to approve Mr. Hansen. Seconded by Mr.
193 Lipman.

194
195 **VOTE:** 4 yeas/ 0 opposed motion carried.

196
197 **b. Elizabeth Allen**

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

201
202 **ACTION:** Ms. Hankerson made a motion to accept Ms. Allen’s application for exam.
203 Seconded by Mr. Gerrity.

204
205 **VOTE:** 4 yeas/0 opposed motion carried.

206
207 **Section V ended: 10:11 a.m.**
208 **Section VI began: 10:11 a.m.**

209
210 **VI. RATIFICATION:**

211
212 **a. Licensure**

213
214 **i. Nursing Home Administrators**

215
216 **ACTION:** Mr. Gerrity made a motion to approve license numbers 6541 - 6586.
217 Seconded by Mr. Lipman.

218
219 **VOTE:** 4 yeas/0 opposed motion carried.

220
221 **ii. Administrators-in-Training**

222
223 **ACTION:** Mr. Gerrity made a motion to approve the 1,000-hour licensees file numbers
224 6201 – 6249. Seconded by Ms. Hankerson.

225
226 **VOTE:** 4 yeas/0 opposed motion carried.

227
228 **ACTION:** Mr. Gerrity made a motion to approve the 2,000-hour licensees file numbers
229 6217 – 6238. Seconded by Ms. Hankerson.

230
231 **VOTE:** 4 yeas/0 opposed motion carried.

232
233 **iii. Preceptors**

234
235 **ACTION:** Mr. Gerrity made a motion to approve the ratification of file number 4934.
236 Seconded by Ms. Hankerson.

237
238 **VOTE:** 4 yeas/0 opposed motion carried.

239
240 **b. Continuing Education**

241
242 **i. Courses approved by CE Chair**

243

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

246
247 **VOTE:** 4 yeas/0 opposed motion carried.

248
249 **Section VI ended: 10:14 a.m.**
250 **Section VII began: 10:14 a.m.**

251
252 **VII. BOARD COUNSEL REPORT:**

- 253
254 **i. Rules Report for June 2020**
255 **ii. Rules Report for July 2020**
256 **iii. Rules Report for August 2020**

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

- 263
264 **iv. 2020-2021 Annual Regulatory Plan**

265
266 Ms. Munson presented the Annual Regulatory Plan for Board vote and ratification at this
267 time. There have been no laws this session that would impact the Board of Nursing Home
268 Administrators. The report will be submitted to the Board Chair for signature if the Board
269 approves the plan.

270
271 **ACTION:** Mr. Lipman made a motion to approve and ratify the rules. Seconded by Ms.
272 Hankerson.

273
274 **VOTE:** 4 yeas/0 opposed motion carried.

- 275
276 **v. 64B10-11.002**

277
278 Ms. Munson presented information on the above rule to change some of the language.
279 Rule 64B10-11.002 currently reads Eligibility for Licensure. Ms. Munson would like to
280 change it to Eligibility Requirements for Licensure for better clarification. Also, in the
281 subsections within the rule to add Licensure by Examination and Licensure by
282 Endorsement. Ms. Munson also requested to remove the language that refers to an
283 Assistant Administrator. In a previous meeting the minutes reflect that the Board does not
284 recognize an Assistant Administrator.

285
286 Mr. Gerrity requested that the requirement that reads mandatory HIV/AIDS be changed
287 to Mandatory Infection Control in rule 64B10-11.0011.

288
289 **ACTION:** Mr. Lipman made a motion to approve the language change to 64B10-11.002.

290 Seconded by Ms. Hankerson.

291

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

293

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

295

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

300

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

302

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

304

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

306

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

308

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

310

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

312

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

314

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

316

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

321

322 **vi. 64B10-11.010**

323

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

327

328 **vii. 64B10-16.001**

329

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

334

335

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

337

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

342

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

344

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

346

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

348

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

350

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

352

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

354

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

356

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

358

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

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

361

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

363

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

366

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

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

369

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

371

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

376

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

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

379

380 **XII. OLD BUSINESS:**

381

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

386
387 **Section XII ended: 10:44 a.m.**
388 **Section XIII began: 10:44 a.m.**
389

390 **XIII. NEW BUSINESS:**

391
392 Mr. Gerrity discussed Director of Nurse’s qualifying to become Nursing Home
393 Administrators. With the possibility of some rule making. To establish specific criteria
394 for the Directors of Nursing to be able to become an Administrator. Ms. Munson clarified
395 that the requirements for the Nursing Home Administrators are in statute no in rule. Mr.
396 Lipman suggested that the Florida Health Care could possibly put it before legislation.
397 Ms. Franklin stated that she would take it to the legislative committee.

398
399 **Section XIII ended: 10:48 a.m.**
400 **Section XIV began: 10:48 a.m.**
401

402 **XIV. COMMITTEE REPORTS:**

403
404 **a. AIT/Preceptor – Gerrity/Lipman**

405
406 Nothing new to report.
407

408 **b. Budget – Helmer**

409
410 Gave an update.
411

412 **c. Continuing Education – Hankerson**

413
414 Gave an update on the approval of courses.
415

416 **d. Credentials – Lipman**

417
418 Nothing to report.
419

420 **e. Disciplinary Compliance – Hankerson**

421
422 Nothing to report
423

424 **f. Healthiest Weight – Hankerson**

425

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

427

428 **g. Legislation – Helmer**

429

430 Nothing to report

431

432 **h. Probable Cause – Lipman**

433

434 Nothing new to report.

435

436 **i. Rules**

437

438 Nothing to report.

439

440 **j. Unlicensed Activity**

441

442 Nothing to report.

443

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

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

446

447 **XV. PUBLIC COMMENTS:**

448

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

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

454

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

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

457

458 **XVI. NEXT MEETING DATE:**

459

460 October 23, 2020

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

463

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

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

466

467 **XVII. ADJOURNMENT:**

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