State Board of Examiners of Nursing Home Administrators February 2, 2022

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BOARD MEMBERS:

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Sharon K. McDermond, NHA, Chairperson Lisa M. Burns, Division Chief for Health Licensing,

Bureau of Professional and Occupational Affairs, on behalf of Arion Claggett

Anne E. Holladay, CNHA, MHA, Vice Chairperson - Absent Sara L. King, NHA, Secretary

14 Diane M. Baldi, R.N. - Absent

Susan Coble, Deputy Secretary of Quality Assurance, Department of Health - Absent

17 | Ilene Warner-Maron, Ph.D.

18 Robert L. Wernicki, NHA

Carrie E. Wilson, Office of Attorney General, Bureau of Consumer Protection - Absent

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BUREAU PERSONNEL:

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Alexandra "Sasha" Sacavage, Esquire, Board Counsel Carolyn DeLaurentis, Deputy Chief Counsel, Prosecution Division

William A. Newport, Esquire, Board Prosecution Liaison

Trista Boyd, Esquire, Board Prosecutor Chris Stuckey, Board Administrator

ALSO PRESENT:

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David Buono Acting Deputy Insurance Commissioner - Office of Market Regulation, Pennsylvania Insurance Department

Katie Merritt, LSW, Director of Policy and Planning, Pennsylvania Insurance Department

Sandy Ykema, J.D., Department Counsel, Pennsylvania Insurance Department

Amy Learn, Director of Dining Services, Brevillier Village

Anthony D. Nefstead, Assistant Nursing Home Administrator, Guardian Healthcare

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2 State Board of Examiners of Nursing Home Administrators

February 2, 2022

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[Pursuant to Section 708(a)(5) of the Sunshine Act, at 10:00 a.m. the Board entered into Executive Session with Alexandra "Sasha" Sacavage, Esquire, Board Counsel, for the purpose of conducting quasi-judicial deliberations and to receive legal advice regarding the items on today's agenda. The Board began open session at 10:30 a.m.]

The regularly scheduled meeting of the State
Board of Examiners of Nursing Home Administrators was
held on Wednesday, February 2, 2022. Sharon K.
McDermond, NHA, Chairperson, called the meeting to
order at 10:34 a.m.

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[Alexandra "Sasha" Sacavage, Esquire, Board Counsel, informed everyone that the Board met in Executive Session prior to the commencement of the meeting with Board Counsel for the purpose of conducting quasijudicial deliberations and to receive legal advice regarding items on today's agenda.

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Ms. Sacavage announced that the meeting was being
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   recorded, and those attending today's meeting were
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   giving their consent to be recorded.]
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   Approval of minutes of the December 1, 2021 meeting
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   CHAIR MCDERMOND:
                  I move to approve the minutes from the
                  December 1, 2021 Board meeting.
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                       Anyone like to second that?
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   MR. WERNICKI:
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                  I'll second the motion.
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   CHAIR MCDERMOND:
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                  McDermond, approve; Burns, abstain;
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                  King, approve; Warner-Maron, approve;
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                  Wernicki, approve.
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   [The motion carried. Lisa Burns abstained from voting
   on the motion.1
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   Report of Prosecutorial Division - No Report
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   Appointment - Pennsylvania Insurance Department - No
     Surprises Act
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   [Katie Merritt, LSW, Director of Policy and Planning,
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   Pennsylvania Insurance Department (PID), presented to
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   the Board to discuss the No Surprises Act that became
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effective January 1, 2022, and how it may affect the Board or some of the constituents the Board serves.

2.0

David Buono, Deputy Insurance Commissioner,

Office of Market Regulation, PID, informed the Board

that material presented today was prepared by the

Commonwealth of Pennsylvania Insurance Department

based on law, regulations, and guidance as of December

1, 2021.

Mr. Buono addressed the No Surprises Act (NSA), noting that the disclosure requirement, provider directory requirement, and Good Faith Estimate applies to all health care providers who are in-network for major medical insurance policies.

Mr. Buono addressed which facilities and services must follow the NSA. He commented that if a health plan covers any benefits for emergency services, including air ambulance, the NSA requires emergency services to be covered without any prior authorization regardless of whether a provider or facility is innetwork.

Mr. Buono also commented that if a health plan covers any benefits for nonemergency services related to the visit in an in-network facility, the NSA requires patients to be protected when they have little or no control over who provides their care.

Mr. Buono stated that ancillary providers, such as labs or doctors, involved in a surgery that the patient does not select may not balance bill. He noted cost sharing for ancillary providers is treated as in-network. He commented that the NSA protects people from unexpected bills for emergency services, air ambulance services, and certain nonemergency services related to a visit to a facility.

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Mr. Buono stated nonemergency services at an innetwork facility is treated as in-network in all
circumstances. He reported that other nonemergency
services may only be billed if it is out of network
with advanced notice and consent from the patient.

Mr. Buono noted the NSA limits the high out-ofnetwork cost sharing, where patient cost sharing, such as coinsurance or deductible, cannot be higher than if such services were provided by an in-network doctor and any coinsurance or deductible must be based on innetwork provider rates.

Mr. Buono stated NSA billing protection applies if coverage is through an employer, state-based marketplace Pennie, or directly through an individual market health insurance company. He mentioned that the act does not apply to Medicare, Medicaid, Indian Health Services, Veterans Affairs, or TRICARE.

Ms. Merritt noted that other health plans not covered by the NSA are indemnity, short-term limited-duration, health care sharing ministries, and so forth. She noted it also does not apply for uninsured individuals, although there are some provisions for uninsured individuals.

1.3

Ms. Merritt addressed uninsured individuals, noting patients will be billed directly from providers, but providers are required to provide a Good Faith Estimate. She noted the Good Faith Estimate needs to be made available upon request or upon scheduling an item for a service so an uninsured individual can decide whether or not to receive the services.

Ms. Merritt explained that a Good Faith Estimate for the uninsured and self-pay patients is an estimate of the cost of the services that needs to be provided at least three days before a services is furnished, or if the service is scheduled within three days, it needs to be given 3 hours ahead of time. She commented that the Good Faith Estimate must be given to an insured individual's plan in advance of service, noting that the federal government is not currently enforcing that and neither is Pennsylvania.

Ms. Merritt gave a summary of providers that may

not balance bill. She stated that providers and 1 2 facilities must have a business process to give 3 provider directory and network information to plans 4 anytime there is a material change. She commented 5 that provider directories may, by contract, impose on 6 plans the duty to keep the directory current. mentioned that the provider or facility must reimburse the patient plus interest if a provider or facility bills a patient more than the in-network amount and 10 the patient pays it.

Mr. Merritt addressed continuity of care, where a contract with a plan terminates and the provider or facility is no longer in-network and the provider must accept payment as an in-network provider

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Ms. Merritt stated that providers with complaints about a plan should contact the Pennsylvania Insurance Department because they have a process to quickly handle complaints. She noted that Health and Human Services also has a process but that it could take 60 days for them to just acknowledge the complaint.

Ms. Merritt mentioned that providers with complaints about a patient should first make sure the patient understands the act and are encouraged to contact the PID to assist in educating. She noted that patients who do understand the act should be

handled as previously, but with the understanding in the case of a surprise medical bill, the provider may not collect more than the in-network cost sharing.

Ms. Merritt addressed disclosure requirements, noting the requirements apply to all providers and all facilities to provide patients with a one-page disclosure notice on the requirements of the law, applicable state balance billing prohibitions, and how to contact the appropriate state and federal agencies. She mentioned that the Pennsylvania Insurance Department has a model notice on their webpage. She also noted the federal website has model notices and helpful information.

Ms. Merritt addressed notice and consent, which allows a provider or facility not in-network to provide appropriate notice for a balance bill. She stated notice and consent is a notice that must be provided in advance to give a patient time to get an in-network provider.

Ms. Merritt explained that the notice has to be on a separate document and has to be signed, retained, and a copy given to the patient. She commented that the notice explains that the provider is not an innetwork provider, gives a Good Faith Estimated amount that they provide might charge, includes other related

services, acknowledges service may need prior authorization, and states that the notice is optional.

Ms. Merritt mentioned that a person has to be able to get services from an available in-network provider, but if there is no available in-network provider, then the process cannot be used.

Ms. Merritt addressed payment, where the provider needs to confirm the patient's coverage and collect in-network cost-sharing from the patient and then bill the patient's plan for the remaining charges. She stated the plan will pay a qualifying amount based on a median in-network rate, and if the provider is not satisfied, the provider may negotiate and go through a federally administered independent dispute resolution process.

Ms. Merritt stated individuals with a dispute with a provider may go through a patient provider dispute resolution process. She noted the bill must be \$400 more than the Good Faith Estimate and the uninsured patient would have to pay a small administrative fee but will recoup that if they prevail.

Ms. Merritt addressed enforcement, noting the PID is the lead coordinating agency but is working with other state agencies, including the Department of

State, Department of Health, and Department of Drug and Alcohol. She mentioned that the PID has a process to review the complaint and address it while working with other agencies.

Ms. Merritt commented that the federal law assumes that the state law will apply unless it prevents the application of the federal law.

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Ms. Merritt noted that the Department of State personnel can access the PID's webpage for guidance. She noted there is referral form on the webpage that provides a list of everything needed to be able to triage the complaint.

Ms. Merritt noted that once the information is received that the state agency can submit the form to the PID to follow up as appropriate, where it will be tracked by their consumer services representative, outreach will be performed, and they will work with the other agencies to investigate.

Ms. Merritt mentioned there is also an opportunity to collaborate with the federal government, whether it is the Department of Health and Human Services regarding insurance plans, providers, and facilities; Department of Labor for self-funded plans; or the Office of Personnel Management for the Federal Employees Health Benefits (FEHB) program.

Ms. Merritt encouraged everyone to visit the PID webpage for more information.

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Dr. Warner-Maron asked whether the NSA covers a question being seen in the long-term care industry, where a patient is in the hospital, does not realize they were on observation and not admitted, then come to the nursing home and are not covered due to not having the three-day qualifying stay.

Ms. Merritt believed that to be a Medicare requirement and suggested Dr. Warner-Maron look at the Medicare Law to see how that is addressed.

Chair McDermond mentioned seeing an issue more and more with residents who are discharged from the hospital to their setting by an ambulance provider that is not a contracted provider with the center or sometimes with the hospital, where the bill is exorbitant and is left for the facility to absorb.

Ms. Merritt explained that ground ambulance is currently not included but is acknowledged in the law, noting an advisory committee is being set up to address what to do about that ambulance. She informed Chair McDermond that the new advisory committee will be issuing a report within 180 days of their first meeting and recommended she keep an eye on that for an opportunity to comment.

Chair McDermond thanked the PID for their 1 2 presentation.] 3 4 Appointment - Prosecution Division Annual Report 5 Presentation 6 [Carolyn A. DeLaurentis, Esquire, Deputy Chief Counsel, Prosecution Division, provided a summary of the Prosecution Division's caseload during 2021. Ms. DeLaurentis informed the Board that 70 cases 10 were opened in 2021, which an increase from 2020 at 45 11 for the State Board of Examiners of Nursing Home 12 Administrators. She noted closing 58 cases, which was an increase from 2020 where 27 cases were closed and 13 thanked all of the Prosecutors for their work. 14 15 Ms. DeLaurentis reported 56 open cases for the 16 State Board of Examiners of Nursing Home 17 Administrators as of January 1, 2022. Ms. DeLaurentis addressed enforcement actions 18 19 with 2 total cases that resulted in discipline, 20 including 1 suspension and 1 probation. She also reported 11 warning letters in 2021 and 6 in 2020. 21 2.2 Ms. DeLaurentis addressed COVID-related cases, 23 noting COVID to be the reason for an increase in cases 24 last year. She mentioned that one complaint may 25 result in more than one case being opened.

reported 1,223 cases were opened in the Prosecution

Division regarding COVID complaints in 2020 with 13 of
those for the Board. She also reported a significant
decrease in COVID-related complaints in 2021 with 543

COVID-related cases and 17 of those for the Board.

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Ms. DeLaurentis addressed how complaints are received at the Prosecution Division. She explained that the agency is complaint-driven and receives complaints from the public, other state agencies, law enforcement, patients, and licensees. She mentioned that complaints are received in writing and by phone calls but noted the best way to file a complaint is through the Pennsylvania Licensing System (PALS), where individuals can remain anonymous.

Ms. DeLaurentis explained that administrative assistants go through complaints, make a file, and then the cases are reviewed, noting the Board prosecution liaison handles most Board cases. She noted complaints are handled in steps, including asking for more information, sending out investigators, coordinating with the Department of Health, and then looking at the status to see whether formal charges should be filed.

Chair McDermond asked Ms. DeLaurentis how many cases were substantiated out of the 17 cases.

- Ms. DeLaurentis stated Prosecution had not taken any formal disciplinary action, but some of those cases may actually still be open.
- Ms. DeLaurentis noted a record number of cases

 opened last year and thanked the administrative

 assistants for processing so many files. She reported

 18,363 cases were opened in 2021, which is an increase

 from 2020 at 13,394.
- 9 Ms. DeLaurentis reported 15,994 cases were closed in 2021 and 13,274 in 2020. She thanked the Board, Board Counsel, and Prosecutors for their combined effort. She reported 15,141 open cases as of January 13, 2022.
 - Dr. Warner-Maron asked Ms. DeLaurentis whether she could identify any general trends in nursing home administrator complaints.

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Newport and Ms. Boyd.

- Ms. DeLaurentis commented that COVID cases include moving a positive resident, complaints related to personal protective equipment (PPE), and complaints early on in the pandemic concerning access to residents. She deferred general complaints to Mr.
- 23 Trista Marie Boyd, Esquire, Board Prosecutor, 24 stated most of the general cases are family
- 25 complaints, where a family member took issue with the

16 home's handling of the care of a resident or patient.] 1 * * * 2 Report of Board Counsel 3 4 Alexandra "Sasha" Sacavage, Esquire, Board Counsel, 5 noted having no new matters to deliberate.] * * * 6 Report of Board Chairperson - No Report 9 MOTIONS 10 CHAIR MCDERMOND: 11 We are looking at ratifying the 12 Temporary Permit Applications for Janet 1.3 Rossi, Bethany Loray Schweigart, Stacey 14 Trunecek, and Paul Mwambu. 15 I will make a vote to ratify the 16 Temporary Permit Applications listed at items 6 through 9 of Janet Rossi, 17 18 Bethany Loray Schweigart, Stacey 19 Trunecek, and Paul Mwambu. 20 Will anyone second? 21 MS. KING: 22 I will make a motion to second the 2.3 ratifications of 6 through 9 on the 2.4 agenda for the Temporary Permit 25 Applications.

17 1 MS. SACAVAGE: 2 McDermond, yes; Burns, yes; King, yes; 3 Warner-Maron, yes; Wernicki, approve. 4 [The motion carried unanimously.] * * * 5 Report of Acting Commissioner - No Report 6 * * * 8 Report of Board Administrator - No Report 9 10 Report of Board Members - No Report * * * 11 Report of Committees - Report of Examination Committee 12 13 [Chris Stuckey, Board Administrator, informed the Board that the Examination Committee currently is 14 15 Diane Baldi, who could not attend the meeting today, but the report of the applications that have been 16 17 received and approved is on the agenda.] * * * 18 19 Report of Committees - Report of AIT Review 20 Committee - No Report 21 * * * 2.2 Miscellaneous - NAB News: Highlights from the 2021 2.3 Midyear Meeting and More 24 [Chris Stuckey, Board Administrator, referred to 25 documents from the National Association of Long-Term

1 | Care Administrator Boards (NAB) for the Board's

2 review.]

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4 [The Board recessed from 11:17 a.m. until 11:50 a.m.]

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6 | Appointment - Anthony D. Nefstead, 39.5(b)(5)

7 | Applicant

B | [Sharon K. McDermond, NHA, Chairperson, informed Mr.

9 Nefstead that the Board would be asking questions

10 regarding his request for licensure and asked Mr.

11 Nefstead to explain his responsibilities in detail.

12 Anthony D. Nefstead, Assistant Nursing Home

13 Administrator, Guardian Healthcare, presented to the

14 | Board requesting approval to sit for the Nursing Home

15 Administrator Examination.

16 Mr. Nefstead addressed his duties as the

17 assistant administrator, including following hours per

18 resident day (HPRD) levels, managing the business

19 office with discharge planning and daily skills

20 review, labor-management, marketing, recruitment, and

21 retention.

22 Mr. Nefstead noted working with the administrator

23 on day-to-day challenges and working on the compliance

24 survey and finding resolutions.

25 Mr. Nefstead addressed supervision, where he

supervises the interdisciplinary team, social
services, business office manager, dietary manager,
and medical records. He noted assisting in the
performance improvement process with the business
office.

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- Mr. Nefstead discussed retention, noting his human resources (HR) work and being involved with retention of the building since December 2019. The facility was doing well.
- Mr. Nefstead addressed involvement with prior deficiencies and actions put in place for the prevention of repeat deficiencies. He mentioned their annual survey in October showed three deficiencies, noting deficiencies are reviewed on a weekly basis with the department to assure compliance.
- Mr. Nefstead discussed his involvement in the financial operations of the facility, including reviewing the profit and loss (P&L) statement monthly with the regional office manager.
- Mr. Nefstead addressed the grievance process and working with the administrator, director of nursing, and the social worker in identifying the problem and deciding how to solve the grievance and close the case.
- 25 Mr. Nefstead spoke about quality of care

standards, noting a very detailed skills review
process every morning on Medicare patients for quality
of care standards and discussed a system implemented
for all residents called angel rounds.

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Mr. Nefstead addressed his responsibilities during the early stages of COVID and presently, including staffing and profit and loss because of not taking any admissions.

Mr. Nefstead commented that he is comfortable with the financials and working with the staff and managers. He mentioned focusing on Minimum Data Set (MBS) and working with RN staff and teams to consider the outcomes of the patients with the intention of providing better care.

Callie Lyle, NHA, Director of Operational
Intervention, Guardian Healthcare, informed the Board
that Mr. Nefstead immediately excelled and caught on
quickly to the long-term care industry. She commented
that Mr. Nefstead is a well-rounded individual and
noted his involvement in staffing, marketing, and
employee retention activities because he understands
how staff directly relates to the quality of care.]

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Appointment - Amy Learn, 39.5(b)(5) Applicant
[Sharon K. McDermond, NHA, Chairperson, informed Ms.

1 Learn that the Board would be asking questions

2 regarding her request for licensure and asked Ms.

Amy Learn, Director of Dining Services,

3 Learn to explain her responsibilities in detail.

5 Brevillier Village, presented to the Board requesting 6 approval to sit for the Nursing Home Administrator

7 Examination. She stated having 21 years of experience

in her role as a supervisor for the second largest

9 department in their facility. She noted having

10 experience with interviewing, hiring, promoting, and

11 discharging staff.

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Ms. Learn addressed her responsibilities, including staff scheduling, purchasing food, and a review of the budget monthly. She mentioned serving on the Quality Assurance and Performance Improvement (QAPI) Committee, Infection Control Committee, and Strategic Planning Committee.

Ms. Learn addressed additional responsibilities and learning areas while spending time in other departments. She noted working closely with the Human Resources Department as far as new ways to recruit people and talking with employees as far as retention to see if there are other things the facility could be doing or trying to retain staff.

Ms. Learn addressed how involved she was in prior

- deficiencies and efforts to prevent repeat
 deficiencies with monthly QAPI Meetings and department
 monitoring updates to make ensure progress in those
- 4 areas.

2.3

- Ms. Learn noted she would be running the QAPI

 Meetings starting next month and would be reviewing

 quality indicators every month to see if there is a

 recurrent theme or pattern.
 - Ms. Learn addressed her role in financial issues outside of dietary with reviewing P&L statements monthly to see whether there are other measures that could be taken.
 - Ms. Learn discussed the grievance process, where a family member can take a complaint to their social worker or the administrator and discussed with the appropriate department to find out what the problem is and how it could be resolved.
 - Ms. Learn spoke about how quality of care standards are met every day, including rounds and an admission/discharge meeting every day, along with review of medical records to make sure residents are getting good care.
 - Ms. Learn addressed responsibilities during
 COVID, including educating staff on all of the changes
 and requirements. She commented that there had been

1 excellent teamwork between all of the different 2 departments with everyone helping each other.

Vicky Wittuck, Senior Vice President, Brevillier

Village, commented that the facility has been

fortunate to be able to promote people within the

organization and is incredibly supportive of Ms. Learn

because she has been a member of the team since she

was 18 years old and grew in the organization. She

stated Ms. Learn is a great supervisor and able to

learn the job.

Chair McDermond commended Brevillier Village for all of their longevity to be able to raise young leaders and have people start and end their careers in one spot.]

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[Pursuant to Section 708(a)(5) of the Sunshine Act, at 12:32 p.m. the Board entered into Executive Session with Alexandra "Sasha" Sacavage, Esquire, Board Counsel, for the purpose of conducting quasi-judicial deliberations and to receive legal advice. The Board returned to open session at 12:35 a.m.]

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23 MOTIONS

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24 CHAIR MCDERMOND:

I would like to approve the Applications

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1
                  of Amy Learn and Anthony D. Nefstead.
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                        Is there someone that would second
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                  that?
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   MS. KING:
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                  I will second.
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   MS. SACAVAGE:
                  McDermond, yes; Burns, yes; King, yes;
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                  Warner-Maron, yes; Wernicki, yes.
   [The motion carried unanimously.]
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   Adjournment
   CHAIR MCDERMOND:
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                  I would like to make a motion to adjourn
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                  this meeting.
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   MS. SACAVAGE:
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                  The meeting is adjourned.
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   [There being no further business, the State Board of
19
   Examiners of Nursing Home Administrators Meeting
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   adjourned at 12:36 p.m.]
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                           CERTIFICATE
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        I hereby certify that the foregoing summary
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minutes of the State Board of Examiners of Nursing

Home Administrators, was reduced to writing by me or

under my supervision, and that the minutes accurately

summarize the substance of the State Board of

Examiners of Nursing Home Administrators meeting.

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Kathryn Witherow,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

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1234567890124567890012456789012456789012456789012456789000000000000000000000000000000000000		STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS REFERENCE INDEX	
		February 2, 2022	
	TIME	AGENDA	
	10:00 10:30	Executive Session Return to Open Session	
	10:34	Official Call to Order	
	10:35	Approval of Minutes	
	10:36	Appointment - Pennsylvania Insurance Department	
	11:00	Appointment - Carolyn A. DeLaurentis, Esquire, Deputy Chief Counsel, Prosecution Division Annual Report Presentation	
	11:14	Report of Board Chair	
	11:16	Report of Committees	
	11:17	Miscellaneous	
	11:17 11:50	Recess Return to Open Session	
	11:50	Appointment - Anthony D. Nefstead	
	12:12	Appointment - Amy Learn	
	12:32 12:35	Executive Session Return to Open Session	
	12:35	Motions	
	12:36	Adjournment	