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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

**F I N A L M I N U T E S**

MEETING OF:

**STATE BOARD OF EXAMINERS OF  
NURSING HOME ADMINISTRATORS  
VIA VIDEOCONFERENCE**

TIME: 10:27 A.M.

Wednesday, December 2, 2020

1                                    State Board of Examiners of  
2                                    Nursing Home Administrators  
3                                    December 2, 2020  
4  
5

6 BOARD MEMBERS:  
7

8 Sharon K. McDermond, NHA, Chairperson  
9 K. Kalonji Johnson, Commissioner, Bureau of  
10 Professional and Occupational Affairs  
11 Sara L. King, NHA, Secretary  
12 Diane M. Baldi, R.N. - Absent  
13 Anne E. Holladay, CNHA, Vice Chairperson  
14 Mary Patricia Howard, Department of Health designee  
15 Michael P. Kelly, NHA  
16 Anna E. Stewart, R.N. - Absent  
17 Ilene Warner-Maron, Ph.D.  
18 Robert L. Wernicki, NHA  
19 Carrie E. Wilson, Office of Attorney General designee,  
20 Bureau of Consumer Protection  
21  
22

23 BUREAU PERSONNEL:  
24

25 Jaime D. Black, Esquire, Board Counsel  
26 William A. Newport, Esquire, Board Prosecution  
27 Liaison  
28 Trista Boyd, Esquire, Board Prosecutor  
29 Chris Stuckey, Board Administrator  
30 Carolyn A. DeLaurentis, Deputy Chief Counsel,  
31 Prosecution Division  
32 Cynthia K. Montgomery, Esquire, Deputy Chief  
33 Counsel/Regulatory Counsel, Department of State  
34 Theodore Stauffer, Executive Secretary, Bureau of  
35 Professional and Occupational Affairs  
36 Kimberly Adams, Chief of Fiscal Management, Bureau of  
37 Finance and Operations  
38  
39  
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1 \*\*\*

2 State Board of Examiners of  
3 Nursing Home Administrators

4 December 2, 2020

5 \*\*\*

6 [Pursuant to Section 708(a)(5) of the Sunshine Act, at  
7 9:00 a.m. the Board entered into Executive Session  
8 with Jaime D. Black, Esquire, Board Counsel, to have  
9 attorney-client consultations and for the purpose of  
10 conducting quasi-judicial deliberations regarding  
11 items on today's agenda. The Board began open session  
12 at 10:27 a.m.]

13 \*\*\*

14 The regularly scheduled meeting of the State  
15 Board of Examiners of Nursing Home Administrators was  
16 held on Wednesday, December 2, 2020. Sharon K.  
17 McDermond, NHA, Chairperson, called the meeting to  
18 order at 10:27 a.m.

19 \*\*\*

20 Roll Call

21 [Chairperson McDermond requested a roll call be  
22 taken.]

23 \*\*\*

24 Approval of minutes of the August 26, 2020 meeting  
25 CHAIRPERSON MCDERMOND:

1                   Is there a motion to approve the August  
2                   26, 2020 minutes?

3 MR. KELLY:

4                   I'll make the motion to accept the  
5                   minutes.

6 MS. HOLLADAY:

7                   Second.

8 CHAIRPERSON MCDERMOND:

9                   All in favor? Any opposed?

10 [The motion carried. Commissioner Johnson abstained  
11 from voting on the motion.]

12   \*\*\*

13 [Jaime D. Black, Esquire, Board Counsel, announced the  
14 Board met in Executive Session prior to the meeting.  
15 She also noted the meeting was being recorded, and  
16 those who remained on the call were giving their  
17 consent to being recorded.]

18   \*\*\*

19 Appointment - Bureau of Finance and Operations Annual  
20 Budget Presentation

21 [Kimberly Adams, Chief of Fiscal Management, Bureau of  
22 Finance and Operations, Department of State, addressed  
23 licensee population from a revenue standpoint. She  
24 noted a licensee count in 2016 of 1,724 with an  
25 increase of 29 licensees in 2018 to 1,753 and current

1 count at 1,691 licensees in 2020. She provided an  
2 update of 1,706 licensees, showing a decrease of 18  
3 licensees from 2016.

4 Ms. Adams reviewed revenue by source. She  
5 reviewed categories and actual revenue for FY 2018-  
6 2019 and FY 2019-2020, noting the biennial total. She  
7 mentioned the last renewal fee increase was in 2006.  
8 She noted the nursing home administrator renewal fee  
9 of \$297.

10 Ms. Adams provided a categorical breakdown of  
11 expenses for FY 2018-2019 and FY 2019-2020 with a  
12 current budget for FY 2020-2021 and expenses as of  
13 November 4, 2020. She noted a recent increase in  
14 expenses. She stated the budget submitted should be  
15 adequate for expenses.

16 Ms. Adams reviewed revenues and expenses for FY  
17 2020-2021, noting the revenues continue to exceed  
18 expenses.

19 Ms. Adams reviewed Board member expenses, noting  
20 current expenses with the current budgeted figure for  
21 FY 2020-2021. She stated actual expenses had not  
22 changed since November 4, 2020, noting the budgeted  
23 amount to be sufficient and would carry into FY 2021-  
24 2022. She stated any excess money budgeted remained  
25 in the restricted account for the Board's use.]

\*\*\*

1 Appointment - 39.5(b)(5) Applicant

2 [Laura Ann Clouser presented before the Board  
3 requesting approval to sit for the Nursing Home  
4 Administrator Examination.  
5

6 Ms. Clouser informed the Board that she started  
7 her career in the nursing field as a certified medical  
8 assistant in 1997 and became an LPN in 2007. She  
9 noted working since 2008 at Conestoga View Nursing &  
10 Rehabilitation and provided a summary of her duties  
11 managing central supply, the beauty shop, medical  
12 records, and the clinic. She mentioned working  
13 closely with management and administration under  
14 Howard Hay, the Executive Director.

15 Ms. Clouser addressed her experience working with  
16 administration, the business office, maintenance,  
17 environmental services, and dietary.

18 Ms. Clouser discussed her role concerning the  
19 regulatory process and policies and procedures.

20 Ms. Clouser addressed how she stays current with  
21 management and nursing areas.

22 Ms. Clouser noted working closely with Kevin  
23 Lehman regarding Medicare reimbursement and insurance  
24 and Megan Holzman regarding the business aspect.

25 Ms. Black informed Ms. Clouser that the Board

1 would be going back into executive session to discuss  
2 her application and then the Board would go back into  
3 public session to vote on the application. Ms. Black  
4 explained to Ms. Clouser that she could remain in the  
5 meeting to hear the vote after the Board returns from  
6 Executive Session. She also told Ms. Clouser that she  
7 would be emailed the decision as well.]

8

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9 Report of Prosecutorial Division

10 [William A. Newport, Esquire, Board Prosecution  
11 Liaison, offered no Consent Agreements but noted he  
12 would remain on the call.]

13

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14 Appointment - Act 53 of 2020 Presentation

15 [K. Kalonji Johnson, Commissioner, Bureau of  
16 Professional and Occupational Affairs, presented to  
17 the Board to address the Act 53 list of offenses. He  
18 stated Act 53 was passed in June and would become  
19 effective at the end of December 2020 to modernize the  
20 way boards and commissions under the auspices of the  
21 Department of State use criminal history when making  
22 decisions to grant, refuse, or discipline a licensee  
23 or applicant.

24

25 Commissioner Johnson noted Act 53 updates the  
Criminal History Records Information Act (CHRIA) and

1 consolidates a number of existing statutory provisions  
2 into a new guideline for boards and commissions and  
3 provides clarifying instructions for the public. He  
4 addressed his responsibilities under Act 53 to consult  
5 with every board and commission and publish a list of  
6 convictions that directly relate to the profession or  
7 occupation and to provide forums for members of the  
8 business and regulated communities.

9 Commissioner Johnson noted the Board will begin  
10 the formal process of promulgation of regulations  
11 pursuant to the Act upon publication of the list. He  
12 stated the list was not a terminal list, but the start  
13 of a more comprehensive process.

14 Cynthia K. Montgomery, Esquire, Deputy Chief  
15 Counsel/Regulatory Counsel, Department of State,  
16 referred to § 3117 of Act 53, where Commissioner  
17 Johnson must publish a schedule of criminal offenses  
18 that may constitute grounds to refuse to issue,  
19 suspend, or revoke a license.

20 Ms. Montgomery noted the Act also requires the  
21 schedule indicated offenses the Board deems as  
22 directly related to the occupation or profession and  
23 provided a definition of "directly relates." She  
24 noted that the effect of being on the list under §  
25 3113 sets forth the process by which the Board is to



1 consider criminal conviction information.

2 Ms. Montgomery addressed rebuttable presumption,  
3 where individuals convicted of a crime on the list of  
4 offenses directly related to the profession would pose  
5 a substantial risk to the health and safety of the  
6 individual's patients, clients, or the public or a  
7 substantial risk of further criminal convictions. She  
8 stated the burden shifts to the applicant or licensee  
9 to demonstrate they do not pose such a risk.

10 Ms. Montgomery noted crimes not on the list would  
11 go to the second stage called an individualized  
12 assessment, where the Board would look at criteria set  
13 forth in § 3113(c).

14 Ms. Montgomery explained that Act 53 makes the  
15 process more transparent, so individuals considering  
16 going into the nursing home administration profession  
17 could review the list before applying. She noted the  
18 list would be part of a best practices guide the  
19 statute requires the department to publish by the end  
20 of the year for individuals to be able to understand  
21 grounds for denial of a license, the process, and  
22 evidence to present for a hearing or application.

23 Ms. Montgomery addressed violent crimes set forth  
24 in § 3113(e) that may be grounds to refuse a license  
25 but noted an individual may be granted a license if at

1 least 3 years have elapsed from incarceration or 3  
2 years from imposition of the sentence, the individual  
3 has remained conviction-free, and demonstrates  
4 significant rehabilitation. She added that the Board  
5 must determine after reviewing factors in § 3113(e)  
6 that the individual does not pose a substantial risk  
7 to the health and safety of individual's patients,  
8 clients, or the public or a substantial risk of  
9 further conviction.

10 Ms. Montgomery noted that Commissioner Johnson  
11 has a duty to publish a notice in the *Pennsylvania*  
12 *Bulletin* of the availability of the completion of the  
13 list by December. She stated each board has their own  
14 list to be posted on the website and become part of  
15 the application process.

16 Ms. Montgomery referred to § 3117, noting the  
17 list is used by the Board for preparing preliminary  
18 determinations under § 3115, where individuals  
19 considering entering a particular occupation or  
20 profession could apply for a preliminary determination  
21 to determine whether their criminal history record  
22 information would be an impediment to licensure. She  
23 noted the process was being set up in the Pennsylvania  
24 Licensing System (PALS). She mentioned that the list  
25 is also used in determining discipline and in

1 determining whether to refuse to issue or deny a  
2 license.

3 Ms. Montgomery commented that just because a  
4 crime does not appear on the list did not mean the  
5 Board will never consider the same. She noted  
6 receiving notification of all convictions through the  
7 Pennsylvania Justice Network (JNET) and criminal  
8 background checks on all applicants.

9 Ms. Montgomery stated that crimes on the list  
10 deemed to be directly related to the profession raises  
11 a rebuttable presumption that licensure of the  
12 individual would pose a significant risk to patients,  
13 clients, or public or a risk of further criminal  
14 convictions. She noted crimes not on the list means  
15 the Commonwealth has more work to do to evaluate and  
16 determine whether the crime was something that needed  
17 to be brought to the Board's attention.

18 Ms. Montgomery offered to answer questions  
19 concerning Act 53 but deferred questions regarding a  
20 specific crime on the list to Ms. Black as she was  
21 responsible for curating the list with input from the  
22 prosecution division attorneys.

23 Ms. Montgomery noted not receiving any comments  
24 from interested parties and stakeholders and offered  
25 attendees at the meeting to provide comments.

1 With regard to personal drug use, Ms. Montgomery  
2 explained that an individual would probably be  
3 referred for an evaluation to determine impairment if  
4 the conviction was the result of personal drug use,  
5 which may be why the drug-related offenses were not on  
6 this list.

7 Beth Greenberg, Senior Director of Regulatory  
8 Affairs, LeadingAge PA, requested information  
9 concerning how Act 53 aligns with criminal history  
10 record check laws and court cases that have been  
11 circulating.

12 Ms. Montgomery explained that Act 53 amended the  
13 Criminal History Records Information Act § 9124  
14 pertaining to criminal history record information by a  
15 licensing agency, and it added a specific section  
16 pertaining to the Bureau of Professional and  
17 Occupational Affairs (BPOA) boards. She noted it now  
18 states that the provision of Act 53 shall apply to  
19 licensing boards and licensing commissions under the  
20 department with respect to refusing to issue; renew;  
21 suspend; revoking; or limit a license, certificate,  
22 registration, or permit.

23 Ms. Montgomery referred to § 3112 and § 3117 that  
24 are now cited in the Criminal History Records  
25 Information Act. She noted § 9124 used to state a

1 Board could discipline for any felony and any  
2 misdemeanor related to the profession but now states  
3 Act 53 must be followed when evaluating criminal  
4 history record information. She commented that some  
5 of the existing case law may or may not continue to  
6 apply because the process is to be followed after  
7 December 27, 2020.

8 Ms. Montgomery commented that the preliminary  
9 lists would be published and available on websites for  
10 everyone's information. Commissioner Johnson is  
11 required to promulgate them as regulations, noting  
12 another opportunity to comment at that time when  
13 published as proposed rulemaking.]

14

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15 COMMISSIONER JOHNSON:

16 I would humbly ask for approval of this  
17 list as presented by vote of the Board  
18 today.

19 [Mr. Newport supported the current list but referred  
20 to an earlier question concerning personal drug use.  
21 He commented that the NHA Board and the Act is one of  
22 the few acts in BPOA that did not have any  
23 Professional Health Monitoring Program (PHMP) language  
24 to allow petitioning for a mental physical exam of an  
25 NHA licensee. He noted the drug act was on the

1 current list, which would include many drug offenses.  
2 He noted reviewing the act and possibly bringing  
3 action for someone having issues with addiction. He  
4 wanted to clarify prosecution did have that ability  
5 with impairment.

6 Ms. Montgomery noted Title 35 P.S. § 780-113  
7 regarding prohibited acts under the Controlled  
8 Substance, Drug, Device, and Cosmetic Act. She noted  
9 that included trafficking in drugs.]

10 CHAIRPERSON MCDERMOND:

11 With that, is there a motion before the  
12 Board to publish the list in the *PA*  
13 *Bulletin* and the Board's website?

14 MR. KELLY:

15 I make that motion to publish the list.

16 MR. WERNICKI:

17 I second.

18 CHAIRPERSON MCDERMOND:

19 All in favor? Any opposed?

20 [The motion carried unanimously.]

21

\*\*\*

22 [Commissioner Johnson thanked the Board for their  
23 approval. He will work with due diligence to ensure  
24 the list is published in a timely manner, as well as  
25 the functionality built into PALS to accommodate the

1 change.]

2

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3 [Pursuant to Section 708(a)(5) of the Sunshine Act, at  
4 11:45 a.m. the Board entered into Executive Session  
5 with Jaime D. Black, Esquire, Board Counsel, to have  
6 attorney-client consultations and for the purpose of  
7 conducting quasi-judicial deliberations regarding the  
8 items on today's agenda. The Board returned to open  
9 session at 11:52 a.m.]

10

\*\*\*

11 MS. BLACK:

12

The Board is now coming back from

13

executive session where we discussed the

14

Application of Laura Ann Clouser.

15

Would the Board entertain a motion

16

to approve Ms. Clouser's Application?

17 MR. KELLY:

18

I'll make that motion to approve her

19

application.

20 MR. WERNICKI:

21

I'll second the motion.

22 CHAIRPERSON MCDERMOND:

23

All in favor? Any opposed?

24 [The motion carried unanimously.]

25

\*\*\*

1 Report of Board Counsel

2 MS. BLACK:

3 The Board discussed the blanket ITS  
4 Delegation Order. This order will be  
5 used when an ITS petition is filed.

6 At this time, would the Board  
7 entertain a motion to adopt the ITS  
8 Delegation Order?

9 DR. WARNER-MARON:

10 I'll make a motion to approve.

11 MR. KELLY:

12 I'll second that motion.

13 CHAIRPERSON MCDERMOND:

14 All in favor? Any opposed?

15 [The motion carried unanimously.]

16 \*\*\*

17 Report of Committees

18 MS. BLACK:

19 Would the Board entertain a motion to  
20 table the application of Joseph Lee  
21 Weeks so the Board can request  
22 additional information to be reviewed?

23 DR. WARNER-MARON:

24 I so move that we table this discussion  
25 until more information has been



1 received.

2 MR. KELLY:

3 I'll second that motion.

4 CHAIRPERSON MCDERMOND:

5 All in favor? Any recusals? Any  
6 opposed?

7 [The motion carried. Ms. King recused herself from  
8 deliberations and voting on the motion.]

9 \*\*\*

10 Report of Board Administrator - No Report

11 \*\*\*

12 Report of Board Members - No Report

13 \*\*\*

14 Report of Committees

15 [Chris Stuckey, Board Administrator, noted the  
16 Examination Committee Report for the Board's review.]

17 \*\*\*

18 Report of Board Chairperson

19 MS. BLACK:

20 Is there a motion to ratify the  
21 Temporary Permit Application of Eryn  
22 Michelle DeBoer?

23 MS. KING:

24 I'll make a motion for approval.

25 DR. WARNER-MARON:

1 I'll second.

2 CHAIRPERSON MCDERMOND:

3 All in favor? Any opposed?

4 [The motion carried unanimously.]

5 \*\*\*

6 [K. Kalonji Johnson, Commissioner, Bureau of  
7 Professional and Occupational Affairs, wished everyone  
8 a safe and happy holiday.

9 Commissioner Johnson thanked Board staff, Board  
10 counsel, and the prosecutorial division.]

11 \*\*\*

12 Miscellaneous

13 [Chris Stuckey, Board Administrator, referred to 2021  
14 meeting dates, noting the next scheduled meeting date  
15 is February 24, 2021.]

16 \*\*\*

17 Adjournment

18 CHAIRPERSON MCDERMOND:

19 Would anybody like to make a motion to  
20 adjourn the meeting?

21 DR. WARNER-MARON:

22 I move to adjourn.

23 MR. KELLY:

24 I second.

25 CHAIRPERSON MCDERMOND:

1 All those in favor?

2 [The motion carried unanimously.]

3 \*\*\*

4 [There being no further business, the State Board of  
5 Examiners of Nursing Home Administrators Meeting  
6 adjourned at 11:58 a.m.]

7 \*\*\*

8

9 CERTIFICATE

10

11 I hereby certify that the foregoing summary  
12 minutes of the State Board of Examiners of Nursing  
13 Home Administrators, was reduced to writing by me or  
14 under my supervision, and that the minutes accurately  
15 summarize the substance of the State Board of  
16 Examiners of Nursing Home Administrators meeting.

17

18

19



20

Derek Richmond,

21

Minute Clerk

22

Sargent's Court Reporting

23

Service, Inc.

24

25

STATE BOARD OF EXAMINERS OF  
NURSING HOME ADMINISTRATORS  
REFERENCE INDEX

December 2, 2020

TIME	AGENDA
9:00	Executive Session
10:27	Return to Open Session
10:27	Official Call to Order
10:28	Roll Call
10:30	Approval of Minutes
10:31	Appointment - Bureau of Finance and Bureau of Operations Annual Budget Presentation
10:40	Appointment - Laura Ann Clouser
11:09	Report of Prosecutorial Division
11:10	Appointment - Act 53 of 2020 Presentation
11:45	Executive Session
11:52	Return to Open Session
11:53	Report of Board Counsel
11:54	Report of Committees
11:55	Report of Board Chairperson
11:58	Adjournment