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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 CONDUCTED VIA
VIDEOCONFERENCE**

TIME: 10:31 A.M.

Wednesday, August 26, 2020

1 State Board of Examiners of
2 Nursing Home Administrators
3 August 26, 2020
4

5 BOARD MEMBERS:
6

7 Kimberly D. Cobaugh, NHA, Chairperson
8 Sharon K. McDermond, NHA, Vice Chairperson
9 Kalonji Johnson, Commissioner of Professional and
10 Occupational Affairs
11 Sara L. King, NHA, Secretary
12 Diane M. Baldi, R.N. - Absent
13 Anne E. Holladay, NHA
14 Mary Patricia Howard, Designee, Department of Health
15 - Absent
16 Michael P. Kelly, NHA - Absent
17 Anna E. Stewart, R.N.
18 Ilene Warner-Maron, Ph.D.
19 Robert L. Wernicki, NHA
20 Carrie E. Wilson, Office of Attorney General, Bureau
21 of Consumer Protection Designee
22
23

24 BUREAU PERSONNEL:
25

26 Jaime Black, Esquire, Board Counsel
27 William Newport, Esquire, Board Prosecution Liaison
28 Trista Boyd, Esquire, Board Prosecutor
29 Cynthia Montgomery, Esquire Deputy Chief Counsel
30 Chris Stuckey, Board Administrator
31
32 Theodore Stauffer, Executive Secretary, Bureau of
33 Professional and Occupational Affairs
34 Marc Farrell, Deputy Policy Director, Department of
35 State
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1 ***

2 State Board of Examiners of
3 Nursing Home Administrators

4 August 26, 2020

5 ***

6 [Pursuant to Section 708(a)(5) of the Sunshine Act,
7 the Board entered into Executive Session prior to the
8 commencement of the meeting with Jaime Black, Esquire,
9 Board Counsel, for the purpose of conducting quasi-
10 judicial deliberations and to receive legal advice.
11 The Board began open session at 10:30 a.m.]

12 ***

13 The regularly scheduled meeting of the State
14 Board of Examiners of Nursing Home Administrators was
15 held on Wednesday, August 26, 2020. Kimberly D.
16 Cobaugh, NHA, Chairperson, called the meeting to order
17 at 10:31 a.m. Roll call was taken.

18 ***

19 [It was noted that the meeting was being recorded and
20 that by continuing to participate in the meeting would
21 be consenting to that recording.]

22 ***

23 Approval of Minutes of the May 27, 2020 meeting
24 CHAIRPERSON COBAUGH:

25 I would ask the Board to approve the

1 Minutes from the May 27, 2020 meeting.

2 Do I have a motion?

3 MS. MCDERMOND:

4 I make a motion to accept.

5 MS. HOLLADAY:

6 I'll second.

7 CHAIRPERSON COBAUGH:

8 All in favor?

9 [The motion carried unanimously.]

10 ***

11 Report of Prosecutorial Division

12 ***

13 [William Newport, Esquire, Board Prosecution Liaison
14 and Trista Boyd, Esquire, Board Prosecutor, had no
15 report.]

16 ***

17 Report of Board Counsel

18 [Jaime Black, Esquire, Board Counsel, noted a number
19 of regulations for discussion, including the Child
20 Abuse Reporting Requirement presented by Cynthia
21 Montgomery, Esquire, Deputy Chief Counsel.]

22 ***

23 Child Abuse Reporting Requirements-Proposed Rulemaking
24 (16A-6218)

25 [Cynthia Montgomery, Esquire, Deputy Chief Counsel,

1 referred Board members to the Proposed Rulemaking
2 documents to implement the Child Protective Services
3 Law Requirements for further discussion.

4 The Preamble, or explanatory document, explains
5 what the Board is doing and why the Board is doing it.

6 Ms. Montgomery explained the Child Protective
7 Services Law has been amended numerous times from 2014
8 to as recently as November of 2019. She indicated one
9 change is the expansion of the scope of duty to report
10 and referred to Section 6311 of the Child Protective
11 Services Law for further explanation of the duty to
12 report.

13 Ms. Montgomery indicated the regulation amends
14 existing regulations having to do with obtaining
15 licensure, Section 39.4, licensure by endorsement in
16 Section 39.8, continuing education in Section 39.11
17 and the two hours as a condition of biennial renewal
18 in Section 39.61.

19 She noted that Section 39.201 sets forth
20 definitions necessary for the regulations, including
21 the definition of child abuse which had been amended a
22 number of times. The definition of perpetrator was
23 added.

24 She indicated that Section 39.202 is the mandated
25 reporting requirement that sets forth the general rule

1 that licensees of this Board are considered mandated
2 reporters. She discussed criteria given for making
3 the required report. Ms. Montgomery noted an
4 electronic or telephone reporting procedure is also
5 set forth.

6 Ms. Montgomery noted that Section 39.203 sets
7 forth authority to take photographs or other medical
8 exams or x-rays if indicated.

9 Section 39.204 is regarding the mandated
10 reporting requirement to report that a child died as a
11 result of child abuse.

12 Section 39.205 provides licensees immunity from
13 liability if they participate in making a good faith
14 report.

15 Section 39.206 is a provision that indicates that
16 mandated reporting requirements take precedent over
17 any provision regarding client confidentiality.

18 Section 39.207 discusses noncompliance and sets
19 forth criminal penalties.

20 Section 39.208 incorporates the mandatory
21 training requirement in Section 6383 of the Child
22 Protective Services Law, three hours as a condition of
23 licensure and two hours as a condition of biennial
24 renewal. Ms. Montgomery stated a provision was added
25 that the Board would not renew a license unless the

1 Bureau has received an electronic report documenting
2 if the licensee completed an approved course or the
3 licensee has obtained an exemption as permitted. She
4 noted several examples of the permitted exemptions.

5 Ms. Montgomery noted that Section 39.209 is
6 regarding the process for the courses to be approved
7 which at this point is approximately 70.

8 She noted the Preamble would explain the law in
9 more detail and is published along with the Annex as a
10 Notice of Proposed Rulemaking in the Pennsylvania
11 Bulletin for 30 days of public comment. Ms.
12 Montgomery answered questions from Board members.]

13 ***

14 CHAIRMAN COBAUGH:

15 It would be appropriate at this time for
16 someone to make a motion to approve the
17 Proposed Rulemaking and to authorize
18 that it be published as Proposed
19 Rulemaking.

20 MS. MCDERMOND:

21 I make a motion.

22 MR. WERNICKI:

23 I'll second the motion.

24 CHAIRMAN COBAUGH:

25 All in favor? Any opposed?

1 [The motion carried unanimously.]

2

3 Act 53 of 2020

4 [Jaime Black, Esquire, Board Counsel, explained that
5 Act 53 was enacted on July 1, 2020 and it codifies the
6 existing Act 48 in Title 63 of the PA Consolidated
7 Statute under Sections 3102 to 3111. It also creates
8 new Sections 3112 to 3118 which provides direction on
9 how Boards must consider criminal convictions which
10 shall apply to official acts such as the issuance of
11 licenses and disciplinary matters beginning on or
12 after 180 days after July 1 which would be December
13 27.

14 Ms. Black explained that Section 3113 provides
15 the procedure for determining whether an individual
16 with a criminal conviction qualifies for a license and
17 provided further explanation of those procedures and
18 steps involved in the process.

19 She noted that Section 3114 provides that the
20 Board may not consider an individual's juvenile record
21 and adjudication.

22 Section 3116 provides that the Department of
23 State has 180 days to set up best practices. Section
24 3117 provides that within the 180 days the
25 Commissioner will publish a schedule of criminal

1 convictions that directly relate to the various
2 professions that are licensed.]

3 ***

4 Act 41 of 2019

5 [Ms. Black stated the Board skipped over discussing
6 this agenda item until the board discussed the
7 Continuing Education (16A-6219) regulation on today's
8 agenda. Depending on what the Board decides with the
9 continuing education packet, it may reflect on how the
10 Board acts on Act 41. Act 41 would therefore be
11 discussed after the continuing education packet]

12 ***

13 Continuing Education (16A-6219)

14 [Ms. Black explained that this regulatory packet
15 relates to continuing education required for nursing
16 home administrators to biennially review licensure,
17 that the proposed rulemaking would reduce the number
18 of required continuing education hours from 48 to 36.
19 She further explained that the rulemaking implements
20 the reduction and makes related changes to the length
21 of education programs and the number of hours awarded
22 for various continuing education activities.

23 Ms. Black noted this packet was published for
24 public comment on February 1, 200 and received several
25 comments from LeadingAge PA, Pennsylvania Coalition of

1 Affiliate Healthcare and Living Communities (PACAH),
2 the House of Representatives Professional Licensure
3 Committee and the Independent Regulatory Review
4 Commission (IRRC). She noted that the LeadingAge
5 comments overall did not support the reduction of the
6 48 hours but were supportive of a change to the
7 definition of clock hours to include the units of
8 education consisting of programs 30 minutes or longer
9 and also supported the update to the methods of
10 contacting licensees to include notice via email but
11 preferred the Board used both email and the street
12 address of record for notification of the availability
13 of the renewal process.

14 She noted that LeadingAge does not support the
15 reduction of CEs and spoke to the tremendous value of
16 education. LeadingAge also stated that the reading of
17 articles to keep up on new requirements does not earn
18 a CE. LeadingAge suggested the 12 hours removed
19 should be applied to CEs for conducting education
20 activities and further suggested that the number of
21 CEs available for published articles remain at 24
22 clock hours. The group asked the Board to consider
23 providing an alternative renewal process for those
24 NHAs residing or working in more rural areas and that
25 the Board provide for candidates whose license has

1 expired a way to work temporarily prior to appearing
2 in person before the Board. LeadingAge suggested that
3 the NHA Board remove the requirement for the course
4 provider number to be included on the certificate.

5 Ms. Black discussed comments from the
6 Pennsylvania Coalition of Affiliate Healthcare and
7 Living Communities. She noted the group opposed the
8 CE reduction and had no issue obtaining 48 credit
9 hours biennially. This group pointed out that the CE
10 requirement in other states is approximately 48, and
11 so this proposed rulemaking would cause PA to be the
12 only state requiring 36 CEs biennially.

13 Comments from the House of Representatives
14 Professional Licensure Committee included a concern in
15 the proposed reduction in CEs and whether it would
16 have an impact on Pennsylvania licenses seeking
17 licensure in other states. Ms. Black noted the group
18 asked that a process be developed to offer licensees a
19 choice on which notification method they would prefer.

20 The first comment from the Independent Regulatory
21 Review Commission reiterates the opposition to
22 reducing the fee requirement. The group had concerns
23 regarding the impact on Pennsylvania licensees who
24 would seek licensure in other states. The Board was
25 asked to explain how lowering the CE requirement would

1 adequately protect the public health and safety and
2 how it would affect the regulatory community to seek
3 licensure in other states. Ms. Black noted that IRRC
4 requested clarification of a few terms in the proposed
5 rulemaking. IRRC pointed to 39.11(b)'s use of
6 "significant, sporadic and occasional", which it
7 stated is nonregulatory language and suggested
8 revision of that language. The clock hour requirement
9 in Proposed 39.61(c)(iii) was also requested by IRRC
10 to be revised.

11 Ms. Black stated that IRRC has also requested
12 that the Board develop a process to offer a licensee
13 the choice of which notification method is preferred
14 for renewals.

15 Ms. Black commented that the Board received
16 information from the Administration regarding their
17 position on the proposal. It was suggested that the
18 Board keep the continuing education at 48 hours and to
19 consider a portion or all 12 hours that were to be
20 removed instead be education specifically in infection
21 control and emergency preparedness. Board members
22 commented on the two suggestions.

23 MS. BLACK:

24 Would the Board entertain a motion to add
25 the 12 CEs to the regulatory packet and

1 designate those 12 for emergency
2 preparedness and infection control?

3 MS. WARNER-MARON:

4 I would agree with that motion.

5 MS. HOLLADAY:

6 I second that motion.

7 CHAIRPERSON COBAUGH:

8 All in favor of adding the 12 CEs for
9 infection control and emergency
10 preparedness? Anybody opposed?

11 [The motion carried. Mr. Wernicki opposed the
12 motion.]

13 ***

14 [Ms. Black suggested that the Board proceed with
15 advanced notice of final rulemaking which would allow
16 the Board to publish a notice in the Pennsylvania
17 Bulletin asking for additional comments on these
18 changes which would be adding the 12 hours back in and
19 designating them for infection control and emergency
20 preparedness.]

21 ***

22 MS. BLACK:

23 Would the Board entertain a motion to
24 keep the CE requirement at 48 and
25 designate 12 hours as required education

1 and direct Board Counsel to draft the
2 revised Annex and proceed with an advance
3 notice of Final Rulemaking?

4 MS. HOLLADAY:

5 I make a motion that we move forward with
6 48 hours with 12 designated for infection
7 control and emergency preparedness.

8 MS. KING:

9 Second.

10 CHAIRPERSON COBAUGH:

11 All in favor? Opposed?

12 [The motion carried. Mr. Wernicki opposed the
13 motion.]

14 ***

15 [The Board had discussion with regard to Section
16 39.11(b), in which a licensee must demonstrate
17 significant involvement in the field of nursing home
18 administration. Ms. Black stated that IRRC commented
19 that sporadic and occasional involvement is not
20 sufficient and suggested the terms be revised.

21 MS. BLACK:

22 Does someone want to make a motion to
23 remove that language?

24 MS. KING:

25 I'll make a motion to remove the language

1 in regard to the care and leave it as
2 being employed in a nursing home in a
3 supervisory or consultant capacity for at
4 least three of the last five years.

5 MR. WERNICKI:

6 I'll second.

7 CHAIRPERSON COBAUGH:

8 All in favor? Anyone opposed?

9 [The motion carried unanimously.]

10 ***

11 [The Board had discussion with regard to Section 39.61
12 (3)(iii), which indicates that clock hours may be
13 earned by authoring articles on long-term care as
14 follows: Additional credit per article up to 9 hours
15 of the required clock hours may be awarded based on
16 the "complexity" of the subject matter. There was
17 further discussion regarding the additional credits.

18 Ms. Montgomery noted that other Boards have
19 awarded, for example, 10 hours for publishing a book
20 on nursing home administration, 6 hours for a chapter
21 of a book, 4 hours for an article in a peer review
22 journal or magazine on the same topic. Ms. Montgomery
23 suggested that other Board members be polled regarding
24 the matter for discussion at the next meeting.]

25 ***

1 [The Board was asked to consider whether it would
2 develop a process to offer licensee the choice of
3 which notification that they would prefer, email
4 address or actual mailing address or both.

5 Ms. Montgomery indicated that the PALS system has
6 an option regarding that choice. She stated that when
7 the Preamble is drafted, the matter can be addressed
8 at that time noting that no changes are necessary.]

9

10 Act 41 of 2019

11 [Ms. Black explained this Act was passed in an effort
12 to make it easier for individuals in other
13 jurisdictions to work here in Pennsylvania. The
14 Board was asked to discuss what criteria would be used
15 to determine the competency of an applicant focusing
16 on three options in the Proposed Rulemaking to
17 consider, including experience in the profession for
18 at least two of the five years immediately preceding
19 the date of the application, having applicant complete
20 48 hours of CE or have an applicant complete a
21 specific skills test for those who are re-entering the
22 profession or a skills test apart from the national
23 exam, or all three. Just using the Pennsylvania
24 Skills Exam was suggested. There was further
25 discussion regarding the matter.

1 Commissioner Johnson explained that with regard
2 to competency, a lot of the Boards require that an
3 applicant must show they have been actively licensed
4 for at least two of the last five years, must show
5 that they have completed requisite number of CEs or
6 opted to take the skills assessment test to show that
7 they're competent and able to practice. There was
8 further discussion regarding criteria for individuals
9 coming from jurisdictions outside of the United
10 States.

11 MS. BLACK:

12 Does any Board member want to entertain a
13 motion to direct Board Counsel to draft
14 an Annex reflecting those competency
15 criteria which would then be brought back
16 before the Board for review?

17 MS. MCDERMOND:

18 I'll make that motion.

19 MS. STEWART:

20 I'll second that.

21 CHAIRPERSON COBAUGH:

22 All in favor? Any opposed?

23 [The motion carried unanimously.]

24 ***

25 Report of Board Chairperson

1 [Kimberly Cobaugh, NHA, Chairperson, requested
2 approval of the following four individuals for
3 Temporary Permit Applications: Kevin Steven
4 Blacketter, Jody Lynn Carnes, Ashli Elaine Hudack, and
5 Julie Ann Pattison.]

6 MS. MCDERMOND:

7 I make that motion.

8 MS. KING:

9 I second.

10 CHAIRPERSON COBAUGH:

11 All in favor? Any opposed?

12 [The motion carried unanimously.]

13 ***

14 Report of Commissioner

15 [K. Kalonji Johnson, Commissioner, Bureau of
16 Professional and Occupational Affairs welcomed Dr.
17 Ilene Warner-Maroon as the Board's newest member. He
18 thanked Chairperson Cobaugh for her service. Board
19 Administrator, Chris Stuckey, and Ted Stauffer,
20 Executive Secretary, were also commended for their
21 hard work during the past several months. Board
22 members were also commended for their willingness to
23 continue working during this time.]

24 Chairperson Cobaugh stated she has enjoyed her
25 time on the Board and expressed good wishes to all.]

1 ***
2 Report of Board Administrator - No Report
3 ***
4 Report of Board Members - No Report
5 ***
6 Report of Committees
7 Examination Committee
8 [It was indicated that Mr. Kelly and Ms. Baldi were
9 not able to be present at today's meeting but it was
10 noted in the report the applications that have been
11 reviewed and approved since the last meeting in May.]
12 ***
13 AIT Review Committee
14 [Chairperson Cobaugh was thanked for helping with the
15 applications.]
16 ***
17 Correspondence - No Report
18 ***
19 Miscellaneous
20 Discussion
21 [Chairperson Cobaugh reported that NAB's 2020 Annual
22 Meeting will be held virtually from October 27 through
23 October 30, 2020.]
24 ***
25 NHA Board Committee Assignments

1 [Chairperson Cobaugh requested volunteers for the
2 Education Committee and asked whether others would
3 like to continue with their current committees.

4 Ilene Warner-Marion, Ph.D., and Robert L.
5 Wernicki, NHA, requested consideration on the
6 Education Committee.

7 Chairperson Cobaugh noted the following current
8 committee members: Diane Baldi, RN, Michael P. Kelly,
9 NHA and Anna E Stewart, RN, are on the Education
10 Committee. Sharon K. McDermond, NHA, Vice Chairperson
11 is on the AIT Review Committee.
12 Sara L. King, NHA, Secretary, is on the Probable Cause
13 Screening Committee, and Anne E. Holladay, NHA, is the
14 alternate on the Probable Cause Screening Committee.]

15

16

17 Election of Officers

18 CHAIRPERSON COBAUGH:

19 I'll make a motion nominating Sharon
20 McDermond as Chair.

21 MS. HOLLADAY:

22 I'll second.

23 CHAIRPERSON COBAUGH:

24 All in favor? Any opposed?

25 [The motion carried unanimously.]

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CHAIRPERSON COBAUGH:

I would make a motion nominating Anne
E. Holladay as Vice Chair.

[There was no second to the motion.]

CHAIRPERSON COBAUGH:

All in favor? Any opposed?

[The motion carried unanimously.]

Next Meeting Dates

[The next meeting is scheduled for December 2, 2020
and will be held virtually.]

NAB's 2020 Annual Meeting October 27-30, 2020

[Anne E. Holladay, NHA and Sharon K. McDermond, NHA,
Vice Chairperson, volunteered to attend the NAB
virtual conference in October.]

CHAIRPERSON COBAUGH:

I'd like to make a motion requesting
approval for Anne E. Holladay, NHA, and
Sharon K. McDermond, NHA, Vice
Chairperson, to attend the NAB Annual
Virtual Meeting in October 27 to October
30, 2020. Do I have a second?

COMMISSIONER JOHNSON:

1 Second.

2 CHAIRPERSON COBAUGH:

3 All in favor? Any opposed?

4 [The motion carried unanimously.]

5 ***

6 [There being no further business, the State Board of
7 Examiners of Nursing Home Administrators Meeting
8 adjourned at 12:04 p.m.]

9 ***

10 CERTIFICATE

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

18
19
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21 Evan Bingaman,

22 Minute Clerk

23 Sargent's Court Reporting
24 Service, Inc.

25

STATE BOARD OF EXAMINERS OF
NURSING HOME ADMINISTRATORS
REFERENCE INDEX

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TIME	AGENDA
	Executive Session
10:30	Return to Open Session
10:31	Official Call to Order
10:31	Roll Call
10:33	Approval of Minutes
10:35	Report of Board Counsel
11:50	Report of Board Chairperson
11:51	Report of Commissioner
11:55	Report of Committees
11:57	Miscellaneous
12:04	Adjournment