



Oregon Health Licensing Agency
Nursing Home Administrators Board



9 am, Monday, October 12, 2011
700 Summer Street NE, Suite 320
Salem, Oregon

MINUTES

MEMBERS PRESENT

Kathleen Elias, Chair
Nicolle King Deering, Vice-Chair
Arlene Gardner
Mike Weatherby
Nicole Burnham

STAFF PRESENT

Randy Everitt, Director
Sylvie McMillan, Fiscal Services and Licensing Manager
David Sparks, Regulatory Operations Manager
Sinnamon Harris, Board Specialist

MEMBERS ABSENT:

Lynn Howe
Dr. Harry Krulewitch

GUESTS PRESENT:

Michael Kilbury

*This meeting was live video streamed.

Call to Order

Kathleen Elias, Chair, called the meeting of the Nursing Home Administrators Board to order at 9:59 am, Wednesday, October 12, 2011, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon. The meeting started late because of traffic situation that delayed the board member needed to establish quorum. Roll was called.

1. Approval of Agenda

MOTION:

Arlene Gardner made a motion with a second by Mike Weatherby to approve the agenda. Motion passed unanimously.

2. Approval of Minutes

MOTION:

Nicole Burnham made a motion with a second by Mike Weatherby to approve the minutes for July 13, 2011. Motion passed unanimously.

3. Reports

◆ Directors Report

Randy Everitt, Director, explained that a legislative concept is a formal idea that the agency vets with its boards or councils to determine if a statute (or law) needs to be revised. It is a lengthy process and Everitt further explained that the Legislative Concepts need to be submitted by early April of 2012 for the 2013 Legislation Session. Everitt noted that of concern for the Nursing Home Administrators Board was the lack of oversight for Assisted or Residential Living Facilities (ALF/RCF). Everitt asked if the board wanted to move forward with a legislative concept for licensure for the assisted and residential living administrators that may create a new board or place the administrators under this board. This would not be for adult foster care as they do not have administrators. Everitt spoke about outreach. Kathleen Elias mentioned she has provided Everitt with Oregon Health Alliance and Oregon Healthcare Association contacts. Elias stated that nine other states currently regulate assisted and residential living administrators. The board deemed this a public safety issue and encouraged Everitt to pursue as a 2013 Legislative Concept.

MOTION:

A motion was made by Mike Weatherby with a second by Arlene Gardner to have the board refer the issue of standards for directors and administrators of assisted living and residential care facilities over to the agency {Everitt} for a possible legislative concept for the 2013 Legislative Session. The motion passed unanimously.

The board briefly touched on the reciprocity issue in which Oregon Revised Statute 678.770(b) currently states that an applicant must be, in part, “licensed under the laws of any other state or territory of the United States.” Elias stated persons applying from another country have not been an issue and she only brought up the subject as a point of discussion from the National Association of Long Term Care Administrator Boards (NAB) conference. China has been reaching out to NAB for help in developing a system for elderly care. The board and agency will not pursue a legislative concept regarding reciprocity for those applicants from other countries.

Chair Summit

Everitt announced a Chair Summit will take place on January 20, 2012, for all the Boards and Councils for a business meeting. The purpose of the meeting is for the boards/councils to let the agency know how it can improve on its services and for the agency to let the boards/councils know where the business of regulation is headed. For example, Everitt stated, at the last Chair Summit the agency introduced the 28-point Investigatory Protocols. One of the concerns at the last meeting was customer service and as a result the agency increased staff in the front lobby service area and added a position who answers the phone. This meeting will also explore the political part of Oregon Health Licensing Agency as a state entity and how it relates to each profession.

◆ Statistical and Budget Report

Sylvie McMillan, Fiscal Services and Licensing Manager, presented the statistics that included licensing, examination and regulatory statistics, authorization volume, complaints, and website traffic. McMillan also introduced a chart which outlined the “Small Board Gold, Silver, and Bronze Plans.” These plans were developed by fiscal to allocate the shared (indirect) service rates for each board or council under Oregon Health Licensing Agency. The chart shows which board is using what functions of the agency and the costs are based on those services the boards are actually using. Full-Time

Equivalent (FTE) Allocation represents all the agency's employee positions. Shared cost categories are divided into three agency divisions: Administrative Services, Fiscal Services/Licensing, and Regulatory Operations. Each board was placed into a Gold, Silver, or Bronze Plan based on the services used while Cosmetology has its own separate plan. The board will pay a percentage of each of the shared costs, such as, management, rules and legislation, qualifications and licensing, etc. McMillan noted the Silver and Bronze Plans does not include inspections as the agency only performs inspections on those boards with facility licenses. The Investigators keep a detailed log of which board they work on and those hours/ payroll costs are divided out at the end of the month for each board/council. NHAB was placed within the Small Board Silver Plan.

**The NHAB Cumulative Revenue and Expenditures
 for the Biennium 2011-2013**

OREGON HEALTH LICENSING AGENCY NURSING HOME ADMINISTRATORS - FUND 7830 STATEMENT OF CASH FLOWS FOR THE PERIOD 07/01/2011 - 8/31/2011	
11-'13 Beginning Cash Balance as of 8/31/2011	\$ 109,844.34
Revenues	\$ 27,475.00
Expenditures	\$ 7,567.30
Less: Accrued Expenditures	\$ (60.10)
Less: Total Expenditures	\$ (7,507.20)
Subtotal: Resources Available	\$ 129,812.14
Change in (Current Assets)/Liabilities	\$ (136.65)
Ending Cash Balance (Actual)	\$ 129,675.49
Silver Allocation Plan, 7/1/2011 - 12/31/2011	
Shared Services Rate (ASD, FSD, ROD)	1.14%
Educational Services	5.25%
SMB Qualifications and Licensing	6.47%
Frontline and Customer Support	0.54%
Direct Expenditures	100.00%

◆ Regulatory Operations Division Report

David Sparks, Regulatory Operations Manager, reported on enforcement activity.

2009 – 2011 Biennium

Between July 2009 and June 2011, 26 complaints were received by the Agency. Of the 26 complaints, 2 remain open.

Below is a detailed list of the 2 open complaints with an ongoing investigation:

Case #	Received Date	Complaint Allegations
11-6295	1/31/2011	Services Provided
11-6470	6/13/2011	Services Provided

There were no closed complaints since the last Board meeting.

Below is a summary of all other closed complaints categorized by investigation result. These 24 complaints were closed out prior to the last Board meeting.

Investigation Result	Count
Civil Penalty	2
Resolved	1
Unfounded	17
W/D	2
W/O Action	2

2011 – 2013 Biennium

Between July 1, 2011 and October 12, 2011, 1 complaint was received by the Agency. Of the 1 complaint, 1 remains open.

Below is a detailed list of the 1 open complaint with an ongoing investigation:

Case #	Received Date	Complaint Allegations
6560	9/13/2011	Services Provided

Sparks spoke about sub-standard quality of care. He has asked Janet Bartel, Investigator, to collaborate with the Department of Human Services (DHS) and check for all the cases DHS has had within the last 24 months. Sparks stated that he is looking for what cases were or should have been referred to this agency.

◆ Policy, Legislation & Administrative Rules

-OHLA Permanent Administrative Rules

McMillan discussed OAR 331-010-005 regarding allowing authorization holders in active military status waiver of renewal, fees and continuing education requirements, as well as protocols for restoration of former authorization status. The rule defines and clarifies what constitutes an appearance before the agency during investigations of alleged violations of statutes or rules under the authority of OHLA. The rule also defines and clarifies the terms incompetence and negligence used in ORS 676.612 in regulation to the boards or councils under OHLA.

-Legislation and Rules Committee Reports

McMillan stated the Legislation and Rules Committee had met on September 21, 2011, and on October 3, 2011 to review and revised the administrative rules. After the September 21 meeting, Assistant

Attorney General (AAG) for the agency, Katharine Lozano worked with McMillan to review the revisions for legal content and to fine-tune the proposed rules. {NOTE: Both committee reports may be found on the NHAB web site under “board meetings.”}

4. Items for Board Action

◆ Review Request for Reinstatement of Licensure

A licensee had requested the reinstatement of their Nursing Home Administrator’s license but had not completed the required continuing education for renewal. The license had expired four years ago on June 30, 2007. The board reviewed the administrative rules and the letters provided on the licensees’ behalf before rendering a decision.

MOTION:

Mike Weatherby made a motion with a second by Arlene Gardner to approve the reinstatement of licensure with the following conditions:

- a. The licensee must complete 120 hours of training in the AIT program (Note: This is equivalent to the number of hours of continuing education required to renew an active license).
- b. The training must be provided by a registered preceptor.
- c. The training must include the review of the MDS 3 process.
- d. The training must include the review of the CMS changes in pharmacy review.
- e. The board will accept 14.5 approved continuing education hours with documented proof of completion.

The motion passed unanimously.

◆ Approval of Proposed Administrative Rules

On April 13, 2011, the Nursing Home Administrator Board approved an administrative rulemaking schedule for the year 2011. The Legislation and Rules Committee met on June 13, 2011, July 12, 2011, August 22, 2011, September 21, 2011, and October 3, 2011, in order to review and recommend changes to administrative rules. After the board approves proposed administrative rules, the public comment period will begin on November 1, 2011 and end as of November 28, 2011. The board is scheduled to adopt permanent rules on December 8, 2011.

The Legislation and Rules Committee will review all public comment on December 7, 2011, and make recommendations to the full board on December 8, 2011.

The board reviewed the draft proposed rules and made minor revisions. The board had concerns over the wording under OAR 853-0660-0010(2) and may have the AAG review for any possible negative impact.

MOTION:

Mike Weatherby made a motion with a second by Nicolle King Deering to approve proposed administrative rules regarding OAR Chapter 853 Divisions 020-060 excluding Division 40 which pertain to fees the agency has authority to set. The motion passed unanimously.

◆ 2012 Chair and Vice-Chair

Nominations for Chair were opened and Arlene Gardner nominated Kathleen Elias for Chair but Kathleen Elias declined the nomination because her terms have been completed.

Mike Weatherby nominated Nicolle King Deering for Chair. There were no other nominations and the nominations were closed. Nicolle King Deering was elected 2012 Chair by a unanimous vote.

Nominations for Vice-Chair were opened Nicolle King Deering nominated Nicole Burnham for Vice-Chair. Mike Weatherby nominated Dr. Harry Krulewitch. {Dr. Krulewitch was not present and there were concerns over his availability.}

A vote was taken by roll-call for Nicole Burnham as Vice-Chair since there were two candidates. The vote was as follows: Nicolle King Deering voted aye, Mike Weatherby vote nay, Arlene Gardner voted aye, Nicole Burnham voted aye, and Kathleen Elias voted aye. The ayes have the vote. Nicole Burnham was elected 2012 Vice-Chair.

◆ **2012 Committees**

MOTION:

Mike Weatherby made a motion with a second by Arlene Gardner to keep the committee composition the same as 2011. The motion passed unanimously.

2012 Committees	
Legislation & Rules	Kathleen Elias, Arlene Gardner, Lynn Howe, Nicole Burnham
Education & Examination	Lynn Howe, Nicole Burnham, Nicolle King Deering
Enforcement	Nicole Burnham, Nicolle King Deering, Dr. Harry Krulewitch, Mike Weatherby
Practice & Procedures Standards	Kathleen Elias, Arlene Gardner, Alt: Dr. Harry Krulewitch
Customer Connection	Mike Weatherby

◆ **2012 Meeting Dates**

The board decided to change the board meeting dates to Thursdays at 9 am.

MOTION:

Mike Weatherby made a motion with a second by Nicolle King Deering for the following meeting dates for the NHAB for 2012: January 12, April 12, July 12, and October 18, 2012. The motion passed unanimously.

5. Public Comment

No public comment was received.

6. Other Board Business/Board Interest

The board discussed bringing in a DHS nursing home facility surveyor to explain the process and details of the survey as a future board education piece.

7. Executive Session-Place Holder

The board did not enter into executive session.

8. AIT Interviews

Michael Kilbury, Maryville Nursing Home

The meeting adjourned at approximately 12:55 pm.

Prepared by: Sinnamon Harris, Board Specialist