



Oregon Health Licensing Agency  
Nursing Home Administrators Board



9 am, Wednesday, July 13, 2011  
700 Summer Street NE, Suite 320  
Salem, Oregon

---

**MINUTES**

---

**MEMBERS PRESENT**

Kathleen Elias, Chair  
Nicolle King Deering, Vice-Chair  
Lynn Howe  
Arlene Gardner  
Mike Weatherby  
Nicole Burnham  
Harry Krulewitch

**STAFF PRESENT**

Sylvie McMillan, Fiscal Services and Licensing Manager  
David Sparks, Regulatory Operations Manager  
Callie Zink, Administrative Services Manager  
Kraig Bohot, Public Information Officer  
Sinnamon Harris, Board Specialist  
Amanda Perkins, Board Specialist

**MEMBERS ABSENT:**

None

**GUESTS PRESENT:**

Andrew Spencer  
Andrew Fogg  
Andrew Becker

(guests continued)

James Aldred  
Jenna Corbly

\*This meeting was live video streamed.

**Call to Order**

Kathleen Elias, Chair, called the meeting of the Nursing Home Administrators Board to order at 9:07 am, Wednesday, July 13, 2011, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon. Roll was called.

**1. Approval of Agenda**

**MOTION:**

Arlene Gardner made a motion, with a second by Lynn Howe, to approve the agenda with the amendment of Andrew Spencer's midway interview to be performed immediately because of extenuating circumstances. Motion passed unanimously.

**2. Approval of Minutes**

**MOTION:**

Lynn Howe made a motion with a second by Nicole Burnham to approve the minutes for April 13, 2011. Motion passed unanimously.

### **3. Reports**

#### **◆ Directors Report**

Sylvie McMillan, Fiscal Services and Licensing Manager, stood in for Randy Everitt, Director. She explained that due to staffing issues and a full slate of administrative rulemaking scheduled through the rest of 2011, rulemaking for certain OHLA regulated professions have been postponed. The agency can then successfully focus on rulemaking for those professions with the most immediate and significant issues related to public health, safety and risk.

McMillan stated that the agency has developed a strategic plan that prioritizes administrative rulemaking for the next 18 months, noting that the plan is flexible and subject to change dependent upon the agency's ability to address staffing issues. She pointed out that the agency is undergoing major changes to the makeup of its boards and councils and gaining one new board as a result of this year's session of the Oregon State Legislature. McMillan stated that professions that are new, have a temporary rule in place, or are experiencing a significant risk to public safety are top priority to undergo rulemaking in this strategic plan.

McMillan explained the Legislative concept process to the board and how odd-year Legislative Sessions are when new concepts are presented. She told the board it was time to start thinking about possible Legislative concepts as the agency would like to begin discussions in late September or early October. The agency will advise the board of any statutory issues that the agency has found that may need to be addressed.

McMillan gave examples of possible issues for Legislation concepts:

- It is very clear in current statutes that if you are not coming in from the United States or one of its territories you may not qualify for reciprocity in Oregon. It would take a statute change to include other countries. Kathleen Elias mentioned at the National Association of Long Term Care Administrator Boards (NAB) conference one issue being discussed was reciprocity with China.
- Under licensing qualification, the manner in which the current statute is written is that if an applicant has more than one-year dual facility experience they have met both the education and experience licensure criteria. They are not required to have a Bachelor's degree. McMillan stated she was not sure if this was an issue for the board. Elias stated that typically the applicant will have a Master's degree but it is not required. The issue should be researched.

◆ **Outreach and Communications**

Kraig Bohot, Public Information Officer, presented the latest draft issue of *Central Issues* for NHAB. The key issues being highlighted by the online publication were: *Nursing Home Care: A Regulatory Overview*, *Nursing Home Administrators: Their Roles, Responsibilities, and AIT*, *Administrative Rulemaking Update: Steady Progress on Revisions*. *Central Issues* also provides licensing and regulatory statistics and a resource page for licensees and consumers with links to the OHLA NHAB Web pages and related websites of interest.

◆ **Statistical Report**

McMillan provided an overview of statistics related to the board. Statistics included licensing, examination and regulatory statistics, authorization volume, complaints, and website traffic.

McMillan responded to questions from the board regarding the permanent limited and provisional licenses reflected in statistics. McMillan referred to the NHAB Legislation and Rules Committee discussion on July 12, 2011, surrounding the six-month permanent limited licenses and provisional. Part of the administrative rule-writing is aligning the licensees with the statutes and the OHLA model. McMillan made the point that “either you are licensed or you are not.” There is a temporary license for bona fide emergencies, such as, the sudden demise or hospitalization of the administrator. When rule-writing is complete NHAB will not have these other types of licenses titles.

◆ **2010-2011 Budget**

McMillan presented the statements of cash flow for 7/1/2009 – 5/31/2011 period and the 7/1/2011 – 6/30/2011 biennium. McMillan introduced new information about the “Silver” cost allocation model for the 7/1/2011 – 12/31/2013 biennium. This model breaks down the percentages of the “shared cost” of services provided to the board. McMillan explained how this model will generate cost saving to NHAB.

McMillan spoke about the potential changes to fees in the future that may be generated through the Legislation and Rules Committee administrative rule-writing. Currently, Nursing Home Administrator (NHA) licensees have a two-year license that will change to a one-year license. Newly licensed NHA will have a one-year license and then a roll-out will begin for those already licensed. The roll-out to a one-year license will be divided into twelfths so every month licensees are renewing. This will promote and stabilize revenue streams for NHAB.

Below is the projected statement of cash flows for the period of the 7/01/11 – 6/30/2013 biennium:

OREGON HEALTH LICENSING AGENCY NURSING HOME ADMINISTRATORS - FUND 7830 STATEMENT OF CASH FLOWS FOR THE PERIOD 07/01/2011 - 6/30/2013	
11-'13 Beginning Cash Balance, Projected	\$ 96,896.11
Revenues	\$ 142,702.00
Expenditures	\$ 96,087.00
Less: Accrued Expenditures	\$ -
Less: Total Expenditures	\$ (96,087.00)
Subtotal: Resources Available	\$ 143,511.11
Change in (Current Assets)/Liabilities	\$ -
Ending Cash Balance (Projected)	<u>\$ 143,511.11</u>
<b>Cost Allocation - Silver Allocation Plan, 7/1/2011 - 12/31/2011</b>	
Small Board Assessment Rate	0.60%
License Volume Rate	+ 0.54%
<b>Shared Cost Rate for ADMIN, FISCAL/LICENSING, REGULATORY</b>	<u><b>1.14%</b></u>
Educational Services, Cost Rate	5.25%
Qualifications and Licensing, Cost Rate	6.47%
Frontline and Customer Support, Cost Rate	0.54%
Direct Expenditures	100.00%

◆ **Regulatory Operations Division Report**

David Sparks, Regulatory Operations Manager, reported on enforcement activity. He stated between July 2009 and July 2011, 27 complaints had been filed with the agency of which five remain open. Below is a short summary:

**Case # 10-5931**

Received: March 2, 2010

Complaint alleges the respondent violated standards of practice by failing to ensure that the complainant was free from mental abuse and involuntary seclusion and failing to assure the facility complied with government regulations, including protecting residents, employees or staff from discrimination.

The investigation is ongoing.

**Case # 10-5934**

Received: March 2, 2010

Complaint alleges the respondent violated standards of practice by causing the loss/theft of the complainant's personal belongings located at her former residence, failing to investigate and reimburse the alleged theft and withholding the complainant's mail resulting in delayed delivery.

The investigation is complete and was closed as unfounded.

**Case # 10-6258**

Received: December 01, 2010

Complaint alleged the respondent was aware of lack of care and staff errors and took no action to correct those problems.

This case is currently under investigation.

**Case # 11-6263**

Received: December 14, 2010

Complaint alleged respondent permitted staffing deficiencies on the night shift, which caused a lack of appropriate care for a clinically depressed and possibility suicidal client to be left alone for long periods of time. The complainant was allegedly told by the respondent that if they wanted more attention for the client they would have to hire a nurse on their own.

The investigation is ongoing.

**Case# 11-6292**

Received: January 3, 2011

Complaint alleged that two employees were fired after they brought several sexual harassment concerns and inappropriate work conditions to the respondent's attention. The complaint further alleges the respondent failed to investigate or take appropriate action to address the allegations of sexual harassment and wrongful termination.

The investigation is ongoing.

**Case# 11-6344**

Received: March 28, 2011

Complaint alleges the respondent violated standards of practice by failing to ensure that the complainant was free from mental and verbal abuse and failing to assure the facility complied with government regulations, including protecting residents, employees or staff from discrimination. Respondent alleges wrongful termination.

The investigation is ongoing.

For the current regulatory reporting period of April 4, 2011, through June 30, 2011 the agency received one new complaint.

---

---

Sparks gave a brief overview of the complaint process and demonstrated to the board where the complaints forms are located on <http://www.oregon.gov/OHLA> under “consumer help” in case any board member is asked in the field about how to file a complaint.

Kathleen Elias asked about sub-standard surveys received by OHLA from the Department of Human Services (DHS) Senior and People with Physical Disabilities Division (SPD). Elias noted it is a federal mandate for the board, or OHLA regulatory division on behalf of the board, to receive all sub-standard surveys conducted by DHS that are rated “G” or higher classification. McMillan explained when the sub-standard surveys are received they are assigned to an investigator in the same manner as all complaints. The board reviewed committee members for the Enforcement Committee and noted the lack of an administrator on the committee. McMillan explained the committee will only meet when regulatory has material for the committee to review so it does meet infrequently. Nicole Burnham asked to be added to the committee.

◆ **Policy, Legislation & Administrative Rules**

McMillan gave a brief report on the progress of the Legislation and Rules Committee who met on July 12, 2011. The committee began with the definitions section and then focused on revisions to the licensing section. The committee will work through the entire administrative rules to align them with the statutes. Here are highlights of proposed revisions under discussion:

- a. Clear pathways for Nursing Home Administrator application requirements that follow the OHLA model.
- b. All fees moved into one clear and consistent section.
- c. Clarity surrounding provisional licenses application and issuance for bona fide emergencies only.

The next Legislation and Rules Committee meeting will be held on August 22, 2011.

**4. Items for Board Action**

◆ **National Association of Long Term Care Administrator Boards (NAB) Conference**

The board reiterated their desire to send a board member to the NAB conferences. The next conference is November 9, 2011, held in Florida.

**MOTION:**

Lynn Howe made a motion with a second by Nicole Burnham to send Nicolle King Deering, Vice-Chair, to the NAB, November 9, 2011, conference. The motion passed unanimously.

◆ **Oregon Alliance of Senior & Health Services (OASHS) Preceptor Training Approval**

Kathleen Elias recused herself from the discussion and the ensuing vote citing a conflict of interest because she is one of the instructors. She asked Nicolle King Deering, Vice-Chair, to continue with the proceedings.

The Oregon Alliance of Senior and Health Services sought the Nursing Home Administrator Board approval for a preceptor training workshop proposal. Board members were provided with the proposal by email in advance of the board meeting. McMillan led the discussion and noted OASHS had provided preceptor training in the past but it had been a few years {March 2006} since their last board approval for preceptor training. Currently, Oregon Health Care Association provides preceptor training; this would allow for an additional preceptor training at another facility.

Lisa Murphy, Qualification Specialist, offered the board a brief summary of the preceptor training process. She addressed the agency's involvement in the preceptor training by providing information on the location of the agency's website, AIT training forms, etc. for current forms used by the agency. Murphy noted that a log is kept of all the qualified preceptors. The preceptor must have provided AIT training at least once within five years of completing the preceptor training workshop, or they must retake the preceptor training.

In answer to Lynn Howe's question, it was noted that the preceptor's are evaluated by the training facilitators after the preceptor training is completed.

McMillan mentioned that, during the current administrative rule-writing process, both the Education and Examination Committee and the Legislation and Rules Committee will discuss the qualifications, preceptor training and duties of a preceptor in more depth.

**MOTION:**

Mike Weatherby moved with a second by Lynn Howe to approve OASHS for preceptor training. The motion passed unanimously.

**5. Public Comment**

No public comment was received.

**6. Other Board Business/Board Interest**

◆ **Kathleen Elias and Sylvie McMillan's Report from the NAB Conference – Chicago**

Elias along with Sylvie McMillan, Fiscal Services and Licensing Manager, attended the NAB conference held in Chicago, IL, on June 8<sup>th</sup> and 9<sup>th</sup>, 2011

Below are highlights of Elias' comments and observations of the NAB conference:

- a. NHAB should become more involved with NAB and make sure Oregon is well represented on committees, etc.
- b. OHLA investigative protocols are well above the NAB standard and Elias expressed kudos to the agency.
- c. NAB is reaching out to China and other countries as emerging markets. Canada, for example is extremely short of workers.
- d. Oregon has higher degree requirements than some other states. A few only require high school graduation. It may become a reciprocity issue.
- e. Security issue with NAB examination. People have been paid to take and fail the NAB examination so they may share questions. NAB is actively pursuing criminal charges.

McMillan commented about the security issue with the NAB examinations. OHLA does not administer the NAB examination. The NAB examination is performed at off-site locations by other vendors. NAB new security protocols could include applicants having to sign legal documents that they will not share examination information. NAB may also require the off-site examination facilities to have video cameras in the examination areas. OHLA currently has these safeguards in place for our other examinations.

McMillan offered that other state's representatives applauded Oregon's licensing, qualifications and investigative protocols.

---

---

◆ **Nicolle King Deering – Overview of Consultant Pharmacist Role in Nursing Facilities**

King Deering began her presentation with a time-line overview of the Consultant Pharmacist Practice below:

1974—Pharmacist-conducted drug regimen review (DRR) required at least monthly in skilled nursing facilities (SNF's).

1980—Guidelines developed for surveyors to assess quality and enforce performance related to DRR, including specific examples of “unnecessary drugs” (Indicators).

1984—Guidelines developed for surveyors to evaluate the medication distribution system, including the medication pass.

1985—DRR Indicators updated and expanded.

1990—OBRA '87 implemented. The largest overhaul of nursing home regulations.

- Medication regimens free from unnecessary drugs
- Privacy rights for residents
- Proper use of physical restraints and psychoactive medications
  - Antipsychotics, Antidepressants, Antianxiety, Sedative/Hypnotics
  - (Geriatric dosing guidelines, behavior monitoring, gradual dose reductions)
- Comprehensive resident assessments
- Minimum competency requirements for nurses aides
- Provision of 24 hr licensed nursing services
- Expansion of DRR Indicators

1993—OBRA '90 implemented. Mandated prospective drug utilization review and patient counseling.

1999—Guidelines for surveyors expanded to include quality benchmarks and drug therapy guidelines for older adults (“Beers List”)

2000—Implementation of Medicare's prospective payment system for SNFs (PPS).

2004—DRR Indicators deleted from surveyors guidance ( DRR remains).

2006—Guidelines for surveyors updated.

- Changed DRR to Medication Regimen Review (MRR)
- More frequent MRR's for some Residents
- Focus on ALL medications; not just Psychoactives
- Specific situations where GDR's are contraindicated

King Deering presented a list of Medication Regimen Review (MRR) goals and explained each point. She also presented a brief synopsis entitled “What is a Consultant Pharmacist?” and all the services provided by the Consultant Pharmacist. {Note: the complete documentation may be viewed online on

the NHAB web site with the meeting materials }.

King Deering stated that care has improved in nursing home facilities because of the computerization of records. There are new mechanisms in place for accountability and dialog between the pharmacist and the doctor. In the Northwest, she noted, typically consultant pharmacists are tied to the dispensing pharmacy. The pharmacist will consult with the nursing home administrator to analyze a patient's medication regime to make sure they are on the best treatment for the lowest costs. Medications may be reviewed as part of the survey process.

◆ **Next Educational Information Presenter – Arlene Gardner**

Arlene Gardner was asked to present the Ombudsman role in relation to the Nursing Home Administrator and the nursing home facilities at the next board meeting on October 12, 2011.

**7. Executive Session-Place Holder**

The board did not enter into executive session.

**8. Midway Interviews**

Andrew Spencer – Evergreen Healthcare  
Andrew Fogg – Marquis Care at Wilsonville  
Andrew Becker – Avamere Rehabilitation of Lebanon  
James Aldred – Village Health Care  
Jenna Corbly – Avamere at Keizer

The meeting adjourned at approximately 2:25 pm.

Prepared by: Sinnamon Harris, Board Specialist