



Oregon Health Licensing Agency (OHLA)
Nursing Home Administrators Board



9:00 am Wednesday, July 14, 2010
700 Summer Street NE, Suite 320
Salem, Oregon

MINUTES

MEMBERS PRESENT

Kathleen Elias, Chair
Mike Weatherby
Arlene Gardner
Lynn Howe
Nicolle King Deering
Sharon Van Eaton
Faraz Ahmed (present by telephone during
Items for Board Action voting)

STAFF PRESENT

Randy Everitt, Director
Kraig Bohot, Public Information Officer
Sylvie McMillan, Business Services Manager
Sinnamon Harris, Board Specialist
Cerynthia Murphy, Qualification Analyst
Janet Bartel, Investigator

MEMBERS ABSENT

Larry Davy

GUESTS PRESENT

None

Call to Order

Kathleen Elias, Chair, called the meeting of the Nursing Home Administrators Board (NHAB) to order at 9:09 am on Wednesday, July 14, 2010, at the Oregon Health Licensing Agency (OHLA), Rhoades Conference Room, 700 Summer Street NE, Salem, Oregon. Elias welcomed new board member Sharon Van Eaton.

1. Approval of Agenda

MOTION:

Mike Weatherby made a motion and Arlene Gardner seconded to approve the agenda for July 14, 2010. The motion passed unanimously.

2. Approval of Minutes

MOTION:

Mike Weatherby made a motion and Lynn Howe seconded to approve the meeting minutes for April 21, 2010. The motion passed unanimously.

3. Reports

- **Director's Report**

Randall Everitt, Director, spoke about reviewing and re-working the investigative process. The investigative protocols are designed to protect the board by providing accurate information, protect any contested case hearings with a standardized investigation process, and to protect the licensee from any abuses of power. Everitt stated the process needs to be made clear to licensees, the board, and the agency. The process will be vetted through the Department of Justice (DOJ) first.

Everitt announced the agency is going to have its first Board / Council Chair Summit in the early fall. There will be discussions about services provided by the agency, how to improve those services, and changes that are anticipated with streamlining the agency.

Everitt attended the National Association of Long Term Care Administrator Boards (NAB) annual conference held in Portland, Oregon at The Nines Hotel. He stated the meetings he attended provided him with a much clearer view of just what the business of nursing homes are from a governing perspective and what issues other states are facing and how those issues may affect Oregon. Everitt stated he wished he would have stayed for the full conference.

Everitt led a brief discussion concerning the survey reports, provided by the Department of Human Services (DHS) and other state entities, on issues that were voiced at the NAB conference. In other states, if substandard care or imminent danger issues were reported on a survey, the report automatically went to the licensing agency also. Everitt found that Oregon has not had consistent reporting to our agency in the past. Some states had reported more than 150 reports came to their agencies over the last six months. Everitt stated the new investigative protocols that this agency is considering is having subject matter experts to review the substandard surveys to determine if action is warranted by the agency. Janet Bartel, agency investigator, has been contacting the other entities to ensure that OHLA receives those surveys. Everitt concluded by stating the agency will help the NHAB to identify what its role is with substandard care surveys.

- **Outreach and Communication**

Kraig Bohot, Public Information Officer, spoke about the NHAB *Central Issues* that was reviewed and made public. He thanked Janet Bartel for providing a list of nearly 500 subscribers. Once the *Current Issue* article has been sent out it is posted on the NHAB Web site.

Bohot spoke about the third preceptor training by OHLA that is coming up on September 8, 2010. He has created a new PowerPoint focusing on what is in the current rules just for the preceptor training.

- **Statistical Report**

Sylvie McMillan, Business Services Manager, passed out handouts of additional material for the statistics and the budget report which included licensing and examination statistics, active license trends, and Web site traffic. A question was asked about the examination pass rate and Kathleen Elias, Chair, answered that Oregon had typically higher pass rates than other states. Arlene Gardner asked about the 36 % failure rate in the third quarter of state examinations. Elias replied that the applicants just did not know the Oregon Laws and Rules well enough to pass. McMillan explained that part of the nine who failed could be the same people who took and failed the test more than once. The system does not break out the test results individually. Sharon Van Eaton asked how long ago the state examination was reviewed by a committee. Elias stated that the last time was approximately two years ago. In the future, the Education/Examination Committee may wish to review the state examinations pass/fail rates.

Nicole King Deering had questions about the Permanent Active Licenses w/Limited Status. McMillan answered the licenses were good for two years but the licensee could only work up to six months. Janet Bartel, Investigator, was consulted for an explanation of the license. She stated the cost was \$300 with 30 hours of Certified Education Units (CEU) per year required. The license primarily is used for corporate office personnel of a nursing facility to be able to cover interim administrator positions. The rules, Bartel continued, require limited administrators to report where they are working and how many hours. Bartel had kept a complex spreadsheet that tracked the limited administrators. Lynn Howe stated if the board believes that the limited license is beneficial then a tracking mechanism, that is not labor intensive for agency staff, needs to be put into place. Bartel pointed out that it is the responsibility of limited administrators according to rule, to keep track and notify the agency about their status. If administrators are not reporting as they should, what is the consequence? Howe asked that the agency formulate some options and report back to the board or at a committee meeting. King Deering wondered how other states are handling the issue or is this license special to Oregon? Everitt stated that agency staff will tackle these questions, do some research, and bring the options to a committee to discuss.

- **Budget Report**

McMillan presented the revenue and expenditures report for the period 7/01/09 through 5/31/10. McMillan also provided the cash flow statement throughout the end of the biennium which ends 6/30/2011. She explained the necessity of maintaining three months of working capital. The fees are stable and no changes are anticipated for the next few years. Elias mentioned that this was the first time the NHAB has had a positive balance. McMillan stated it costs less for the NHAB to be with OHLA then standing alone.

- **Regulatory Operations Division**

The Regulatory Operations Division complaint report for the period April 1, 2010 to June 30, 2010, was presented by Janet Bartel, Investigator. One complaint investigation opened with the agency and three complaint investigations closed during the report period. Allegations primarily consist of care and financial concerns, with a few concerns specific to the nursing home administrator. Bartel provided the board with a detailed report of the three complaints that closed including the conclusions. Bartel stated, historically, the board has considered if the incident was isolated, the significance of the incident, and if it is facility-wide in weighing factors to move

forward with a complaint. Certainly, Bartel continued, the seriousness of the issue and if the administrator was aware of the issue and failed to act will warrant the investigator to move forward with the complaint. The plan of correction and how the administrator deals with the plan of correction, which also may be a system change, is also a factor. In response to a question by the board, Bartel stated the administrator is notified of the complaint and also is notified of the outcome. Bartel stated she provides copies of the OHLA complaint to the other agencies involved and will use the other agency's findings as a basis for what issues to proceed with for her investigation. For example, if the other agency cannot substantiate the claims, OHLA will not have any issues on which to move forward. Advising letter protocols are being reviewed by the assistant attorney general.

- **Qualification & Examination Committee Report of 7/8/2010**

Cerynthia Murphy, Qualification Analyst, presented highlights from the committee meeting. The purpose of the meeting was to review and discuss training objectives, develop new interview questions for the final interview and review requests for waivers of AIT training. The committee's recommendations were held for discussion under "Items for Board Action."

4. Items for Board Action

Recommendations of Qualification & Examination Committee

- Training Waivers

On July 8, 2010, the Nursing Home Administrators Board Qualification and Education committee met to review two applicant waiver requests. The committee referenced the standardized criteria and guidelines established by the board on April 21, 2010, which include:

1. LPN or RN only, to allow for 50% or 128 of the hours to be waived for resident care and quality of life. Verification of LPN or RN experience must have been obtained in the nursing home environment, includes verification of licensure, a resume and three years of experience; three years must be completed within the last five years.
2. Removing the master degree exemption which can replace up to 480 hours of the 960 hours of training.
3. Retaining the waiver of 80 hours for CNA.

In addition, due to the specified documentation required to be submitted to substantiate the waiver requests and the established amount of hours being waived, the committee recommends the board defer approval of waivers to agency staff.

Based on the criteria established by the board, the committee determined the two candidates did not qualify for waivers

MOTION:

Lynn Howe made a motion with a second by Mike Weatherby to deny both applicant #090053 and applicant #090219 requests for waivers based on the criteria established by the board. A roll call vote was taken with Faraz Ahmed participating by telephone. The motion passed unanimously.

MOTION:

Lynn Howe made a motion with a second by Mike Weatherby to defer future waiver requests to agency staff. A roll call vote was taken with Faraz Ahmed participating by telephone. The motion passed unanimously.

● **Midway and Final Interview Questions**

The committee determined enough information is derived during the midway interview and deemed the final interview not necessary. The committee believes the following information obtained during the midway interview is sufficient without proceeding to a final interview:

- clarification from the AIT regarding the training program
- support plan in place when questions, doubts or crisis arise
- the role of their preceptor
- other suggestions or questions the AIT or board may have

The committee utilized the role of the board to help determine the need for the final interview, which is to protect the public by developing, imposing and enforcing standards.

MOTION:

Lynn Howe made a motion with a second by Mike Weatherby to remove the final interview process. A roll call vote was taken with Faraz Ahmed participating by telephone. The motion passed unanimously

The committee prepared a list of questions covering all pertinent information from the previous midway and final interview questions, to be presented during the midway interview process at the July 8, 2010, Education and Examination Committee meeting. The board reviewed the combined questions.

MOTION:

Lynn Howe made a motion with a second by Mike Weatherby to approve the midway interview questions. There was a friendly amendment to delete the word “ombudsman” from proposed question number seven as the board’s makeup does not have an ombudsman member in statute. Howe repeated the motion with the amendment included and a second by Mike Weatherby. A roll call vote was taken with Faraz Ahmed participating by telephone. The motion passed unanimously.

The committee was asked to review The Nursing Facility Administrator in Training Program offered by Provider Management L.L.C. The training program is provided via the internet or in paper format and is a resource for individuals seeking to complete an administrator in training (AIT) program and for preceptors looking for a tool to assist in training.

The program is separated into five domains including resident-centered care and quality of life, human resources, finance, environment and leadership and management. The program provides a suggested schedule spanning one year and includes, for each domain, summaries and objectives, training skills check list, preceptor and AIT discussion topics and tasks for the preceptor.

● **AIT Training Program**

The committee reviewed the program and determined the program was a great tool or resource but does not recommend the program as a *requirement* to obtain licensure.

Howe explained the committee’s reason for its decision, stating there is a cost for the proposed program and, although it is a good adjunct for the AIT training program, our program already entails a body of work with its own cost. For that reason, and the fact that there may be other competitive programs, the committee felt it may not be in the public interest to *require* this particular program.

MOTION:

Lynn Howe made a motion with a second by Arlene Gardner to continue to utilize the AIT program currently in place and not require the use of The Nursing Facility Administrator in Training Program offered by Provider Management L.L.C. A roll call vote was taken with Faraz Ahmed participating by telephone. The motion passed unanimously.

5. Public Comment/Other Board Business

Scope and Severity

Scope and Severity is a system of rating the seriousness of deficiencies. A "deficiency" is a regulatory requirement that a survey finds is not being met. Scope and Severity is a national system used by all state survey agencies and the Health Care Financing Administration when conducting nursing home Medicare and Medicaid certification surveys. For each deficiency, the surveyor determines the level of harm to the resident or resident(s) involved and the scope of the problem within the nursing home. The surveyor then assigns an alphabetical scope and severity value, A through L, to the deficiency. "A" is the least serious and "L" is the most serious rating. The scope and severity matrix is an integral part of how nursing home scores are calculated in the scoring system.

<i>Severity of the Deficiency</i>	<i>Scope of the Deficiency</i>		
	<u>Isolated</u>	<u>Pattern</u>	<u>Widespread</u>
Immediate jeopardy to resident health or safety	<u>J</u>	<u>K</u>	<u>L</u>
Actual harm that is not immediate jeopardy	<u>G</u>	<u>H</u>	<u>I</u>
No actual harm with potential for more than minimal harm that is not immediate jeopardy	<u>D</u>	<u>E</u>	<u>F</u>
No actual harm with potential for minimal harm	<u>A</u>	<u>B</u>	<u>C</u>

Elias reported on the NAB convention she attended in Portland, Oregon. She described the Scope and Severity Matrix used in Nevada (see chart above). The areas of “G, H, and I” are sub-standard care, Elias noted. Nevada, for example, reviews all surveys with “G, H, and I” tags.

She spoke about receiving the full surveys and the importance of also receiving the “plan of correction” from surveying agencies. Elias went on to mention that the administrator has 10 calendar days to respond to the survey.

Elias remarked about information she learned about other states and fines. For example: Nevada had revoked five licenses and issued 19 fines last year. Elias stated that she cannot recall, since she has been sitting on the board, any fines being issued except for late licensure. Elias stated that 91% of deficiencies are leadership issues not management.

Other points of interest presented by Kathleen Elias from the NAB Convention:

- Advancing Excellence in America’s Nursing Homes Web site
- Five-star ratings by Centers for Medical Care (CMS) and Medicare /Medicaid Services
- Examinations – looking for the best answer on every question (why the Federal exam may be difficult for some people)
- Regional conference calls – anyone who is interested may participate
- Volunteer opportunities with NAB
- Deferrals for active-duty military personnel (OHLA already has an umbrella piece in place for active-duty military personnel and are in compliance, stated Everitt)

Nicole King Deering attended the Board Member Forum at the NAB convention and offered this update:

- Federal regulation and survey referrals to state licensing agencies
- The state’s licensing agencies that are now receiving huge numbers of surveys have found it has impacted the agency’s budget. Process needs to be streamlined. (Everitt stated that is part of what OHLA’s new regulatory process will address.)
- There was discussion on how to differentiate between a good and a bad nursing home administrator and how changes could be made.
- The Nursing Facility Administrator in Training Program offered by Provider Management L.L.C. was presented by Stan Smith and NAB will be reviewing the program and talking about adopting it.
- Two million dollar grant, on a national level, for publicizing long-term care’s public image
- There was discussion on the requirements for preceptors
- There was discussion on whether to license assisted living administrators

Everitt remarked that the assisted living administrator issue may be something the board would like to address during the next legislative period. It would take a statute change. Elias replied that two states, Indiana and Virginia, currently are licensing assisted living administrators. There is oversight by (CCMU) with a survey process in Oregon. Bartel stated DHS certifies the assisted living and residential care administrators, but does not license them. Elias stated that DHS also does have a 24 CEU per year requirement. Everitt stated that it has to be mandated by law; the

agency cannot require the assisted living or residential care administrators to come into licensure. It is a legislative process.

6. Interviews Final and Midway

Midway interviews were conducted for the following applicants:

Phillip Hohnstein
Emily Booth
Janelle Bufford
Sean Carey
Dane Reeves
Allen James
Elizabeth Moore

Final interviews were conducted for the following applicants:

Laura Jenkins
Alena Pudilova
Bradley Litle
Catherine Lewis

7. Executive Session

No executive session was held.

The board adjourned at approximately 4:15 p.m.

Prepared by: Sinnamon Harris, Board Specialist