

**TN BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS
MINUTES**

DATE: June 7, 2021

TIME: 9:00 a.m. Central Time

LOCATION: Office of Health Related Boards
Iris Conference Room
665 Mainstream Drive
Nashville, TN 37243

MEMBERS PRESENT: Lakecia Thomas, Board Chair
Sally Pitt, Health Care Facilities
David Keeling, NHA
Dr. Victor Legner, NHA

MEMBERS(S) ABSENT: Cynthia Wheeler, NHA
Nyda Bays, NHA
Dr. Jano Janoyan, Physician

STAFF PRESENT: Kimberly Wallace, Unit 3 Director
Lacey N. Wilkerson, Board Administrator
Kyonzte Hughes-Toombs, Deputy General Counsel

Call to Order

Ms. Thomas called the meeting to order at 9:05am CST. Kimberly Wallace conducted a roll call of all Board Members and noted that a quorum was present.

Call for Public Comment

Ms. Wallace made an announcement that the Board would hear Public Comments during this meeting and anyone wishing to present a public comment should sign in and their topic must be directly related to any item currently listed on the agenda for the Board to take action on it today. Ms. Wallace also provided contact information for the Administrative Office, noting that Public Comments may always be submitted in writing in advance of any Board Meeting to TN Board of

Nursing Home Administrators, 665 Mainstream Dr., Nashville, TN 37243 or by email at: Unit3HRB.Health@tn.gov.

Conflict of Interest Statement

Ms. Wallace provided a brief reminder of the conflict of interest policy and related protocol.

Minutes

A motion was made by David Keeling, seconded by Sally Pitt, to approve the minutes of the March 1, 2021, Board Meeting as written. The motion carried unanimously.

Office of Investigations

Courtney Lily, Investigations Division, was present to give the investigative and disciplinary reports as follows: The office is not currently monitoring any practitioners. There were three (3) new complaints received in 2021; one (1) for action in another state, one (1) for criminal charges, and one (1) unprofessional conduct. In 2021 there have been zero (0) closed cases and currently there are 18 (eighteen) open cases.

Reports and/or request from the Division of Health Licensure and Regulations

Matt McSpadden, representative from the Fiscal Office, presented a fee reduction analysis aimed to help reduce the cumulative carryover balance, in follow-up from the March 2021 Board Meeting. Mr. McSpadden explained the effects for lowering the initial application and renewal fees over various timeframes. After discussion, Dr. Legner made a motion to reduce the fees to \$150.00 for initial applications and \$60.00 for renewals. Ms. Thomas seconded. The motion passed unanimously.

Legislation

James Held, Legislative Liaison presented the 2021 legislative summary report, as follows:

Legislative Update – 2021 **Nursing Home Administrators**

Public Chapter 37

This act prohibits agencies subject to sunset review from promulgating rules or adopting policies to exempt members solely by virtue of their status as members.

This act took effect March 23, 2021.

Public Chapter 148

This act requires the board of licensed healthcare facilities to promulgate emergency rules no later than July 1, 2021, relative to permitting qualified temporary nursing aides in nursing homes to become certified nursing assistants in Tennessee to assist with the ongoing pandemic response in healthcare facilities. This act also clarifies that they would be added to the nurse aid registry.

This act took effect April 13, 2021.

Public Chapter 242

This act authorizes records custodians to petition a court for injunctive relief from individuals making frequent public records requests with the intent of disrupting government operations, following a fifth (5th) public records request. A records custodian can only petition a court if they notify the person in writing stating the specific conduct may constitute intent to disrupt government operations, and that the person continues to do so. The individual upon a court enjoinder would not be able to make public requests at the agency for up to one (1) year.

This chapter took effect April 28th, 2021 and will sunset July 1, 2025.

Public Chapter 291

This act requires the attorney general and reporter to not approve an emergency rule if the emergency rule does not meet the statutory criteria for adoption of the rule.

This act took effect July 1, 2021.

Public Chapter 328

This act requires that starting December 1, 2023, state agencies submit a report of their effective rules to the chairs of the government operations committee every eight (8) years. The report is required to include a brief description of the department's operations that each chapter affects, as well as each rule and its administrative history, which would include the original promulgated date and the dates the rule was last amended, if applicable. Additionally, the report would include a determination of each rule on whether it adheres to current state or federal law or court rulings, should be amended or repealed, reviewed further, or continue in effect without amendment. Lastly, if there are any intentionally false statements in the report, the government operations committee would have the ability to vote to request the general assembly to remove a rule or suspend the department's rulemaking authority for any reasonable period of time.

This act took effect July 1, 2021

Public Chapter 453

This act requires public or private entities or businesses that operate a building open to the general public to post signage regarding public restroom access in certain situations. Specifically, this applies to entities or businesses that have restroom policies allowing either biological sex to use any public restroom within their building. The act includes requirements for language, size,

location, and even color for the signage. The act excludes unisex, single occupant restrooms or family restrooms intended for use by either sex.

This act took effect July 1, 2021.

Public Chapter 458

This act adds nurses to the list of victims warranting enhanced penalties under the crime of assault against first responders (a Class A misdemeanor), as well aggravated assault of first responder (a Class C felony).

This act takes effect July 1, 2021.

Public Chapter 461

This act requires TDH licensing authorities, upon learning a healthcare prescriber was indicted of certain criminal offenses (controlled substance violations or sexual offenses), to automatically restrict the prescriber's ability to prescribe Schedule II controlled substances until the case reaches a final disposition. The restriction shall be removed upon sufficient proof of acquittal or dismissal/nolle prosequi. The act further requires licensing authorities to automatically revoke the license of a practitioner that is convicted of those same criminal offenses. A new license shall be granted if the conviction is overturned or reversed (but shall be restricted related to prescribing if the case has not reached final disposition). In addition, the act requires the licensing authority to suspend the license of midlevel practitioner (APRN/PA) upon finding the healthcare professional failed to comply with physician collaboration requirements. Finally, this act requires facility administrators to report certain disciplinary actions concerning licensed personnel to the professionals' respective boards.

This act took effect May 18, 2021.

Public Chapter 464

This act recreates the elder abuse task force, which was originally created in 2019 and was terminated January 15, 2021. The task force will consist of ten (10) members, including the Commissioner of Health or their designee. The task force will hold public meetings and utilize technological means to gather feedback on the recommendations from the general public and from persons and families affected by poverty. The commission on aging and disability will provide necessary administrative support for the task force. Lastly, this act requires the task force to submit its findings and recommendations to the governor and the general assembly to combat the abuse of elder persons and other vulnerable adults no later than January 15, 2022, at which time the task force will terminate.

This act took effect May 18, 2021.

Public Chapter 530

This act grants extends the TennCare annual nursing home assessment fee to June 30, 2022. Additionally, this act clarifies that provisions in existing code relative to late fees also applies to quarterly assessment fees by TennCare and adds a five-percent (5%) penalty of the quarterly assessment fee balance for each month that the balance is unpaid to TennCare.

This act took effect July 1, 2021.

Public Chapter 531

This act limits an agency's authority to promulgate rules without a public hearing. There are exceptions to the public hearing requirement. These exceptions include emergency rules, rules that are nonsubstantive modifications to existing rules (like clerical updates), rules that repeal existing rule, or rules that eliminate or reduce a fee described by an existing rule.

This act took effect July 1, 2021.

Public Chapter 532

This act authorizes the joint government operations committee to stay an agency's rule from going into effect for a period of time not to exceed ninety (90) days. If the government operations committee determines that subsequent stays are necessary, then the joint committee may issue consecutive stays, each for an additional ninety (90) day period, so long as such stays do not extend beyond the fifth legislative day of the year following the year in which the rule is filed with the secretary of state. The initial stay may be done by either the house or senate government operations committee, but subsequent stays must be by agreement by the committees of both chambers. A stay is effective when the respective committee files written notice with the secretary of state, and the respective committee shall specify the length of effectiveness of the stay.

This act took effect May 25, 2021.

Public Chapter 557

This thirty-page act does a complete overhaul of the certificate of need process through the health services and development agency. Among the changes are adjustments to various population thresholds, modifications to the fee schedule, and changes in bed numbers. One of the components of the bill requires the executive director of HSDA to submit a plan to consolidate into a health facilities commission, the powers and duties of HSDA and the board for licensing health care facilities. The plan is to be submitted to the chairs of senate and house health by January 1, 2023.

Some portions of this act took effect May 26, 2021. The rest of the act will take effect October 1, 2021.

****These are general summaries of legislation. For more detailed information and all specifics/requirements, please review the links to each public chapter****

Administrator's Report

Ms. Wilkerson reported that there are 784 active nursing home administrators as of May 26, 2021 She also provided an account of board licensure activities from February 22, 2021 through May 23, 2021 as follows:

New Applications received - 28
New licenses issued - 4
Reinstatements issued - 4
Number of paper renewals - 21
Number of renewals in VO - 71
Number of licensees who retired - 4
Failed to renew/Expired Applications - 12

Ms. Wilkerson advised the Board that approximately 77% of all renewals received during this period were done online.

Remaining 2021 Board Meeting dates are August 2 and November 1.

Ms. Wallace made a statement that licensed individuals are required to submit any name, address or email changes within 30 days of the change.

Reports from Office of General Counsel

Kyontze Hughes-Toombs, Deputy General Counsel, reported that there are currently no open cases under review. Ms. Hughes-Toombs also advised that the Board conducted a rulemaking hearing on 3/2/2020 promulgating rules allowing temporary licensure, pursuant to Tenn. Code Ann. § 63-16-104(b), and accepting the Health Service Executive (HSE) credential for reciprocity applicants. These rules are pending.

Applicant Interviews/File Reviews

AIT Applicants:

William Blankenship: The Applicant was present. After applicant interview and review of the applicant file, David Keeling made a motion to approve the file for a full 6-month/1,040-hour AIT program. Dr. Legner seconded. The motion passed unanimously.

Victoria Bowen: The Applicant was present and requested a limited 400-hour program. After applicant interview and review of the applicant file, it was determined that the applicant did not meet the criteria for a limited AIT. Dr. Legner made a motion to approve the applicant for a full 6-month/1,040-hour AIT program. Lakecia Thomas seconded. The motion passed unanimously.

Stacey Boyatt: The Applicant was present and requested a limited 400-hour AIT program. After applicant interview and review of the applicant file, it was determined that the applicant did not meet the criteria for a limited AIT. Dr. Legner made a motion to approve the applicant for a full 6-month/1,040-hour AIT program. Ms. Pitt seconded. The motion passed unanimously.

David Fitzgerald: The Applicant was present. Mr. Keeling questioned Ms. Hughes-Toombs as to whether he should be recused from this item as he was previously the administrator for a facility in which he was a co-worker with the applicant several years ago. After discussion with Ms. Hughes-Toombs, it was confirmed there would be no need for recusal. Applicant is seeking approval for full AIT program. After applicant interview and review of the applicant file Dr. Legner made a motion to approve the applicant for a full 6-month/1,040-hour AIT program. Ms. Pitt seconded. The motion passed unanimously.

Shelaine Powell: The Applicant was present. After applicant interview and review of the applicant file Ms. Pitt made a motion to approve the applicant for a full 6-month/1,040 hour AIT program. Mr. Keeling seconded. The motion passed unanimously.

Morgan Reddix: The Applicant was present. After applicant interview and review of the applicant file Mr. Keeling made a motion to approve the applicant for a full 6-month/1,040-hour AIT program. Dr. Legner seconded. The motion passed unanimously.

Haley Strachn: The Applicant was present. After applicant interview and review of the applicant file Dr. Legner made a motion to approve the applicant for a full 6-month/1,040 hour program. Ms. Thomas seconded. The motion passed unanimously.

Reciprocity Applicants:

Paul Granger: The Applicant was present by phone. After applicant interview and review of the applicant file Dr. Legner made a motion to approve the application. Mr. Keeling seconded. The motion passed unanimously.

Vincent Hambright: The Applicant was not present. Mr. Keeling stated for the record that he has never met the applicant, but has been informed that he will be his future supervisor, and that he can be impartial in the review of the application. Ms. Hughes-Toombs agreed that Mr. Keeling could participate in this agenda item. After review of the applicant file Dr. Legner made a motion to approve the application. Ms. Thomas seconded. The motion passed unanimously.

Kurt Holm: The Applicant was not present. After review of the applicant file Ms. Thomas made a motion to approve the application. Mr. Keeling seconded. The motion passed unanimously.

Julie Hook: The Applicant was present. After review of the applicant file Dr. Legner made a motion to approve the application. Ms. Thomas seconded. The motion passed unanimously.

Notice of TN Jurisprudence Exam for Reciprocity Applicants

Ms. Wallace provided a clarifying statement noting that Mr. Paul Granger, as well as all other approved reciprocity applicants, will first receive a letter providing them with the TN NHA Jurisprudence Exam after the conclusion of the Board Meeting and that the Jurisprudence Exam must be completed with a passing score prior to the issuance of their license. The “go-to-work” letters are not issued until after a passing score is achieved on the TN Jurisprudence Examination.

Charlotte Jackson-Paul: The Applicant was present. After review of the applicant file and the need for completing additional AIT hours to meet TN’s requirements for licensure, and discussion with the applicant regarding her current status in serving as a temporary administrator for a facility that is currently under a waiver from HCF, Ms. Thomas made a motion to table a decision

on this application until the August 2, 2021 meeting. Dr. Legner seconded. The motion passed unanimously.

Abigail Monyei: The Applicant was not present. After review of the applicant file Dr. Legner made a motion to approve the application. Mr. Keeling seconded. The motion passed unanimously.

Craig Perez: The Applicant was not present. After review of the applicant file Dr. Legner made a motion to approve the application. Ms. Thomas seconded. The motion passed unanimously.

Tijuana Simelton: The Applicant was present. After applicant interview and review of the applicant file Dr. Legner made a motion to approve the application. Ms. Thomas seconded. The motion passed unanimously.

Tabitha Simmons: The Applicant was not present. After review of the applicant file Dr. Legner made a motion to approve the application. Mr. Keeling seconded. The motion passed unanimously.

Leslie Smith: The Applicant was not present. After review of the applicant file Dr. Legner made a motion to approve the application. Ms. Pitt seconded. The motion passed unanimously.

Kristie Valentino: The Applicant was present. After applicant interview and review of the applicant file Ms. Thomas made a motion to approve a 6-mth/1,040 hour AIT program contingent upon whether or not the applicant can provide written documentation of having completed a previous AIT program as signed by the previous administrator. Ms. Pitt seconded. The motion passed unanimously.

NAB Applicants:

Heather Diebold: The Applicant was present. After applicant interview and review of the

applicant file Dr. Legner made a motion for approval to sit for the NAB Exam and the TN Jurisprudence Exam. Mr. Keeling seconded. The motion passed unanimously.

Other Applicant Requests:

There were no other applicant requests presented in this meeting.

Ratification of Licensure Files

A motion was made by Ms. Thomas and seconded by Mr. Keeling, to approve the list of licensure files as presented for ratification for the period of February 22, 2021 - May 23, 2021: The motion passed unanimously.

AIT to Full License

Murner Herschel
Tummins Misty L
Wamble Cory Jeffrey

Reciprocity

Culberson Christopher

Reinstatement

Blunt Donald R.
Pruitt Amanda Gayle Mrs.
Waldrop John David
Seay Stephanie

Exam

None

Preceptor

None

Closed Files

Liggins Kesha D
Russo Monica Marie
Woodle Jeremy

Taskforce/Committee Reports

There were no taskforce or committee reports heard in this meeting.

Rulemaking, Amendments and Policies

Ms. Hughes-Toombs advised the Board that the pending rule changes for a temporary license and HSE are still under review.

Correspondence

Ms. Wallace reviewed the correspondence received from NAB which discussed changes in their domains of practice, from 5 to 4 areas. There was no action made by the Board on this item.

Conference Reports

The NAB Annual Meeting to be held virtually from June 9-11, 2021, has expected Board participation from Dr. Rhoten.

New/Old Business

There was no new or old business items for discussion in this meeting

Adjournment

There being no further business, a motion was made by Dr. Legner, and seconded by Mr. Keeling, to adjourn the meeting at 1:02pm CST. The motion passed unanimously.



Lakecia Thomas, Chair



Date

These minutes were ratified by the Board at the August 2, 2021 meeting