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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**

TIME: 10:30 A.M.

Held at

PENNSYLVANIA DEPARTMENT OF STATE

2601 North Third Street

One Penn Center, Board Room C

Harrisburg, Pennsylvania 17110

as well as

VIA MICROSOFT TEAMS

Wednesday, March 1, 2023

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State Board of Examiners of
Nursing Home Administrators
March 1, 2023

BOARD MEMBERS:

- Sharon K. McDermond, NHA, Chairperson - Absent
- Arion R. Claggett, Acting Commissioner, Bureau of Professional and Occupational Affairs
- Ilene Warner-Maroon, Ph.D., Vice Chairperson
- Susan Coble, Deputy Secretary of Quality Assurance, Department of Health
- Michael P. Kelly, NHA
- Francis J. King, NHA
- Robert L. Wernicki, NHA
- Carrie E. Wilson, Office of Attorney General, Bureau of Consumer Protection - Absent

BUREAU PERSONNEL:

- Dean F. Picarella, Esquire, Senior Board Counsel
- Sean C. Barrett, Esquire, Board Counsel
- William A. Newport, Esquire, Board Prosecution Liaison
- Trista Boyd, Esquire, Board Prosecutor
- Thomas Leech II, Board Administrator
- Carolyn A. DeLaurentis, Esquire, Executive Deputy Chief Counsel, Department of State
- Marc Farrell, Deputy Policy Director, Department of State
- Amanda Richards, Fiscal Chief, Bureau of Finance and Operations, Department of State
- Jennifer Gage, Fiscal Management Specialist, Bureau of Finance and Operations, Department of State
- Tamie Laudenslager, Fiscal Management, Bureau of Finance and Operations, Department of State
- Michelle Witmer, Fiscal Management Specialist, Bureau of Finance and Operations, Department of State
- Deena Parmelee, Legal Office Administrator 1, Department of State

ALSO PRESENT:

- Jennifer Smeltz, Republican Executive Director, Senate Consumer Protection & Professional Licensure Committee

1 ***

2 State Board of Examiners of
3 Nursing Home Administrators

4 March 1, 2023

5 ***

6 [Pursuant to Section 708(a)(5) of the Sunshine Act,
7 at 10:00 a.m. the Board entered into Executive
8 Session with Sean C. Barrett, Esquire, Board Counsel,
9 for the purpose of conducting quasi-judicial
10 deliberations and to receive legal advice. The Board
11 returned to 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, March 1, 2023. Ilene Warner-
16 Maron, Ph.D., Vice Chairperson, called the meeting to
17 order at 10:30 a.m.

18 ***

19 [Sean C. Barrett, Esquire, Board Counsel, informed
20 everyone that the meeting was being recorded, and
21 those who continued to participate were giving their
22 consent to be recorded.

23 Mr. Barrett also noted the Board entered into
24 Executive Session for the purpose of quasi-judicial
25 deliberations on a number of matters that are

1 currently pending before the Board and to receive the
2 advice of counsel.]

3 ***

4 Approval of minutes of the November 2, 2022 meeting
5 VICE CHAIR WARNER-MARON:

6 Do we have a motion for approval of the
7 minutes from November 2, 2022?

8 ACTING COMMISSIONER CLAGGETT:

9 So moved.

10 MS. COBLE:

11 Second.

12 ACTING COMMISSIONER CLAGGETT:

13 Could we have a roll call vote, Mr.
14 Leech?

15
16 Claggett, aye; Warner-Maron, aye;
17 Coble, aye; Kelly, abstain; King, aye;
18 Wernicki, abstain.

19 [The motion carried. Michael Kelly and Robert
20 Wernicki abstained from voting on the motion.]

21 ***

22 Introduction of Board Members and Attendees

23 [Sean C. Barrett, Esquire, Board Counsel, asked Board
24 members to identify themselves and also asked for an
25 introduction of attendees.]

1 ***

2 Report of Board Chairperson - Ratification of
3 Temporary Permit Applications

4 MR. BARRETT:

5 I believe the Board Vice Chair would
6 entertain a motion to Ratify the
7 Temporary Permit Applications on agenda
8 items 7 through 14 for the Applications
9 of Emily Rose Galasso, Melanie Ann
10 Robertson, Andrea Pauline Gamble,
11 Richard Sweet-Keech, Leon Hersh,
12 Stephanie Fissella, Christina Lynn, and
13 Joseph Scarsella.

14 VICE CHAIR WARNER-MARON:

15 Do I have a Motion to Ratify Temporary
16 Permits for items 7 through 14?

17 ACTING COMMISSIONER CLAGGETT:

18 So moved.

19 MS. COBLE:

20 Second.

21 ACTING COMMISSIONER CLAGGETT:

22 Roll call vote, Mr. Leech?

23
24 Claggett, aye; Warner-Maroon, aye;

25 Coble, aye; Kelly, aye; King, aye;

1 Wernicki, abstain.

2 [The motion carried. Robert Wernicki abstained from
3 voting on the motion.]

4 ***

5 Appointment - Prosecution Division Annual Report
6 Presentation

7 [Carolyn A. DeLaurentis, Esquire, Executive Deputy
8 Chief Counsel, Department of State, informed Board
9 members that she is now the executive deputy chief
10 counsel for the Department of State but is presenting
11 to the Board on behalf of the prosecution division in
12 her former role to provide the presentation.

13 Ms. DeLaurentis presented to the Board to provide
14 a summary of the prosecution division's role and
15 present annual numbers for 2022. She informed Board
16 members that the Bureau of Professional and
17 Occupational Affairs provides administrative and
18 legal support to all 29 licensing boards and
19 commissions with the mission to protect the health
20 and safety of the public and the integrity of the
21 profession. She noted legal support includes the
22 prosecution division, counsel division, hearing
23 examiners, and support staff.

24 Ms. DeLaurentis explained that the Office of
25 Chief Counsel is under the Governor's Office of

1 General Counsel and assigned to the Department of
2 State, noting the prosecution division is one
3 division under the Office of Chief Counsel and
4 currently has 37 attorneys. She noted the
5 prosecution division works with the Bureau of
6 Enforcement and Investigation (BEI), along with the
7 Professional Compliance Office (PCO).

8 Ms. DeLaurentis stated BEI, PCO, and prosecution
9 are all tasked with receiving complaints,
10 investigating allegations, ensuring public safety,
11 and enforcing compliance with the acts and
12 regulations that govern the 29 licensing boards and
13 commissions.

14 Ms. DeLaurentis stated the prosecution division
15 has five senior prosecuting attorneys, noting William
16 Newport oversees their Board, along with acting
17 senior prosecutor, Karl Geschwindt, Paul Jarabeck;
18 Heather McCarthy; and Ray Michalowski as senior
19 prosecutors for other boards. She mentioned that Ms.
20 Boyd is the prosecution liaison for their Board,
21 along with 31 other prosecuting attorneys currently
22 in the division with 1 vacancy.

23 Ms. DeLaurentis explained that prosecution is a
24 complaint-driven agency, noting complaints are
25 received from any source but prefer complaints be

1 submitted through the Pennsylvania Licensing System
2 (PALS) at pals.pa.gov because it is the most
3 efficient. She noted prosecution also accepts
4 complaints from sister agencies, state and federal
5 agencies, law enforcement, and through media outlets.

6 Ms. DeLaurentis discussed levels of review,
7 including jurisdiction checks to see if the complaint
8 falls under their jurisdiction. She mentioned
9 complaints are referred to the appropriate agency if
10 prosecution does not have jurisdiction.

11 Ms. DeLaurentis stated prosecution works with BEI
12 inspectors and investigators to determine whether
13 there is a violation. She noted BEI interviews
14 witnesses and gathers documents and social media
15 evidence.

16 Ms. DeLaurentis addressed the various levels of
17 review and determining whether there was a violation.
18 She explained that matters could be closed if there
19 is not a violation to focus attention on cases where
20 there may be a violation. She stated everything is
21 submitted to the prosecution division to be reviewed
22 once BEI completes their investigation.

23 Ms. DeLaurentis noted attorneys make charging
24 decisions and determine whether to file an order to
25 show cause, file a citation, or close a case. She

1 addressed due process rights with formal charges
2 through a hearing process, noting it is similar to a
3 regular criminal trial, where both sides are able to
4 present evidence by way of witness testimony,
5 documents, and legal arguments.

6 Ms. DeLaurentis noted hearing examiners generally
7 issue a proposed adjudication and order and then the
8 final decision is made by the Board. She addressed
9 consent agreements, where both sides have negotiated
10 and reached a settlement they wished to present
11 before the Board, but the Board has the final
12 authority of whether to accept or reject the consent
13 agreement.

14 Ms. DeLaurentis addressed the prosecution
15 division's role at Board meetings, including
16 presenting consent agreements and listening to
17 concerns of the Board. She pointed out that
18 prosecution has a confidentiality statute that
19 applies to their files, where all of the contents
20 within their files is confidential under the law and
21 is why prosecution cannot speak on some matters. She
22 noted all of the prosecuting attorneys and staff sign
23 confidentiality affidavits indicating they understand
24 all records are confidential and privileged and may
25 be disciplined for any violations.

1 Ms. DeLaurentis stated BEI conducts interviews
2 and inspections for certain boards to obtain
3 evidence. She noted BEI also serves subpoenas and
4 deliver orders and letters, along with testifying to
5 the results of their investigations and inspections.

6 She noted BEI is not considered law enforcement in
7 Pennsylvania and does not have search warrant
8 authority.

9 Ms. DeLaurentis addressed document authority,
10 where some boards have regulations that require
11 cooperation if a request is made to review their
12 records but not everyone complies, where a subpoena
13 may be warranted.

14 Ms. DeLaurentis addressed post-investigation,
15 where BEI is gathering facts and present the evidence
16 to the legal office for review. She stated BEI is
17 not determining whether or not a law has been
18 violated or determining whether discipline should be
19 issued because that is the role of the prosecution
20 division. She noted prosecuting attorneys work with
21 legal analysts to determine whether there was a
22 violation to decide whether to close the matter or
23 file charges.

24 Ms. DeLaurentis addressed immediate temporary
25 suspensions, where a license is immediately suspended

1 if someone is an immediate danger to the health and
2 safety of the public. She noted automatic
3 suspensions include 302 commitments, drug act
4 violations, and orders for examination for some
5 boards. She also noted petitions for appropriate
6 relief are when someone has violated a board order.

7 Ms. DeLaurentis stated the levels of discipline
8 include revocations, suspensions, probations,
9 reprimands, fines, remedial education, and cost of
10 the investigation.

11 Ms. DeLaurentis referred to the confidentiality
12 statute under 63 Pa.C.S. § 3109, where prosecution and
13 investigative files are deemed privileged and
14 confidential under the law. She explained that
15 investigative records are deemed noncriminal
16 investigative records and exempt from disclosure
17 under the Right-to-Know Law.

18 Ms. DeLaurentis stated information could be
19 shared with other agencies in furtherance of
20 investigative efforts but only their final action
21 could be shared publicly, including final
22 adjudications and orders, final consent agreements,
23 and final letters.

24 Ms. DeLaurentis provided data as of January 3,
25 2023, where the number of open cases for the

1 prosecution division was 13,154, which is down from
2 2022 at 15,141. She stated 16,084 cases were opened
3 in 2022 and is down from 2021 at 18,363 cases. She
4 reported closing 17,826 cases in 2022 and is up from
5 2021, where 15,994 cases were closed. She thanked
6 the prosecution division, counsel division, hearing
7 examiners, BEI, and the Board for their group effort.

8 Ms. DeLaurentis informed Board members that an
9 annual report is issued to the General Assembly,
10 which includes a breakdown of case categories, and
11 counsel would be notified when the report is
12 finalized.

13 Ms. DeLaurentis addressed specific information
14 for the State Board of Examiners of Nursing Home
15 Administrators as of January 3, 2023, noting 89 cases
16 were opened in 2022 and 70 in 2021. She reported 75
17 cases were closed in 2022 and 68 in 2021. She noted
18 74 open cases and 56 open cases around this time last
19 year.

20 Ms. DeLaurentis referred to disposition of closed
21 cases, including discipline and non-discipline. She
22 stated no discipline was imposed on any of the
23 Board's licensees last year, noting licensees are
24 following the rules.

25 Ms. DeLaurentis stated non-discipline Z codes are

1 used when closing cases in their system. She
2 referred to Z18 warning letters, noting 21 warning
3 letters, which was an increase from the prior year at
4 11. She explained that warning letters are not
5 disciplinary but used for de minimis violations. She
6 noted warning letters are a great tool for
7 prosecutors on behalf of the Board to remind
8 licensees to follow the act and regulations to
9 protect the health and safety of the public and
10 maintain the integrity of the profession.]

11

12 Appointment - Bureau of Finance and Operations

13 Annual Budget Presentation

14 [Amanda Richards, Chief of Fiscal Management, Bureau
15 of Finance and Operations, Department of State,
16 referred to licensee population over the past seven
17 years, noting last year was a renewal period with
18 1,875 licensees and 1,711 licensees at the time of
19 the report, showing a decrease of 164 licensees but
20 up to 1,718 as of this morning.

21 Ms. Richards referred to the breakdown of
22 licensees by license class over the last four years,
23 noting the Board only has nursing home administrator.

24 Ms. Richards addressed revenue on a biennial
25 basis. She referred to FY20-21 showing renewals for

1 June 2020 were extended through September of 2020 due
2 to COVID and affects revenue for that fiscal year.
3 She reported on the revenue for FY20-21 and FY21-22,
4 noting the biennial total. She noted 99 percent of
5 revenue is from renewals and applications. She
6 stated revenue is received from other categories but
7 is not a consistent source of revenue.

8 Ms. Richards stated the fee package that was
9 approved would go into effect in May 2023 with
10 another increase in May 2025.

11 Ms. Richards noted the two main categories when
12 reviewing expenses are administrative and legal
13 costs. She stated expenses are brought in through
14 direct charges, timesheet-based charges, and license
15 population. She reported on Board expenses in FY20-
16 21, FY21-22, and at the time of the report on
17 February 21, 2023. She informed Board members that
18 the budgeted amount was adequate for the rest of the
19 year.

20 Ms. Richards addressed the revenue and expenses
21 showing a projected balance for FY22-23 and FY25-26.]

22 ***

23 [Francis J. King, NHA, exited the meeting during the
24 appointments.]

25 ***

1 Report of Prosecutorial Division - No Report

2 ***

3 Report of Board Counsel

4 [Sean C. Barrett, Esquire, Board Counsel, informed
5 Board members that the counsel division would
6 ensuring the Board is aware of their regulations. He
7 noted the child abuse reporting requirements are
8 being revised by deputy chief counsel and moving
9 forward. He will go back to the drawing board on the
10 schedule of civil penalties.

11 Mr. Barrett noted the Board needs to be focused
12 on 16A-6220 regarding licensure by endorsement under
13 Act 41 and provided an annex that included
14 substantive changes and revisions suggested by
15 regulatory counsel in the competency categories. He
16 referred to 39.8(b)(2) demonstrating competency, (5)
17 have paid license application fees required, (6) have
18 applied for licensure in accordance with this chapter
19 in the manner and format described by the Board, (7)
20 and needs 3 hours of training in child abuse
21 recognition and reporting from a provider.

22 Mr. Barrett stated the Board also voted to start
23 working on a package to incorporate the child abuse
24 credits into the 48-hour credit requirement overall.

25 Mr. Barrett noted the Board voted to have counsel

1 make some changes and send it out for an exposure
2 draft but asked whether the Board wanted to require a
3 state-specific test to demonstrate competency or
4 whether it was just a discussion.

5 Vice Chair Warner-Maron explained that the
6 discussion was regarding making sure new licensees
7 were competent in Pennsylvania's regulations and not
8 just the federal regulations.

9 Mr. Barrett commented that his understanding is
10 that new licensees must pass both the national and
11 state test, but the Board would be asking people from
12 outside of Pennsylvania to just take the state
13 portion that is already offered.

14 Vice Chair Warner-Maron explained that there may
15 be regulations that are pertinent to their laws that
16 are not considered in another jurisdiction, which is
17 why the Board discussed requiring the state portion.

18 She commented that the Board had a discussion but
19 was unsure whether it was settled.

20 Mr. Barrett suggested tabling whether the Board
21 agrees to require the state portion of the test for
22 someone from another jurisdiction until the next
23 meeting.

24 Ms. Coble mentioned new nursing home regulations
25 went into effect on February 1, July 1, and October 1

1 for the first time in 30 years.

2 Mr. Barrett stated the new regulations effect
3 tremendous changes to the administration of nursing
4 homes and are Department of Health regulations that
5 were not promulgated by the Board. He noted that
6 changes would have to be made to nursing home
7 administrator (NHA) testing to make sure the
8 Department of Health regulations are encompassed in
9 the test and is going to be working with Pearson VUE
10 to make sure all NHA applicants are working on actual
11 regulations that are in effect.

12 Mr. Barrett noted the Sunshine Law presentation
13 was given during Executive Session.]

14

15 Report of Acting Commissioner

16 [Arion R. Claggett, Acting Commissioner, Bureau of
17 Professional and Occupational Affairs, informed
18 everyone of new functionality being added to the
19 Pennsylvania Licensing System (PALS) in May to notify
20 licensees through email that their actual license has
21 expired.]

22

23 Report of Board Administrator - No Report

24

25 Report of Board Members - No Report

1 ***

2 Report of Committees - Examination Committee

3 [Thomas Leech II, Board Administrator, noted there is
4 a file on the OneDrive under the Report of the
5 Examination Committee identifying applications that
6 were approved at the last meeting for the Board's
7 review.]

8 ***

9 Report of Committees - Administrator-in-Training

10 (AIT)

11 Review Committee

12 [Thomas Leech II, Board Administrator, noted there is
13 a file on the OneDrive under the Report of the
14 Administrator-in-Training (AIT) Review Committee for
15 the Board's review.]

16 ***

17 Upcoming Meeting Dates

18 [Ilene Warner-Maron, Ph.D., Vice Chairperson, noted
19 the remaining 2023 Board meeting dates are May 3,
20 August 30, and November 1.]

21 ***

22 Discussion Items - 2024 Board Meeting Dates

23 [Arion R. Claggett, Acting Commissioner, Bureau of
24 Professional and Occupational Affairs, tabled the
25 2024 Board meeting dates until the next meeting due

1 to not having a quorum.]

2

3 Discussion Items - Clarification of 12 New Continuing
4 Education (CD) Requirements for Infection
5 Control/Emergency Preparedness

6 [Sean C. Barrett, Esquire, Board Counsel, informed
7 Board members of a request for clarification from Mr.
8 King regarding requirements under the regulations for
9 continuing education under § 39.61 that requires 48
10 clock hours every two years, where at least 12 of the
11 required 48 clock hours shall be completed in the
12 subject areas of emergency preparedness and infection
13 control.

14 Mr. Barrett provided clarification, where as long
15 as the licensee or applicant has 12 CE credits in
16 both of those subjects, no matter the breakdown, it
17 is acceptable.]

18

19 Adjournment

20 VICE CHAIR WARNER-MARON:

21

Motion to adjourn.

22

ACTING COMMISSIONER CLAGGETT:

23

So moved.

24

MS. COBLE:

25

Second.

[There being no further business, the State Board of Examiners of Nursing Home Administrators Meeting adjourned at 11:20 a.m.]

CERTIFICATE

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



Amber Garbinski,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

STATE BOARD OF EXAMINERS OF
NURSING HOME ADMINISTRATORS
REFERENCE INDEX

March 1, 2023

	TIME	AGENDA
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10	10:00	Executive Session
11	10:30	Return to Open Session
12		
13	10:30	Official Call to Order
14		
15	10:31	Approval of Minutes
16		
17	10:32	Introduction of Board Members/Attendees
18		
19	10:33	Report of Board Chairperson
20		
21	10:36	Appointment - Carolyn A. DeLaurentis,
22		Esquire, Executive Deputy Chief
23		Counsel, Department of State, Annual
24		Prosecutorial Division Presentation
25		
26	11:03	Appointment - Bureau of Finance and
27		Operations Annual Budget Presentation
28		
29	11:08	Report of Board Counsel
30		
31	11:15	Report of Acting Commissioner
32		
33	11:16	Report of Committees
34		
35	11:16	Upcoming Meeting Dates
36		
37	11:16	Discussion Items
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39	11:20	Adjournment
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