

September 15, 2020

The Virginia Board of Long-Term Care Administrators convened virtually via WebEx for a full board meeting on Tuesday, September 15, 2020, with staff coordination on-site at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

BOARD MEMBERS PRESENT

Mitchell P. Davis, NHA, Chair
Ali Faruk, Citizen Member
Martha H. Hunt, ALFA
Jenny Inker, ALFA
Ashley Jackson, NHA
Derrick Kendall, NHA
Marj Pantone, ALFA, Vice-Chair

BOARD MEMBERS ABSENT

Basil Acey, Citizen Member
Shervonne Banks, Citizen Member

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING

Barbara Allison-Bryan, MD, DHP Deputy Director
Erin Barrett, Assistant Attorney General, Board Counsel
Trasean Boatwright, Licensing Program Specialist
David Brown, DC, DHP Director
Sarah Georgen, Licensing and Operations Manager
Kelley Palmatier, JD, Deputy Executive Director
Corie Tillman Wolf, JD, Executive Director
Elaine Yeatts, Senior Policy Analyst

OTHER GUESTS PRESENT

Lauren Burnette, Virginia Commonwealth University Student
Judy Hackler, VALA
Anne Hegamund, Virginia Commonwealth University Student
Leslie Knachel, Executive Director, Boards of Audiology & Speech-Language Pathology, Optometry, and Veterinary Medicine
Jennifer Pryor, Virginia Commonwealth University
“Rhodesas2”

CALL TO ORDER

Mr. Davis called the meeting to order at 9:31 a.m.

Due to the COVID-19 declared state of emergency and consistent with Amendment 28 to HB29 (Budget Bill for 2018-2020) and the applicable provisions of the Freedom of Information Act including Virginia Code § 2.2-3708.2, the Board convened a virtual meeting to consider such regulatory and business matters as was presented on the agenda necessary for the board to discharge its lawful purposes, duties, and responsibilities.

Mr. Davis provided the Board members, staff, and the public with contact information should the electronic meeting be interrupted.

Mr. Davis provided reminders to the Board and public regarding WebEx functions. He completed a roll call of the Board members and staff.

With seven board members present at the meeting, a quorum was established.

Mr. Davis read the mission of the Board, which is also the mission of the Department of Health Professions.

APPROVAL OF MINTUES

Upon a **MOTION** by Ms. Hunt, and properly seconded by Dr. Inker, the Board voted to accept the December 16, 2019 to September 11, 2020 minutes in block, including the New Board Member Orientation meeting on December 16, 2019, a Board meeting on December 17, 2019, two formal hearings on December 17, 2019, and the WebEx training session on September 11, 2020. The motion passed unanimously (7-0).

ORDERING OF THE AGENDA

Upon a **MOTION** by Ms. Hunt, and properly seconded by Mr. Faruk, the Board voted to accept the agenda as written. The motion passed unanimously (7-0).

PUBLIC COMMENT

The Board did not receive any written public comment or request to provide verbal public comment.

Note: The meeting experienced a technical issue at the beginning of the meeting which prevented audio or video recording of the meeting from 9:31 a.m. to approximately 9:42 a.m. (11-12 minutes).

AGENCY REPORT

Dr. Brown thanked the long-term care administrators for all of their work in response to the pandemic. He provided an update to DHP functions during the COVID-19 pandemic and stated that DHP had closed the building to the public and invested in telework options by purchasing laptop computers for employees.

Dr. Brown reported on other actions taken in light of COVID, including waiver of certain regulations by DHP boards, as well as measures taken at DHP to resume disciplinary hearings and board meetings.

Dr. Brown reported that the Virginia Department of Health (VDH) is developing a state telehealth plan for additional flexibility required for reimbursement and the expanded use of telemedicine.

Dr. Brown provided an update on state-level workgroup activities related to adult and medical use of marijuana. He stated that the Joint Legislative Audit and Review Committee (JLARC) also has been tasked with the review of adult and medical use of marijuana.

Dr. Allison-Bryan commented that DHP is focusing on the positive lessons learned from the pandemic to apply those to future issues.

With no further questions, Dr. Brown and Dr. Allison Bryan concluded their reports.

PRESENTATION

2020 Nursing Home Administrator and Assisted Living Facility Administrator Workforce Reports - Yetty Shobo, Ph.D., Healthcare Workforce Data Center

Mr. Davis welcomed Yetty Shobo, Ph.D., Healthcare Workforce Data Center, to provide a presentation on the 2020 Nursing Home Administrator and Assisted Living Facility Administrator Workforce Reports.

Upon a **MOTION** by Ms. Pantone, and properly seconded by Dr. Inker, the Board voted to approve the 2020 Nursing Home Administrator and Assisted Living Facility Administrator Workforce Reports. The motion passed unanimously (7-0).

STAFF REPORTS

Executive Director's Report – Corie E. Tillman Wolf, JD, Executive Director

COVID Response

Ms. Tillman Wolf provided an overview of the COVID statistics provided by the Virginia Department of Health showing the impact on long term care facilities in Virginia. She reported on the Executive Orders authorized by Governor Northam since March 2020. She also reported the purpose of and her participation on the Governor's Long-Term Care Task Force.

Ms. Tillman Wolf provided an overview of actions taken in response to the COVID-19 pandemic, including the continuance of Board licensure operations. Ms. Tillman Wolf reported on actions taken in response, including the blanket six-month extension granted by the Board for continuing education for March renewals and the clarification related to in-person and live, remote courses. She reported on the process for out-of-state licensees working at facilities in Virginia pursuant to Executive Order 57. She also reported on questions that arose with regard to AITs, including the expiration dates for acting AITs and access to training facilities.

Ms. Tillman Wolf reported on the discipline operations during the pandemic. Ms. Tillman Wolf reported that, so far, there had not been an increase in complaints resulting from COVID. Complaints are referred to

OLC and DSS as appropriate. The processing of disciplinary cases has continued with more cases in the pipeline for probable cause review. Early on the pandemic, the Board cancelled informal conferences and hearings, but is again convening IFC's and will be convening the first virtual formal hearing this afternoon.

Dr. Inker requesting information on the AIT program in regards to matching AITs with a preceptor. Ms. Tillman Wolf explained that the Board offers a voluntary preceptor directory, as well as provides information to the applicant on organizations that may have job postings. Ms. Tillman Wolf also spoke to the Regulatory Advisory Panel meeting that was held in 2019 that addressed these issues.

Expenditure and Revenue Summary as of June 30, 2020

Ms. Tillman Wolf presented the Expenditure and Revenue Summary as of June 30, 2020.

Cash Balance as of June 30, 2019	\$ 44,674
YTD FY20 Revenue	\$589,200
Less FY20 Direct & In-Direct Expenditures	\$490,536
Cash Balance as of June 30, 2020	\$143,338

NAB Updates

Ms. Tillman Wolf provided information on the National Association of Long-Term Care Administrators Boards (NAB). She reported an impact on examinations during the beginning of the COVID-19 pandemic. She stated that applicants had issues scheduling their exams, but noted that the issue has since largely been resolved, although with some delays.

Additionally, she stated that, during the pandemic, NAB worked with continuing education (CE) sponsors for approval of live and virtual courses to be available to licensees. Ms. Tillman Wolf stated that NAB extended accreditation of education programs until 2021. Additionally, she reported that NAB has cancelled all in-person 2020 meetings.

Ms. Tillman Wolf reported on the national examination passage rates, but stated that the Virginia's examination passage rates had not been released yet, but would report this information at the December 2020 business meeting.

- 2019 National Passage Rates
 - CORE – 85%
 - NHA – 64%
 - RC/AL – 69%

Ms. Tillman Wolf reported on the Health Services Executive (HSE) credential stating that nine HSE credentials have been issued in Virginia. She stated that eighteen states had adopted the credential as of the end of 2019. Further, a total of 241 administrators have received the HSE credential, representing licensees from 42 states. She reported that nine universities have a HSE accredited program.

Ms. Tillman Wolf stated that the NAB CE Registry has approximately 27,000 registered users with 1,309 that designate Virginia for reporting (82.2%) as of September 2020, an increase since December 2019.

Staff Updates

Ms. Tillman Wolf provided information to the board on the authorization of virtual meetings and announced that the Board would conduct its first virtual formal hearing later in the day.

Board Meeting Dates

Ms. Tillman Wolf announced the last 2020 Board meeting date and the tentative upcoming 2021 Board meeting dates.

2020 Board Meeting Dates

- December 8, 2020

Tentative 2021 Board Meeting Dates

- March 16, 2021
- June 15, 2021
- September 21, 2021
- December 14, 2021

Notes and Reminders

Ms. Tillman Wolf thanked the Board members for their continued hard work, dedication, and patience during the pandemic.

With no further questions, Ms. Tillman Wolf concluded her report.

Discipline Report – Kelley Palmatier, JD, Deputy Executive Director

As of September 11, 2020, Ms. Palmatier reported the following disciplinary statistics:

- 90 total cases
 - 2 in Formal Hearing
 - 1 in Informal Conferences
 - 18 in Investigation
 - 67 in Probable Cause
 - 4 in Administrative Proceedings Division

Ms. Palmatier reported the following Total Cases Received and Closed:

- | | |
|-------------------|-------------------|
| • Q4 2018 – 4/4 | • Q1 2020 – 26/13 |
| • Q1 2019 – 13/15 | • Q2 2020 – 4/12 |
| • Q2 2019 – 10/11 | • Q3 2020 – 13/18 |
| • Q3 2019 – 9/17 | • Q4 2020 – 25/18 |
| • Q4 2019 – 7/12 | |

Ms. Palmatier reported the following Virginia Performs statistics for Q4 2020:

- Clearance Rate – 115% Received 13 patient cases and closed 15 cases
- Pending Caseload over 250 days at 48% is over the 20% goal. That represents 38 cases.

Ms. Palmatier reported on the percentage of all cases closed in one year and on average days to close a case for the last six quarters.

With no questions, Ms. Palmatier concluded her report.

Licensure Report – Sarah Georgen, Licensing and Operations Manager

Ms. Georgen presented licensure statistics that included the following information:

Current License Count – ALFA and NHA

ALFA	September 2020	NHA	September 2020
ALFA	656	NHA	937
ALF AIT	99	NHA AIT	88
Preceptor	194	Preceptor	215
Total ALFA	949	Total NHA	1,240
TOTAL COMBINED	2,189		

Ms. Georgen reported on the trends in license count, which continued to show relatively flat growth from December 2013 to September 2020.

Virginia Performs – Customer Service Satisfaction

- 100% Results:
 - FY16 Q1, Q2, Q4
 - FY17 Q1, Q2, Q4
 - FY18 Q1, Q2, Q3, Q4
 - FY19 Q1, Q2, Q4
 - FY20 Q1, Q2, Q3, Q4

With no questions, Ms. Georgen concluded her report.

BOARD COUNSEL REPORT – Erin Barrett, Assistant Attorney General

Ms. Barrett did not have a report to provide.

COMMITTEE AND BOARD MEMBER REPORTS

Report from the Board of Health Professions – Derrick Kendall, NHA

Mr. Kendall reported that the Board of Health Professions added a second Vice-Chair to the Bylaws to ensure continuity with the chairing of board business meetings.

Mr. Kendall reported on the Board of Health Professions studies regarding diagnostic medical sonographers and naturopathic doctors.

LEGISLATION AND REGULATORY ACTIONS

Legislation/Regulatory Updates

Ms. Yeatts reported on two regulatory actions currently under review at the Governor's office in regards to delegation to an agency subordinate, and recommendations of the Regulatory Advisory Panel (RAP) on the AIT regulations.

BREAK

The Board took a break at 11:01 a.m. and returned at 11:15 a.m.

BOARD DISCUSSIONS AND ACTIONS

Consideration of Revisions to Guidance Document 95-8, Bylaws

The Board discussed proposed revisions to Guidance Document 95-8, Bylaws.

Upon a **MOTION** by Ms. Jackson, and properly seconded by Mr. Faruk, the Board voted to adopt the revisions to Guidance Document 95-8, Bylaws as presented. The motion passed unanimously (7-0). (Attachment A)

Mr. Davis reminded the Board that this guidance document must be published for 30 days of comment before it can become effective.

Consideration of Adoption of Guidance Document Continuing Education Requirements (18VAC95-20-175 and 18VAC95-30-70)

The Board discussed possible adoption of a Guidance Document regarding continuing education requirements in light of issues that have been identified during the COVID pandemic.

Following discussion, Ms. Tillman Wolf suggested an amendment to the proposed guidance document that the Board's guidance be limited: "*During the pendency of the COVID-19 public health emergency....*"

Upon a **MOTION** by Ms. Hunt, and properly seconded by Dr. Inker, the Board voted to adopt a guidance document for continuing education requirements (18VAC95-20-175 and 18VAC95-30-70) as presented and amended. The motion passed unanimously (7-0). (Attachment B)

Mr. Davis reminded the Board that this guidance document must be published for 30 days of comment before it can become effective.

Consideration of Continuing Education Exemption for 2021 Renewals

The Board discussed the continued competency requirements for renewal of an active license and whether to exempt licensees from completion of all or part of the continuing education requirements for renewal in 2021.

Upon a **MOTION** by Ms. Pantone, and properly seconded by Ms. Hunt, the Board voted to exempt ten (10) of the twenty (20) hours required for the 2021 renewal, specifying that all ten (10) hours can be completed through live interactive meetings or through internet/self study courses. The motion passed unanimously (7-0).

Consideration of Action – AIT Training During COVID-19 Pandemic

Ms. Tillman Wolf provided the Board with questions received by Board staff related to the Administrator-In-Training program during the COVID-19 pandemic. The Board discussed the questions provided and agreed that, during the pandemic, the general guidance on the Board’s website regarding the “routine presence” of preceptors and communication with AITs in training facilities via remote video technology remain in effect. The Board did not take any further action related to training issues raised for AITs, stating that requests would continue to be considered on a case-by-case basis.

NEXT MEETING

The next meeting date is December 8, 2020.

ADJOURNMENT

With all business concluded, the meeting adjourned at 12:25 p.m.

A video recording of this meeting can be accessed at:
https://www.dhp.virginia.gov/nha/nha_calendar.htm

Mitchell P. Davis, NHA, Board Chair

Corie Tillman Wolf, J.D., Executive Director

Date

Date

VIRGINIA BOARD OF LONG-TERM CARE ADMINISTRATORS**BYLAWS****Article I. Officers****Election, Terms of Office, Vacancies****1. Officers**

The officers of the Virginia Board of Long-Term Care Administrators (Board) shall be a Chair and a Vice-Chair.

2. Election.

The organizational year for the Board shall run from July 1st through June 30th. At the first meeting of the organizational year, the Board shall elect from its members a Chair and a Vice-Chair.

3. Terms of Office.

The terms of office of the Chair and Vice-Chair shall be for one year. An officer may be re-elected in that same position for a second consecutive term. Nominations for office shall be selected by open ballot, and election shall require a majority of the members present.

4. Vacancies.

A vacancy occurring in any office shall be filled by a special election at the next meeting of the Board.

Article II. Duties of Officers**1. Chair.**

The Chair shall preside at all meetings and conduct all business according to the Administrative Process Act and Robert's Rules; shall appoint all committees except where specifically provided by law; shall appoint agency subordinates; shall sign certificates and documents authorized to be signed by the Chair; and, may serve as an ex-officio member of committees.

2. Vice- Chair.

The Vice-Chair shall perform all duties of the Chair in the absence of the Chair.

Article III. Duties of Members**1. Qualifications.**

After appointment by the Governor, each member of the Board shall forthwith take the oath of office to qualify for service as provided by law.

2. Attendance at meetings.

Members of the Board shall attend all regular and special meetings of the full Board, meetings of committees to which they are assigned and all hearings conducted by the Board at which

their attendance is requested by the Executive Director, unless prevented by illness or other unavoidable cause. In the case of an unavoidable absence of any member from any meeting, the Chair may reassign the duties of such absent member.

Article IV. Meeting

1. Number.

The Board shall schedule at least three regular meetings in each year, with the right to change the date or cancel any board meeting with the exception that a minimum of one board meeting will take place annually. The Chair shall call meetings at any time to conduct the business of the Board and shall convene conference calls when needed to act on summary suspensions and settlement offers. Special meetings shall be called by the Chair upon the written request of any three members of the Board.

2. Quorum.

Five members of the Board, including one who is not a licensed nursing home administrator or assisted living facility administrator, shall constitute a quorum.

3. Voting.

All matters shall be determined by a majority vote of the members present.

Article V. Committees

1. Standing Committees.

As part of their responsibility to the Board, members appointed to a committee shall faithfully perform the duties assigned to the committee. The standing committees of the Board shall be the following:

- Legislative and Regulatory Committee
- Credentials Committee
- Special Conference Committees

2. Ad Hoc Committees.

The Chair may appoint an Ad Hoc Committee of two or more members of the Board to address a topic not assigned to a standing committee.

3. Committee Duties.

a) Legislative/Regulatory Committee.

The Legislative/Regulatory Committee shall consist of two or more members, appointed by the Chair. This Committee shall consider matters bearing upon state and federal regulations and legislation and make recommendations to the Board regarding policy matters. The Committee shall conduct a periodic review of the laws and regulations. Proposed changes in State laws or in the Regulations of the Board, shall be distributed to all Board members prior to scheduled meetings of the Board.

b) Credentials Committee.

The Credentials Committee shall consist of two or more members appointed by the Chair and shall review all non-routine applications for licensure to determine if the applicant satisfies the requirements established by the Board. The committee shall review requests for exemptions from continuing education and may grant such requests for circumstances beyond the control of the administrator on a one-time basis. The Committee shall not be required to meet collectively to complete initial reviews. The Committee chair shall provide guidance to staff on the action to be taken as a result of the initial review.

c) Special Conference Committees.

Special Conference Committees shall consist of two or more members appointed by the Chair. The Committees shall hold informal fact-finding conferences and provide guidance to staff on the disposition of disciplinary cases. The Chair may designate additional board members to serve as alternates who may be contacted to serve in the event one of the standing committee members becomes ill or is unable to attend a scheduled conference date.

Article VI. Executive Director

1. Designation.

The Administrative Officer of the Board shall be designated the Executive Director of the Board.

2. Duties.

The Executive Director shall:

- a) Supervise the operation of the Board office and be responsible for the conduct the staff and the assignment of cases to agency subordinates.
- b) Carry out the policies and services established by the Board.
- c) Provide and disburse all forms as required by law to include, but not be limited to, new and renewal application forms.
- d) Keep accurate record of all applications for licensure, maintain a file of all applications and notify each applicant regarding the actions of the Board in response to their application. Prepare and deliver licenses to all successful applicants. Keep and maintain a current record of all licenses issued by the Board.
- e) Notify all members of the Board of regular and special meetings of the Board. Notify all Committee members of regular and special meetings of Committees. Keep true and accurate minutes of all meetings and distribute such minutes to the Board members prior to the next meeting.
- f) Issue all notices and orders, render all reports, keep all records and notify all individuals as required by these Bylaws or law. Affix and attach the seal of the Board to such documents, papers, records, certificates and other instruments as may be directed by law.
- g) Keep accurate records of all disciplinary proceedings. Receive and certify all exhibits presented. Certify a complete record of all documents whenever and wherever required by law.
- h) Present the biennial budget with any revisions to the Board for approval.

Article VII: General Delegation of Authority

1. The Board delegates to Board staff the authority to issue and renew licenses, registrations and certificates where minimum qualifications have been met.
- 2..The Board delegates to the Executive Director the authority to reinstate licenses, registrations and certificates when the reinstatement is due to the lapse of the license, registration or certificate and not due to previous Board disciplinary action unless specified in the Board order.
3. The Board delegates to Board staff the authority to develop and approve any and all forms used in the daily operations of the Board business, to include, but not limited to, licensure applications, renewal forms and documents used in the disciplinary process.
4. The Board delegates to the Executive Director the authority to sign as entered any agreement, Order or Board-approved Consent Order resulting from the disciplinary process.
5. The Board delegates to the Executive Director, who may consult with a special conference committee member, the authority to provide guidance to the agency's Enforcement Division in situations wherein a complaint is of questionable jurisdiction and an investigation may not be necessary.
6. The Board delegates to the Executive Director, who shall consult with a member of the Board, the authority to review information regarding alleged violations of law or regulations and determine whether probable cause exists to proceed with possible disciplinary action.
7. The Board delegates to the Chair, the authority to represent the Board in instances where Board "consultation" or "review" may be requested where a vote of the Board is not required and a meeting is not feasible.
8. The Board delegates to the Executive Director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being convened.
9. The Board delegates to the Executive Director the authority to approve applications with criminal convictions in accordance with Guidance Document 95-12.
10. The Board delegates to the Executive Director the authority to grant an individual request for an extension of continuing education requirements for up to one (1) year for circumstances beyond the control of the administrator upon written request from the licensee prior to the renewal date.
11. The Board delegates to the Executive Director the authority to issue an Advisory Letter to the person who is the subject of a complaint pursuant to Virginia Code § 54.1-2400.2(G), when it is determined that a probable cause review indicates a disciplinary proceeding will not be instituted.
12. The Board delegates to the Executive Director the authority to offer a confidential consent agreement or a Consent Order for action consistent with any board-approved guidance document, or to negotiate a Consent Order in consultation with the chair of a Special Conference Committee or formal hearing.

14. The Board authorizes the Executive Director to delegate tasks to the Deputy Executive Director.

Article VIII. Amendments

A board member or the Executive Director may propose amendments to these Bylaws by presenting the amendment in writing to all Board members prior to any scheduled meeting of the Board.

Virginia Board of Long-Term Care Administrators

Guidance on Completion of Continuing Education

1. Mode of Completing Courses

The Regulations of the Board of Long-Term Care Administrators for Nursing Home Administrators (Ch. 20) and Assisted Living Facility Administrators (Ch. 30) provide the following with regard to the mode of completing continuing education requirements:

18VAC95-20-175. Continuing Education Requirements.

A. In order to renew a nursing home administrator license, an applicant shall attest on his renewal application to completion of 20 hours of approved continuing education for each renewal year.

1. Up to 10 of the 20 hours may be obtained through Internet or self-study courses and up to 10 continuing education hours in excess of the number required may be transferred or credited to the next renewal year. ...

18VAC95-30-70. Continuing Education Requirements.

A. In order to renew an assisted living administrator license, an applicant shall attest on his renewal application to completion of 20 hours of approved continuing education for each renewal year.

1. Up to 10 of the 20 hours may be obtained through Internet or self-study courses and up to 10 continuing education hours in excess of the number required may be transferred or credited to the next renewal year. ...

During the pendency of the COVID-19 public health emergency, the Board interprets these provisions to mean that the 10 hours of continuing education required in addition to the hours that may be obtained “through Internet or self-study courses” are required to be live coursework hours. These live coursework hours may be satisfied by attendance of (1) in-person programs or courses or (2) real-time, interactive programs delivered via teleconference or webcast where there is an opportunity to interact with the speaker.

2. Signature from an authorized representative of the approved sponsor

The Regulations of the Board of Long-Term Care Administrators for Nursing Home Administrators (Ch. 20) and Assisted Living Facility Administrators (Ch. 30) provide the following:

18VAC95-20-175. Continuing Education Requirements.

B. In order for continuing education to be approved by the board, it shall (i) be related to health care administration and shall be approved or offered by NAB, an accredited institution, or a government agency or (ii) as provided in subdivision A 2 of this section.

C. Documentation of continuing education.

... 2. Evidence of attendance shall be an original document provided by the approved sponsor and shall include:

- a. Date the course was taken;
- b. Hours of attendance or participation;
- c. Participant's name; and
- d. Signature of an authorized representative of the approved sponsor.

18VAC95-30-70. Continuing Education Requirements.

B. In order for continuing education to be approved by the board, it shall (i) be related to the Domains of Practice for residential care/assisted living and approved or offered by NAB, an accredited educational institution, or a governmental agency or (ii) be as provided in subdivision A 2 of this section.

C. Documentation of continuing education.

... 2. Evidence of attendance shall be an original document provided by the approved sponsor and shall include:

- a. Date the course was taken;
- b. Hours of attendance or participation;
- c. Participant's name; and
- d. Signature of an authorized representative of the approved sponsor.

For continuing education (CE) programs that are approved or offered by NAB for which an electronic certificate of attendance is issued through the NAB CE Registry, the Board will accept such certification as evidence of a “signature from an authorized representative of the approved sponsor” pursuant to 18VAC95-20-175(C)(2)(d) or 18VAC95-30-70(C)(2)(d).