

**NURSING HOME ADMINISTRATOR EXAMINING BOARD
MINUTES
MAY 12, 2010**

- PRESENT:** Kenneth Arneson (connected via Microsoft Live Meeting), Mary Ann Clark, Loreli Dickinson, David Egan, Mary Lease (connected via Microsoft Live Meeting), Mary Pike, Earlene Ronk, Heather Sheehan (connected via Microsoft Live Meeting)
- EXCUSED:** Paul Peshek, Susan Kinast-Porter
- STAFF PRESENT:** Jeff Scanlan, Bureau Director; Colleen Baird, Legal Counsel; Kimberly Wood, Bureau Assistant; other Department staff were present for portions of the meeting
- GUESTS:** Jeremy Levin, Rural Wisconsin Health Cooperative (RWHC)

CALL TO ORDER

David Egan, Chair, called the meeting to order at 9:50 a.m. A quorum of eight (8) members was present.

AGENDA

Amendments to the Agenda:

- Item “H” (open session) Under the item titled “Miscellaneous Correspondence/Information”
ADD: “Review of Department of Health Services Memo Regarding Nursing Home Reporting Requirements for Alleged Incidents of Abuse, Neglect and Misappropriation”

MOTION: David Egan moved, seconded by Loreli Dickenson, to approve the agenda as amended. Motion carried unanimously.

APPOINTMENT OF SCREENING PANEL MEMBER

David Egan appointed himself to the screening panel. Mary Ann Clark remains as a screening panel member bringing the screening panel to two (2) members.

- Screening Panel – Mary Ann Clark, David Egan

APPROVAL OF MINUTES OF FEBRUARY 4, 2010

Amendments to the Minutes:

- All Pages of the Minutes: On any pages where her name is listed, correct spelling of Loreli Dickinson's name from ~~Diekenson~~ to Dickinson.

MOTION: Loreli Dickinson moved, seconded by Mary Ann Clark, to approve the minutes of February 4, 2010 as amended. Motion carried unanimously.

ADMINISTRATIVE REPORT – JEFF SCANLAN, BUREAU DIRECTOR

Jeff Scanlan introduced himself to the Board and indicated that that there have been no other recent staffing changes to report.

Jeff Scanlan then reported that as the result of recent legislation the Department will now regulate Board Certified Behavioral Analysts (BCBA), Licensed Radiographers, Sign Language Interpreters and licensure of Massage Therapists and Body Workers. He indicated that the Physical Therapists Affiliated Credentialing Board has successfully pursued legislation to become an independent board and will now be the Physical Therapy Examining Board.

Review and Discussion of Policy on Use of Agenda Request Forms to Submit Items for an Agenda and Forms Submitted After the Agenda Submission Deadline

Jeff Scanlan and the Board reviewed the Department's internal policy regarding use of agenda request forms and submission of agenda items after the agenda submission deadline. The Board indicated that they did not have concerns with this Department policy.

The Board felt that any issues with late additions would be addressed by another Department policy regarding response deadlines for case advisors. Jeff Scanlan informed the Board that the Department's case advisor policy will be discussed at its next meeting. The Board requested that a representative from the Division of Enforcement could come to the next meeting to answer the Board's questions relative to the Department's case advisor policy.

DISCUSSION OF THE NEW MODEL LANGUAGE AND DELEGATE AUTHORITY TO DEPARTMENT MONITOR

APPEARANCE 9:45 AM – PATARA HORN, DEPARTMENT MONITOR

Patara Horn, Department Monitor, appeared before the Board to present new model language and to request certain delegated authorities be given to the Department Monitor. A Board question and answer discussion ensued.

MOTION: Loreli Dickinson moved, seconded by Mary Ann Clark, to approve the request to grant delegated authority to the Department Monitor and to approve the new model language. Motion carried unanimously.

REVIEW OF ANONYMOUS CORRESPONDENCE REGARDING DURABLE MEDICAL EQUIPMENT PROVIDERS AND LACK OF BACKGROUND CHECKS

The Board reviewed correspondence from an anonymous individual regarding durable medical equipment providers and the lack of background checks for these providers. The Board indicated that this correspondence did raise concerns but indicated that they are unable to respond to this issue as it is outside of its jurisdiction. David Egan indicated that most durable medical equipment companies have contracts with their clients to ensure that background checks are completed, typically through the Office of the Inspector General. The Board took no action in response to this inquiry as it was a topic outside of the Board's purview and because of the lack of contact information provided by the submitting party.

LEGISLATIVE/ADMINISTRATIVE RULES

Update on LRB 3464/1, Relating to: the Requirements for Examinations for Nursing Home Administrator Licenses and for Reciprocal Nursing Home Administrator Licenses, Creating an Exemption from such Requirements, and Granting Rule-making Authority

David Egan noted that he and Ken Arneson were delegated at the Board's last meeting to work to secure legislative support for the Board's initiative to change the requirements for examination and reciprocal applicants.

Jeff Scanlan updated the Board regarding the status of LRB 3464/1, indicating that the changes to this draft, previously requested by the Board, had not yet been made. The Board discussed the need to re-jacket this legislation in preparation for the next session and noted that having the completed draft would aid in the effort to secure support for this legislation.

Ken Arneson indicated that he had discussed the Board's legislative initiative with Representative Gordon Hintz who expressed that he is willing to introduce this bill. David Egan shared that he had been in communication with Senator Robert Wirch's office. He indicated that Senator Wirch's office expressed interest but did not commit to support of this legislation.

MOTION: David Egan moved, seconded by Mary Pike, to request that the Department forward a request for changes to LRB 3464/1, as specified in the minutes of November 5, 2009 to the Legislative Reference Bureau for updating of the draft. Motion carried unanimously.

Update on 2009 SB 609 Related to Requiring Informed Consent before Administration of Psychotropic Medication to a Nursing Home Resident who has Degenerative Brain Disorder

David Egan indicated that this bill has passed.

Update on 2009 SB 538, Requires Nursing Homes to Notify residents of Certain Alleged Violations

David Egan indicated that 2009 SB 538 did not make it to a vote and was referred to another committee. This bill failed to pass.

INFORMATIONAL ITEMS

National Association of Long Term Care Administrator Boards (NAB) 40th Annual Meeting – June 9-11, 2010 – Portland, OR

The Board noted the upcoming NAB 40th Annual Meeting.

REPORT OF BOARD LIAISONS

Education and Examination Liaison and Alternate

None.

PRESENTATION OF PROPOSED STIPULATIONS BY DIVISION OF ENFORCEMENT OR ANY SUBMITTED AFTER AGENDA SUBMISSION DEADLINE

None.

EXAMINATION, EDUCATION AND EXPERIENCE ISSUES

None.

MISCELLANEOUS CORRESPONDENCE/INFORMATION

Review of Department of Health Services Memo Regarding Nursing Home Reporting Requirements for Alleged Incidents of Abuse, Neglect and Misappropriation

David Egan directed the Board's attention to a memo, provided at today's meeting, outlining a new policy of the Department of Health Services - Division of Quality Assurance (DHS-DQA) relating to allegations of abuse, neglect and misappropriation reporting of such allegations by nursing homes. The Board discussed that historically a nursing home would have 24 hours to conduct its own investigation of a claim of abuse, neglect or misappropriation and to forward their findings to DHS-DQA. The policy memo distributed by DHS – DQA indicated that all allegations of abuse, neglect or misappropriation should be reported "immediately". The Board noted that the Center for Medicaid and State Operations/Survey and Certification Group (CMS) defines "immediately" to be as soon as possible but not to exceed 24 hours after the discovery of the incident.

TRAVEL

None.

NEW BUSINESS

Jeff Scanlan asked the Board about the need to add a discussion of the case closing process to a future agenda. He explained that the Department has looked at the ratio of the number of cases closed by the Board in comparison with the number of cases where discipline was pursued. Jeff Scanlan then informed the Board that the number of cases to be closed is usually comparable to the number of disciplinary actions taken by the Board. He indicated that the Board's ratio of cases closings and lack of discipline is not necessarily indicative of a concern but may indicate that the Board may wish to review its process to determine if there is a need to address the screening or disciplinary process.

David Egan indicated that as a long term member of the screening panel he has seen a change in the content of the complaints the Department receives from DHS –DQA. He indicated that the surveys that are utilized by DHS-DQA are more focused into particular care areas. David Egan expressed his belief that there has been a change in practice resulting from quality assurance measures. The Board discussed the need to review this matter at its next meeting and determined that today's discussion effectively addressed this issue. During discussion the Board indicated that it was very helpful to receive reports of the history of previous actions of the respondent(s) named in the complaints for screening purposes and requested that these reports be reconstituted for screening panel review.

PUBLIC COMMENTS

None.

CLOSED SESSION

MOTION: David Egan moved, seconded by Loreli Dickinson, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.; to consider licensure or discipline (s. 19.85(1)(b), Stats.; to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.: Ken Arneson-yes; Mary Ann Clark-yes; Loreli Dickinson-yes; David Egan-yes; Mary Lease-yes; Mary Pike-yes; Earlene Ronk-yes; Heather Sheehan-yes. Motion carried unanimously.

Open Session recessed at 10:42 a.m.

RECONVENE TO OPEN SESSION

MOTION: David Egan moved, seconded by Earlene Ronk, to reconvene to open session. Motion carried unanimously.

Open Session reconvened at 11:44 a.m.

VOTING ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION

None.

MONITORING REPORT OR ANY SUBMITTED AFTER AGENDA SUBMISSION DEADLINE

None.

DELIBERATION OF CASE CLOSINGS

07 NHA 010

MOTION: David Egan moved, seconded by Earlene Ronk, to close case 07 NHA 010 for prosecutorial discretion (P2). Motion carried unanimously.

07 NHA 025

MOTION: Earlene Ronk moved, seconded by David Egan, to close case 07 NHA 025 for no violation. Motion carried unanimously.

07 NHA 028

MOTION: Earlene Ronk moved, seconded by Mary Ann Clark, to close case 07 NHA 028 for no violation. Motion carried. Abstained: Mary Pike, Loreli Dickinson

(Mary Pike and Loreli Dickinson left the room and abstained from deliberation and voting on DOE case # 07 NHA 028.)

07 NHA 036

MOTION: David Egan moved, seconded by Loreli Dickinson, to close case 07 NHA 036 for prosecutorial discretion (P2). Motion carried unanimously.

07 NHA 039

MOTION: David Egan moved, seconded by Earlene Ronk, to close case 07 NHA 039 against S.M. for no violation and against M.M., T.Z., and R.M. for prosecutorial discretion (P2). Motion carried unanimously.

(The Board requested referral of the DON and the MDS (RN's) to the Board of Nursing for screening of this case.)

07 NHA 050

MOTION: Mary Ann Clark moved, seconded by David Egan, to close case 07 NHA 050 for no violation. Motion carried unanimously.

07 NHA 051

MOTION: Earlene Ronk moved, seconded by David Egan, to close case 07 NHA 051 against M.H. and P.T. for prosecutorial discretion (P2). Motion carried unanimously.

08 NHA 007

MOTION: Loreli Dickinson moved, seconded by David Egan, to close case 08 NHA 007 for prosecutorial discretion (P3). Motion carried unanimously.

08 NHA 010

MOTION: Mary Ann Clark moved, seconded by Earlene Ronk, to close case 08 NHA 010 for prosecutorial discretion (P2). Motion carried unanimously.

08 NHA 012

MOTION: Loreli Dickinson moved, seconded by David Egan, to close case 08 NHA 012 for prosecutorial discretion (P2). Motion carried unanimously.

08 NHA 015

MOTION: Loreli Dickinson moved, seconded by Mary Pike, to close case 08 NHA 015 for prosecutorial discretion (P5). Motion carried unanimously.

08 NHA 028

MOTION: David Egan moved, seconded by Loreli Dickinson, to close case 08 NHA 028 for no violation. Motion carried unanimously.

08 NHA 045

MOTION: Loreli Dickinson moved, seconded by Mary Ann Clark, to close case 08 NHA 045 for prosecutorial discretion (P2). Motion carried unanimously.

08 NHA 049

MOTION: David Egan moved, seconded by Loreli Dickinson, to close case 08 NHA 049 for lack of jurisdiction (L1). Motion carried unanimously.

08 NHA 051

MOTION: Earlene Ronk moved, seconded by David Egan, to close case 08 NHA 051 for no violation. Motion carried unanimously.

09 NHA 008

MOTION: David Egan moved, seconded by Mary Ann Clark, to close case 09 NHA 008 for prosecutorial discretion (P2). Motion carried unanimously.

09 NHA 012

MOTION: Earlene Ronk moved, seconded by David Egan, to close case 09 NHA 012 for prosecutorial discretion (P2). Motion carried unanimously.

09 NHA 027

MOTION: David Egan moved, seconded by Earlene Ronk, to close case 09 NHA 027 for no violation (N2). Motion carried unanimously.

09 NHA 043

MOTION: Earlene Ronk moved, seconded by Loreli Dickinson, to close case 09 NHA 043 for prosecutorial discretion (P3). Motion carried unanimously.

**CASE CLOSINGS AND CASE STATUS REPORT OR ANY SUBMITTED AFTER AGENDA
SUBMISSION DEADLINE**

None.

**DELIBERATION ON PROPOSED STIPULATIONS OR ANY SIGNED AFTER AGENDA
SUBMISSION DEADLINE**

None.

DELIBERATION ON PROPOSED ADMINISTRATIVE WARNING

08 NHA 031

MOTION: David Egan moved, seconded by Loreli Dickinson, to issue an administrative warning in the matter of case number 08 NHA 031. Motion carried unanimously.

**DELIBERATION ON PROPOSED ADMINISTRATIVE WARNINGS RECEIVED AFTER
AGENDA SUBMISSION DEADLINE**

None.

**DELIBERATION OF PROPOSED DECISIONS OR ANY SIGNED AFTER AGENDA
SUBMISSION DEADLINE**

None.

PETITIONS FOR REHEARING RECEIVED AFTER AGENDA SUBMISSION DEADLINE

None.

**REQUEST FOR CLASS 1 HEARINGS OR ANY REQUESTED AGENDA SUBMISSION
DEADLINE**

The Board requested that this topic be removed from future agendas.

**APPLICATION REVIEW OR ANY SUBMITTED AFTER AGENDA SUBMISSION
DEADLINE**

None.

**RENEWAL OF LICENSE OR ANY SUBMITTED AFTER AGENDA SUBMISSION
DEADLINE**

None.

**REINSTATEMENT REQUESTS OR ANY SUBMITTED AFTER AGENDA SUBMISSION
DEADLINE**

None.

EXAMINATION ISSUES

David Egan noted that the Board hasn't reviewed examination issues in quite some time and asked if a representative of the Office of Education and Examinations be present at its next meeting to discuss the Board's examination. He indicated that there have been a number of changes in Board regulations since the last time the Board met with a member of the Office of Education and Examinations.

Jeff Scanlan informed the Board that he had discussed the Board's need for examination review with Jill Remy, Supervisor – Office of Education and Examinations. Jill Remy indicated that the Board's examination review has not been conducted due to staffing issues. Jeff Scanlan informed the Board that the examination specialist position is currently vacant but the Department is currently working to fill this vacancy. The Board requested that the Department conduct the Board's examination review at its August meeting.

CONSULTING WITH LEGAL COUNSEL

None.

DOE – Signatures for Proposed Stipulations, Orders, and Administrative Warnings

Signatures were collected for all required items.

ADJOURNMENT

MOTION: Loreli Dickinson moved, seconded by Mary Ann Clark, to adjourn the meeting at 11:53 a.m. Motion carried unanimously.