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## **Board Meeting Board Office—Quad Boards Conference Room January 22, 2014**

### **MINUTES**

**Members Present:** James Birchem, LNHA, Chair  
Robert Held, LNHA-DHS ex-officio  
Jane Pederson, MD  
Jennifer Pfeffer, LNHA  
Marilyn Reiersen, Public Member

Thomas Pollock, LNHA, Vice-Chair  
Nancy Tuders, RN Secretary  
Ann Tagtmeyer, Public Member  
Nathan Johnson, LNHA

**Members Absent:** Darcy Miner-MDH ex-officio

Chandra Mehrotra, PhD, Public Member

**Staff:** Randy Snyder, Executive Director

Jessica Schultz, Office Manager

**1. Call to Order –Jim Birchem (Chair)**

Birchem called the meeting to order at 10:15AM.

**2. Additions to and Approval of Agenda**

*A. A motion was made by Pollock to approve the agenda as amended for the January 22, 2014 and was seconded by Pfeffer. The question was called and the motion was unanimously approved.*

**Approval of October 23, 2013 Meeting Minutes (previously e-mailed)**

*A motion was made by Pfeffer to approve the minutes from the October 23, 2013 Board meeting as presented and was seconded by Held. The question was called and the motion was unanimously approved.*

**3. Licensure/Education Committee – Ann Tagtmeyer, Committee Chair**

Articles listed in item A-D, Licensure Report, New Licensees Report, Permits Issued Report, Shared Administrator Report, and Waiver of Course Requirements/Courses Denied for the period of 10/01/2013 to 12/31/2013 were reviewed by the Board members in attendance.

Discussion was held with regards to a request for waiver of the state exam and applicant educational requirements, practicum, and National exam scores for an individual who has yet to apply or submit an educational review, but claims 23 months of experience as an AOR in LTC in another state. State law requires 2 years of the past five as an active administrator to apply as an endorsement candidate. A suggestion was made for the individual to wait one more month so that s/he may qualify for the endorsement application. It was noted that the state exam has never been waived. *A motion was made by Tagtmeyer to deny the request for waiver and was seconded by Pollock. The question was called and the motion was unanimously approved.*

Pederson arrived at 10:30AM

#### **E. Academic Programs: Consent Approval**

##### **Academic Response from GPA Request For Information 3.E.i**

Discussion was held regarding the Board setting a minimum GPA for LTC classes and overall minimum GPA for licensure. It was mentioned that the requirement would fall into an area that would need to be introduced as a rule change. It was determined a 3.0 GPA was a reasonable requirement for healthcare courses. The concern of preexisting grade inflation was discussed. Concerns regarding student performance from specific programs were discussed. *A motion was made by Pederson and seconded by Pfeiffer to recommend to the Rules Committee the adoption of a rule that a requirement of minimum 3.0 GPA in health care administration core classes be introduced as a prerequisite for an applicant prior to sitting for the State license exam. The question was called and the motion was unanimously approved.*

##### **UMC Academic Advisor Change 3.E.iii**

The Board was informed of the resignation of Paula Viker as the program director from the University of Minnesota Crookston. Ms. Viker served at UMC for fourteen years. A certificate of appreciation was requested to be sent to Ms. Viker by the Board.

##### **Domains of Practice and 2014 Academic Reviews--3.E.iv & 3.E.v**

It was reported that the final meeting will be held in January 2014, the final analysis to be completed in June 2014, with changes to follow that may necessitate Board action in June/July 2014.

The University of Minnesota Crookston and Twin Cities, and the University of Wisconsin Eau Claire are due for academic review in 2014. Due to the potential changes as an outcome of the professional practice analysis available in June of 2014, the Board may enact changes in course requirements to align the current educational requirements with potential new standards. The question was posed of tabling the academic review for these schools for one year so as not to require review on current standards, and then require review on new standards within twelve months. A recommendation of extending the review time by one year was made in addition to the necessity of an educational summit to consider determinations from Professional Practice Analysis and how the changes coincide with current Minnesota educational standards. Other schools will be notified of new requirements after PPA outcomes have been announced. *A motion was made by Tagtmeyer and seconded by Pollock to extend the academic review period for University of Minnesota Twin Cities, University of Minnesota Crookston, and the University of Wisconsin Eau Claire through 2015 post the production of the Professional Practice Analysis. The question was called and the motion was unanimously approved.*

#### **F. State Examination Pass/Fail Policy**

It was determined by the AGO that the administrative rule voted into practice at the October 22, 2013 Board meeting was a unpromulgated rule, and must sent to the Rules Committee to consider adding to the BENHA rules. *A motion was made by Pfeiffer and seconded by Tuders to recommend to the Rules Committee the adoption of a rule that upon the second unsuccessful completion of the open-book state exam; the Board will require a six month wait for the third exam and a formal submission of a study/work plan to the Education Committee for review. Upon an unsuccessful third attempt, a one-year wait for an additional exam and action by the Education Committee and Board will be taken to*

*determine the fitness of the applicant. The question was called and the motion was unanimously approved.*

A recommendation was made to collect data from other Health Licensing Boards as to their requirements regarding a pass/fail policy for their jurisprudence exam or other licensing exams.

**4. Standards of Practice – Nancy Tuders, Committee Chair**

**a. A. October 23, 2013 – Summary**

Summary was outlined by Tuders. Tuders thanked Birchem for acting as a stand-in for her at the October 23, 2013 Standards of Practice Committee meeting was made by Birchem. It was reports that the committee reviewed sixteen open complaints and nineteen new complaints for the period from July 15- October 15, 2013. Educational conferences were held and four complaints were closed, twenty-eight were dismissed with LNHA review, one complaint was held, one application was denied, and one license was voluntarily surrendered.

**5. Action Items**

**a. Attorney General’s Report ‘Referrals and Payments’**

At the October 23<sup>rd</sup> Board meeting, the Board discussed whether a company can charge a referral fee for placing a resident in a nursing home. The Federal Anti-Kickback law clearly prohibits this type of arrangement where the resident is receiving any type of federal aid such as Medicare or Medicaid. Minnesota law also prohibits this type of arrangement even when the resident is private pay. A recommendation was made by AAG Schaefer to notify the professional associations and licensed administrators of the finding. A press release outlining the details and consequences of paying for was drafted by Snyder and Schaefer and presented to the Board for publication on the website and newsletter, and for distribution to the two Minnesota associations.

**b. Media, Public Response to public protection**

At the October 23, 2013 Board meeting, a concern was raised as to a collective response that could be given by Board members if contacted by the press regarding disciplinary action and Board comment. A general response was presented to the board by Snyder. *A motion the standard operating procedure for public comments be approved was made by Pfeffer and seconded by Pederson. After discussion, the question was called, and the motion was approved unanimously.*

**c. Criminal Background Legislation – Verbal Update**

It was reported that a mandate for National FBI background checks will begin for the HLBs in 2015, with the requirement to be initiated by BENHA beginning in 2017. Procedures are currently being developed.

**d. NAB Louisville, June 4-6 Annual Meeting**

Snyder extended the opportunity for two Board members to travel to Louisville, KY in June for the NAB Annual Meeting. The conference and attendees were discussed. *A motion to send Birchem as a voting delegate and Pfeffer as a non-voting delegate was made by Tagtmeyer and seconded by Pollock. A vote was called and the motion passed.* Abstentions were mentioned (Pfeffer/Birchem), but not called during the vote.

**e. ND BENHA Medicare/Medicaid Fraud**

Discussion took place regarding an article written by an accounting firm near Grand Forks, ND with concerns from a member of the North Dakota BENHA. They asked for Minnesota's

response as this was sent to clients in that region. Specifically, they asked if Minnesota ever had a financial exploitation case directly involving a resident to LNHA issue, and if there had ever been any public policy/safety education directed by the board. It was determined that MN did have a Medicaid financial fraud case which resulted in prison and loss of license.

The question was raised if financial fraud could be easily tracked by internal controls, surveys and audits of skilled nursing facilities, specifically in trust funds, and it was determined the DHS has audit authority, but unidentified fraud could still have the potential of occurring at any facility. In that case, and AG investigation would be warranted and law enforcement would be notified.

A recommendation was made by the Board to include this information in the spring newsletter to inform LNHA to be aware of this occurrence.

**f. Nursing Assistant Letter of Concern**

A letter was sent to BENHA from a concerned nursing assistant regarding the staffing ratio at her place of employment. The letter referenced the NA contacting the Administrator regarding her concerns and possible neglect of care due to inadequate staff to resident ratio. Jurisdictional responsibility, concerns about neglect of care, location of facility in question and proper channel for complaints, and Board referral to OHFC were discussed.

An initiative to draft a response to the correspondence to include proper channels to report a complaint was made by Snyder.

**g. Professional Practice Analysis & Stakeholder Discussion**

It was reported by Pfeffer that the final meeting will be held in January 2014 with an objective to use data gathered since July 2013 to finalize data and make a determination regarding the Domains of Practice. BENHA will draft a response in June and weigh the necessity of an educational summit to consider determinations from Professional Practice Analysis.

Current Domains of Practice with regards to the AHCA February meeting and the Leading Age conference were discussed. Changes in course requirements based on the change in Domains were discussed.

**h. Annual QI Presentation**

Trends in testing scores, applicant demographic data, and educational institution performance was Reviewed. Data for the 2013 renewal cycle, acting permits, shared administrators, and continuing education requirements for new LNHA's were discussed. An increase in applications was noted. New information regarding complaint dispositions was added to the QI report for 2013 to ensure that the standards are met.

Results of the new licensee surveys taken by newly licensed NHA's in 2013 were presented to the Board. Discussion regarding responses to the questions, specifically with regards to the pertinence of LTC classes and requirements for applicants with experience and waivers, took place. Discussion regarding the need for the topic or the dissatisfaction with the course took place. Potential additions to the survey were noted.

**6. Executive Director's Report**

The appointment of Pfeffer expired on January 2, 2014. The appointment is open and pending a decision from the Governor's office. She will serve until June 30, 2014.

BENHA moved to their new suite on October 15, 2013. The suite is shared by BENHA, Optometry, Podiatric Medicine, and Dietetics and Nutrition practice.

State exam was recently reevaluated by staff for continuity. It was mentioned that the education committee should meet every three years to review exams with the next scheduled review in 2014.

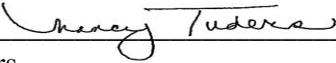
**7. Board Member Reports –No business**

**8. Other Business and Adjournment**

*A motion to adjourn was made by Pfeiffer at 12:10 PM and was seconded by Tuders. The vote was called and the motion passed unanimously.*

The next Board meeting will take place on April 23, 2014.

Recorder:  \_\_\_\_\_, Date: 04/23/2014  
Jessica Schultz  
Office Manager

Attest:  \_\_\_\_\_, Date: 04/23/2014  
Nancy Tuders  
Board Secretary