



**BOARD OF EXAMINERS OF NURSING CARE INSTITUTION ADMINISTRATORS AND
ASSISTED LIVING FACILITY MANAGERS**

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Douglas A. Ducey
Governor

Jack Confer
Executive Director

Board Members

Ken Kidder, President
Susan Archer, Vice President
Pauline (Wally) Campbell, Member
Fred Randolph, Member
Melanie Seamans, Member
James Steven, Member
Rebecca Hill, Member
Becky Brimhall, Member

MINUTES REGULAR MEETING

May 23, 2022

CALL TO ORDER

President Kidder called the meeting to order at 9:02 a.m.

I. ROLL CALL

President Kidder, Vice President Archer, Member Steven, and Member Campbell were present in person; Member Randolph, Member Hill and President Kidder were present by telephone.

Attendance: Executive Director Jack Confer, Chief Investigator Brandon Eaden, Licensing Administrator Mona Leonard, Project Specialist Elizabeth Bronold, Assistant Attorney General Seamus Monaghan and Assistant Attorney General Monique Cody.

II. INTRODUCTION OF NEW BOARD MEMBERS

Executive Director Confer introduced the new Board Member, Rebecca Hill. Rebecca Hill will be filling the position of a Board Member who has a family member in either a Skilled Nursing Facility or Assisted Living Facility.

III. DECLARATION OF CONFLICTS OF INTEREST – A.R.S. § 38-503

President Kidder disclosed that he is acquainted with Dr. Villafranca who is associate with complaint 21-109 and Julio Casas who is associate with complaint 2022-NCI-0067, but he has no independent knowledge of the case and no bias. Vice President Archer, Member Campbell, and Member Randolph also stated that they are acquainted with Dr. Villafranca, and they also do not have independent knowledge of the case and no bias.

IV. CALL TO THE PUBLIC

No one wishes to speak.

V. REVIEW, DISCUSSION AND POSSIBLE ACTION ON APPROVAL OF MINUTES

Board Review, Consideration and Action on Approval of Minutes

A. Draft Regular Meeting Minutes, April 25, 2022

Member Campbell made a motion seconded by Vice President Archer to approve the April 25, 2022 Board Meeting minutes.

Motion passed (6-0).

VI. FORMAL ADMINISTRATIVE HEARINGS, PROPOSED CONSENT AGREEMENTS OR MOTION TO DEEM ALLEGATIONS ADMITTED:

Assistant Attorney General Monique Cody stated to the Board that she will be the independent advisor for the Board during the formal hearings.

A. Ruiz, Vivian 2021-NCI-069 Manager Consent Agreement

AAG Monaghan summarized the case for the Board. He summarized the consent agreement to the Board and stated that it is at the Board's discretion to accept, reject, or modify the consent agreement.

AAG Monaghan explained that unsubstantiated DHS violations are allegations and the Board typically takes action on the substantiated violations.

President Kidder made a motion seconded by Vice President Archer to accept the signed consent agreement by Manager Vivian Ruiz for complaint 2021-NCI-0069.

Motion passed (6-0).

B. Aluoch, Sylvia 21-048 Manager Hearing (9:15AM)

AAG Monaghan summarized the case for the Board. Sylvia Aluoch was present at the meeting and answered the questions from the Board. She stated that she had only been a manager for one year when the DHS inspection occurred. She stated that she missed the fingerprint clearance card because it was during the height of Covid-19. Ms. Aluoch stated that she is willing to sign the consent agreement.

AAG Cody stated that we can continue the hearing and have a discussion about a consent agreement instead.

President Kidder made a motion seconded by Member Campbell to suspend the formal hearing to discuss a consent agreement.

Motion passed (6-0).

AAG Monaghan explained the terms of the consent agreement for the Board. Ms. Aluoch stated that she will sign the original consent agreement as it is written now.

President Kidder made a motion seconded by Member Campbell that based upon the information contained in the investigation report, the Board finds sufficient evidence of a violation of A.R.S. § 36-446.07(B)(3) as defined by A.R.S. § 36-446 (10)(a) for unprofessional conduct and AAC R4-33-407(A)(B)(1), in complaint number 21-48 involving manager Sylvia Aluoch and to offer a consent agreement to be signed within 1 day or the matter will proceed to formal hearing. The terms shall include the following to be completed within

3 months:

- a) Reimbursement of investigative costs \$394.00
- b) 3 hours of Board approved continuing education in personnel requirements
- c) 3 hours of Board approved continuing education in Disaster preparedness

Motion passed (6-0).

VII. REVIEW, DISCUSSION AND POSSIBLE ACTION ON COMPLAINT CASE REVIEWS

A. CONSENT AGENDA:

Consent agenda items may be considered as a single action unless a Board member or interested party wishes to remove an item for discussion.

Staff Recommendation for Disciplinary Consent Agreement(s):

1. 21-109 Seal-Villafranca, Charles Administrator

Chief Investigator Eaden summarized the case for the Board. Dr. Charles Villafranca was present at the meeting and answered the questions from the Board. Dr. Villafranca stated that Ms. Felicia Maize walked out on her job in the middle of the shift. No one had seen her since 11:00 a.m. and the staff members did not know where she was. Dr. Villafranca stated that he had to ask a nurse at the facility to finish Ms. Maize's medication administration for the rest of the day. Dr. Villafranca was the interim manager of the facility for three weeks and four days when the survey occurred. He stated that Ms. Maize worked on patient service plans and she shredded them because she had not been compensated for completing the service plans. He stated that Ms. Maize did not schedule staff for the night shift, and he worked the night shift at the facility when he took over.

Dr. Villafranca read the minutes from a previous Board meeting where it was stated that the Board determined that the complaint needed to be investigated further to determine if Ms. Maize or Dr. Villafranca was the manager at the time of the complaint. Dr. Villafranca stated that the DHS surveyor noticed that there were stains on the carpets entering the facility. He had a company come in and clean the carpets immediately. He personally showed the surveyor around the facility. He worked on the plan of correction for the facility and it was accepted by DHS. Dr. Villafranca stated that he did see Ms. Maize's Assisted Living Facility Manager's certificate hanging on the wall at the facility.

President Kidder made a motion seconded by Vice President Archer to dismiss complaint 21-109 against Manager Dr. Charles Seal-Villafranca.

Motion passed (6-0).

President Kidder made a motion seconded by Member Campbell to open a complaint on the previous manager, Felicia Maize, based on the DHS report that was sent to Board staff.

Motion passed (6-0).

2. 21-177 Ly, Sylvie Manager

Chief Investigator Eaden summarized the case for the Board. Sylvie Ly was present at the meeting and answered the question from the Board. Ms. Ly stated that it was difficult to find caregivers to work at the facility. She stated that even raising the salary of the caregiver and using a staffing agency she still was having trouble adequately staffing the facility. She stated that she has been creating new policies and procedures since the survey. She stated that her and the rest of the staff were focused on keeping the residents safe. Ms. Ly stated that the policies and procedures stated that cleaning is supposed to be done daily. Someone comes to deep clean once a week and the caregivers are expected to maintain the cleaning

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- d) 3 hours of Board approved continuing education in residency agreements
- e) 3 hours of Board approved continuing education in emergency/disaster preparedness

Motion passed (6-0).

The Board directed Executive Director Confer to only approve CEUs that are in the state of Arizona.

5. 2022-NCI-0022 Wilson, Karen J. Manager

Chief Investigator Eaden summarized the complaint for the Board. Karen Wilson was present at the meeting and answered the questions from the Board. Dominique Barrett and Rafael Jan were also present at the meeting. Rafael Jan is the current manager of the facility. Ms. Wilson stated that her job was to oversee Mr. Jan. She stated that there were significant issues when she began as the manager. Mr. Jan stated that the facility has been operating for over twenty years. Ms. Barrett stated that Mr. Jan wrote the plan of correction for the survey and Ms. Wilson was only temporarily in the position of manager at the facility. Mr. Jan stated that there are Human Resources staff to go through employee files to ensure that all documentation is up to date. Ms. Wilson stated that she did not have access to the personnel records during her time as manager.

President Kidder made a motion seconded by Vice President Archer to issue a non-disciplinary letter of concern to manager Karen Wilson. The Board's concern is that the manager failed to maintain proper fingerprint and CPR requirements.

Motion passed (5-1). Member Campbell voted nay.

6. 2022-NCI-0025 Szymanski, Chad Manager

Chief Investigator Eaden presented the case for the Board. Chad Szymanski was not present at the meeting.

President Kidder made a motion seconded by Campbell that based upon the information contained in the investigation report, the Board finds sufficient evidence of a violation of A.R.S. § 36-446.07(B)(3) as defined by A.R.S. § 36-446 (10)(a) for unprofessional conduct and AAC R4-33-407(A)(B)(1), in complaint number 2022-NCI-0025 involving manager Chad Szymanski and to offer a consent agreement to be signed within 10 days or the matter will proceed to formal hearing. The terms shall include the following to be completed within 3 months:

- a) Reimbursement of investigative costs \$599.00
- b) 3 hours of Board approved continuing education in personnel requirements
- c) 3 hours of Board approved continuing education in service plans
- d) 3 hours of Board approved continuing education in record keeping
- e) 3 hours of Board approved continuing education in emergency/disaster preparedness

Motion passed (6-0).

7. 2022-NCI-0054 Guevara, Flor M Manager

Chief Investigator Eaden summarized the case for the Board. Flor Guevara was present at the meeting and answered the questions from the Board. Ms. Guevara stated that the employee who did not have a TB test was notified by her to get a new TB test. She stated that she now is going to have a nurse come in and do TB testing for all employees so that all employees will have the same due date. Ms. Guevara stated that due to the pandemic she has lost a lot of staff and is planning to lower the census of her facility to six. Ms. Guevara stated in the future she will not hire an employee who does not have a current TB test.

Vice President Archer made a motion seconded President Kidder by to dismiss complaint 2022-NCI-0054 against manager Flor Guevara.

Motion passed (6-0).

- 8. 2022-NCI-0075 Christian, Jody Administrator**
Jody Christian was not present at the meeting and the complaint was moved to the next meeting.

Staff Recommendation for Non-Disciplinary Letter of Concern(s):

- 9. 2022-NCI-0061 McQuaid, Doris Manager**
Chief Investigator Eaden summarized the case for the Board. Doris McQuaid was present at the meeting and answered the questions from the Board. Ms. McQuaid stated that the new employee packet was not checked so there was paperwork missing from the packet. She stated that the fingerprint clearance card was missed because the employee had a good cause exception, but she did not have the actual fingerprint clearance card. She stated that the courts were short staffed and it was taking longer than usual to get the documents for the fingerprint clearance card. Ms. McQuaid has a room at the assisted living home so she could stay there if she needed to. She stated that she understands an employee cannot work if they do not have a fingerprint clearance card. She stated that everything is in a matrix and she checks it more than once a week to ensure nothing is being missed.

President Kidder made a motion seconded by Vice President Archer to suspend the decision for case 2022-NCI-0061 until after case 2022-NCI-0071 is heard.

Motion passed (6-0).

- 10. 2022-NCI-0071 McQuaid, Doris Manager**
Chief Investigator Eaden summarized the case for the Board. Ms. McQuaid stated that the wind blew the door off the water heater and the valve got turned off in the process of fixing this. She was not notified of this until the day of the survey. Her husband was with her at the time of the inspection and he was able to turn the valve on and set the water to the correct temperature.

President Kidder made a motion seconded by Member Campbell to combine complaints 2022-NCI-0061 and 2022-NCI-0071 and issue a non-disciplinary letter of concern to manager Doris McQuaid. The Board's failed to maintain proper fingerprinting requirements.

Motion passed (6-0).

Staff Recommendation for Dismissal(s)

- 11. 21-175 Wartenberg, Cheryl Administrator**
Board Member Hill requested that this matter be reviewed individually. Chief Investigator Eaden informed the Board that Ms. Wartenberg called early and stated that she wants to come to the meeting but there was a Covid-19 outbreak at her facility and she is experiencing symptoms. President Kidder stated that the case will be moved to the next meeting.

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| 12. | 2022-NCI-0034 | Berber, Bernina | Manager |
| 13. | 2022-NCI-0036 | Fair, Ryan Wayne | Manager |
| 14. | 2022-NCI-0038 | Wytte, Liana | Manager |
| 15. | 2022-NCI-0043 | Guevara, Flor | Manager |
| 16. | 2022-NCI-0067 | Casas, Julio | Administrator |

President Kidder made a motion seconded by Member Campbell to dismiss the complaints listed in agenda items VII(A) (12-16).

Motion passed (6-0).

VIII. REVIEW, DISCUSSION AND POSSIBLE ACTION ON ADMINISTRATOR LICENSURE AND MANAGER CERTIFICATION

A. Individual Board Review, Consideration and Action on Applicants Temporary and/or Permanent Administrator License or Manager Certificate. If approved, pending passing all required examinations within the substantive timeframe or the license or certificate will be denied.

1. Barrientos, David Administrator
This agenda item was moved to the next meeting.

2. Summervilles, Sean Manager
This agenda item was moved to the next meeting.

VIII. BOARD PRESIDENT'S REPORT:

President Kidder stated that he will be attending the NAB conference this year. He informed the Board that the cases need to be looked at factually and take the appropriate action.

IX. EXECUTIVE DIRECTOR REPORT

- A. Budget Update
- B. Licensing & Investigation Statistics
- C. Legislation Update
- D. Office of the Attorney General New Board Member Training Memorandum (Confidential)

Executive Director Confer stated that he does not have anything significant at this time unless anyone has any questions.

AAG Monaghan provided an information packet to Board members and staff. He stated that he would recommend Board members read through the packet and ask any questions that they have.

Executive Director Confer stated that there is not a legislation update at this time.

X. FUTURE ITEMS AND MEETING DATES

- June 20, 2022
- July 11, 2022
- August 8, 2022

XI. ADJOURNMENT

President Kidder adjourned the meeting at 12:36 p.m.



Jack Confer, Executive Director