MINUTES
REGULAR MEETING

October 10, 2006

I. CALL TO ORDER

The meeting was called to order at 9:12 a.m. by President Kidder

II. ROLL CALL

Present: Ken Kidder, Richard Morse, Ann Breen, Lynda Kaser, Olivia Paulesc-Pastean, Deborah Buie, Heather Baier

Absent: Fred Randolph, David Hasseltine

Attendance: Allen Imig, ED, Phil Smyth, Investigator, Peggy Wilkinson, Licensing Coordinator, AAG, Melissa Cornelius, Chris Munns, Solicitor Generals Office

III. CALL TO THE PUBLIC

No one from the public wished to speak

IV. APPROVAL OF MINUTES

1. September 11, 2006 Regular Board Meeting Minutes
   September 11, 2006 Executive Session Minutes

Member Buie made a motion that was seconded by Member Pastean to approve the regular Board meeting minutes and executive session minutes for September 11, 2006. The motion passed unanimously.

V. ADMINISTRATIVE LAW JUDGE DECISION

A. The Board will review, consider and take action on the Administrative Law Judges decision.
2. Dzikamayi Pamire 06-31-NCI Manager

AAG Cornelius summarized the case for the Board. Ms. Cornelius recommended the Board adopt the Administrative Law Judges (ALJ’s) Findings of Fact, Conclusions of Law and recommended Order. Mr. Dzikamayi Pamire was not present to give any oral arguments.

Member Morse made a motion that was seconded by Member Kaser, to adopt the ALJ’s Findings of Fact number 1 through 14. The motion passed unanimously.

Member Kaser made a motion that was seconded by member Morse to adopt the ALJ’s Conclusions of Law number 1 through 6.

Member Buie made a motion that was seconded by Member Morse to adopt the ALJ’s recommended Order revoking certificate number 08793 issued to Dzikamayi Pamire. A roll call vote was taken and passed unanimously.

3. Chastity James 05-37-NCI Manager

AAG Cornelius summarized the case for the Board. Ms. Cornelius recommended the Board adopt the Administrative Law Judges (ALJ’s) Findings of Fact, Conclusions of Law and recommended Order. Ms. James was not present at the meeting to give oral argument.

Member Buie made a motion that was seconded by Member Baier, to adopt the ALJ’s Findings of Facts number 1 through 25. The motion passed unanimously.

Member Kaser made a motion that was seconded by member Morse to adopt the ALJ’s Conclusions of Law number 1 through 5. The motion passed unanimously.

Member Pastean made a motion that was seconded by Member Kaser to adopt the ALJ’s Recommended Order revoking certificate number 07472 issued to Chastity James. A roll call vote was taken and passed unanimously.

VI. COMPLAINT CASE

A. Consent Agenda to Dismiss Complaints for lack Jurisdiction or Insufficient Evidence.

4. Complaint # 07-06 Baker, April L Manager

Open Date: 07/05/06

Investigator Smyth summarized the case for the Board. DHS conducted a renewal survey that covered 14 deficiencies in 10 different areas. Enforcement action was only taken by DHS on the owner for not renewing the facility license timely. DHS accepted a plan of correction for the other deficiencies.

Ms. Baker was present and answered the Boards questions. Ms. Baker advised the Board that all the deficiencies were corrected.

Member Kaser made a motion that was seconded by Member Morse to dismiss the complaint for insufficient evidence of a violation and issue a letter of concern. The concern was the number and variety of deficiencies, even thought they did not rise to the level of a violation of unprofessional conduct.
5. Complaint # 07-17 Gorsline, Gary R. Manager
   Open Date: 09/06/06

Investigator Smyth summarized the case for the Board. DHS conducted a renewal survey that covered six deficiencies in six different areas. DHS Enforcement action was taken against the owner for not renewing timely.

Mr. Gorsline was present and answered the Board’s questions. He advised the Board that his wife, Karli Gorsline was the owner and manager of the facility. He however, is also a manager but not of record for that facility. He felt the facility licensing issue was that of the owner and not the manager who runs the facility. Mr. Gorsline said all the deficiencies were corrected.

Member Kidder made a motion that was seconded by Member Pastean to dismiss the complaint for insufficient evidence of a violation against Mr. Gorsline as he was not the manager of the facility. The Board felt there was not enough evidence of a violation to open a complaint against the owner/manager, Karli Gorsline, regarding this matter. The motion passed unanimously.

B. Board Individual Review, Consideration and Action regarding new complaints:

6. No agenda item.

7. Complaint # 06-57 Ballard, Thomas Administrator
   Open Date: 02/16/06

Investigator Smyth summarized the case for the Board. The Board received a complaint from Ms. Nelson. The allegations included broken and lost dentures, resident falling out of bed, missing clothing, being charged for diapers even though the family provided them, and some other areas. Ms. Nelson wanted the institution to pay for the lost dentures. The institution investigated and reimbursed the family $3,400 for the dentures.

Mr. Ballard was present and answered the Board’s questions. The complainant was invited to the meeting but was not present. The only issue the complainant had discussed with him was the missing dentures which the institution reimbursed. The resident had lived at the facility for two years.

Member Morse made a motion that was seconded by Member Pastean to dismiss the complaint for insufficient evidence. The motion passed unanimously.

8. Complaint # 06-76 Church, Matthew J. Administrator
   Open Date: 05/03/06

Member Kaser disclosed she knew Mr. Church, but it would not influence her decision in this matter.

Investigator Smyth summarized the case for the Board. The Board received a complaint from Mr. Mika. The allegation was that the resident was not given her medication properly.

Mr. Church was present and answered the Board’s questions. The doctor orders were followed properly. The resident was admitted without the medication and the orders were not received for three days. There was no adverse outcome as a result of the medications not being available.

Member Buie made a motion that was seconded by Member Morse to dismiss the complaint for insufficient evidence of a violation. The motion passed unanimously.
9.  Complaint #  06-69  Carranza, Lupita  Manager
Open Date:  04/04/06

Investigator Smyth summarized the case for the Board. DHS conducted two complaint investigations that covered one deficiency for not having fingerprint documentation, and the other was for a resident lying on the floor for hours before being found by staff. DHS assessed a civil money penalty of $500.00 for the fall deficiency.

Ms. Carranza was present and answered the Boards questions. The service plan showed that the resident was on alert charting, because of her declining condition. The resident was known to be a high risk for falls. A staff member did not check on the resident during her normal rounds. The staff member was given continuing education by the facility but was not terminated. The policy was changed to include checks if a resident does not show up for meals. The facility also has a necklace type call system outside of the pull cord system.

Member Kidder made a motion that was seconded by Member Buie to combine complaint 06-81 also involving Ms. Carranza. The motion passed unanimously.

10.  Complaint #  06-81  Carranza, Lupita  Manager
Open Date:  05/15/06

DHS conducted a complaint investigation. The complaint was for not having proper documentation for fingerprinting of a staff member. There was a policy change after the January deficiency, which includes a random review of fingerprint clearance and documentation. The second part of the complaint included the facility failed to ensure a resident was provided crisis intervention during an emergency. The LPN did not follow facility protocol and froze during the emergency involving a resident chocking on food. The LPN was immediately terminated. The Board discussed that there were systems in place to cover the situations that arose.

Member Kidder made a motion that was seconded by Member Buie to dismiss complaint 06-69 and 06-81 for insufficient evidence of a violation. The motion passed unanimously.

11.  Complaint #  06-85  Peterson, Margie  Manager
Open Date:  05/24/06

Investigator Smyth summarized the case for the Board. DHS conducted a complaint investigation that covered six deficiencies in the areas of administration, limitations on level of services, service plans medication, health related services and resident records. DHS assessed a civil money penalty of $1800.00 for not immediately notifying the primary care provider when there is an accident, incident, or injury that affects the resident’s health.

Ms. Peterson was present and answered the Boards questions. Ms. Peterson had only been at the facility for about eight days prior to the survey. During that time she was attending facility orientation. When a caregiver brought to Ms. Peterson’s attention the declining condition of the resident, she took immediate action. Staff In-service training was completed on documentation and reporting residents changing conditions.

Member Breen made a motion that was seconded by Member Buie to dismiss the complaint for insufficient evidence of a violation. The motion passed unanimously.
12. Complaint # 06-90 Brown, Barbara Administrator
    Open Date: 06/07/06

Investigator Smyth summarized the case for the Board. The Board received a complaint from Ms. Erickson. The complaint alleged the facility staff did not address the families concerns.

Ms. Brown was not present and the complainant Ms. Erickson was not present to address the Board.

Member Morse made a motion that was seconded by Member Buie to dismiss for lack of evidence of a violation. The motion passed unanimously.

13. Complaint # 06-98 Iovin, Mariana Manager
    Open Date: 06/28/06

Investigator Smyth summarized the case for the Board. DHS conducted a change of ownership survey that identified 11 deficiencies in eight areas. The areas included: no manager designee, no personnel file, work schedules, medication records incorrect, over capacity and others. DHS assessed a civil money penalty of $1660.00 for being over capacity for 166 days.

Ms. Iovin was present and answered the Board’s questions. Ms. Iovin told the Board she had the city inspect the facility, but did not have a license from DHS for over five residents.

Member Baier made a motion that was seconded by Member Buie that based upon the information contained in the investigation report, the Board finds sufficient evidence of a violation of ARS 36-446.07(B)(3) as defined by ARS 36-446 (9)(a) for unprofessional conduct in complaint number 06-98 involving manager Mariana Iovin and to offer her a consent agreement that includes the following:

1. $150.00 civil money penalty, payable within 6 months
2. Probation for 6 months that includes.
   a) 4 hours of continuing education in medication administration
   b) 2 hours in recordkeeping
   c) Written request for termination of probation upon completion of terms
   d) Any costs of the probation are those of the certificate holder
3. Consent agreement must be signed within 30 days or the complaint will proceed to formal hearing.

A roll call vote was taken and passed unanimously.

14. Complaint # 07-03 Netotea, Delia Manager
    Open Date: 07/03/06

Investigator Smyth summarized the case for the Board. DHS conducted a renewal survey that identified 15 deficiencies in 12 different areas. The areas included, not renewing the facility license on time, the manager designee could not communicate in English as required, medication administration records. DHS assessed a civil money penalty of $1,000 for the late renewal and manager designee not being able to communicate in English.

Member Buie made a motion that was seconded by Member Morse that based upon the information contained in the investigation report, the Board finds sufficient evidence of a violation of ARS 36-446.07(B)(3) as defined by ARS 36-446 (9)(a) for unprofessional conduct in complaint number 07-03 involving manager Delia Netotea and to offer her a consent agreement that includes the following:

1. $300.00 civil money penalty, payable within 6 months
2. Probation for 6 months that includes.
a) 3 hours of continuing education in administration
b) 3 hours of continuing education in medication administration
c) Written request for termination of probation upon completion of terms
d) Any costs of the probation are those of the certificate holder

3. Consent agreement must be signed within 30 days or the complaint will proceed to formal hearing.

A roll call vote was taken and passed unanimously.

15. Complaint # 07-05 Portello, Henrietta Manager
   Open Date: 07/03/06

Investigator Smyth summarized the case for the Board. DHS conducted a complaint survey that identified seven deficiencies in four different areas. The areas included no policy dealing with safety of residents and pets, manager designee was not present, no documentation regarding injury by a family pet.

Ms. Portello was not present to address the Board’s questions.

Member Buie made a motion that was seconded by Member Kidder to continue this case and subpoena Ms. Portello to the November meeting. The motion passed unanimously.

16. Complaint # 07-16 Balos, Firuc Manager
   Open Date: 09/06/06

Investigator Smyth summarized the case for the Board. DHS conducted a change of ownership survey that identified 10 deficiencies in six different areas. The areas included: no manager designee, fingerprint requirement, no personnel file, TB testing and not having CPR and first training. DHS did a re-inspection and only found one deficiency. The new owner and manager had been at the facility for about 10 days at the time of the survey.

Mr. Balos and the new owner were present and answered the Board’s questions. They advised the Board that everything has been corrected.

Member Kidder made a motion that was seconded by Member Buie to dismiss for insufficient evidence of a violation. The motion passed unanimously.

17. Complaint # 07-18 Porneala, Nicusor Manager
   Open Date: 09/06/06

Investigator Smyth summarized the case for the Board. DHS conducted a renewal survey that identified 18 deficiencies in 12 different areas. The areas included, no manager designee physically present, service plans not signed, medication administration, no resident emergency contact numbers, building code violation and no fire drill. The fire drill issue was a repeat violation. DHS assessed a civil money penalty of $550.00 for two substantiated deficiencies.

Mr. Porneala and the new owner were present and answered the Board’s questions.

Member Buie made a motion that was seconded by Member Kidder that based upon the information contained in the investigation report, the Board finds sufficient evidence of a violation of ARS 36-446.07(B)(3) as defined by ARS 36-446 (9)(a) for unprofessional conduct in complaint number 07-18 involving manager Nicusor Porneala and to offer him a consent agreement that includes the following:

1. $250.00 civil money penalty, payable within 6 months
2. Probation for 6 months that includes.
a) 3 hours of continuing education in medication administration  
b) 3 hours of continuing education in care plans  
c) Written request for termination of probation upon completion of terms  
d) Any costs of the probation are those of the certificate holder  

3. Consent agreement must be signed within 30 days or the complaint will proceed to formal hearing.

A roll call vote was taken and passed unanimously.

VII. ADMINISTRATOR LICENSE APPLICATIONS

A. Consent Agenda to Approve Temporary License Applications

18.  
| Ashton, Andrew | Krzmarzick, Gregory | Ebling, Edward |

Member Baier made a motion that was seconded by Member Kidder to approve the three temporary license applications. The motion passed unanimously.

B. Consent Agenda to Approve Permanent License Applications, pending passing the state and national examination within the substantive time frame or the license will be denied.

19.  
| Ashton, Andrew | Krzmarzick, Gregory | Medel, Anthony |
| Schulz, Katherine | Schwartz, Michael | Watson, William |
| Ebling, Edward |

Member Kaser made a motion that was seconded by member Buie to approve the seven permanent license applications, pending passing the state and national examination within the substantive time frame or the license will be denied. The motion passed unanimously.

VIII. MANAGER CERTIFICATE APPLICATIONS

A. Consent Agenda to Approve Temporary Certificate Applicants

20.  
| Armstrong, Karen | Bauer, Monica | Malone, Debbie | Moore, Karen |
| Pacheco, Melissa | Schweichler, Nenita | Simmons, Debra | Beauvalis, Nadine |
| Jarmer, Brenda | Soper, Patty |

Member Baier made a motion that was seconded by Member Buie to approve the ten temporary certificate applications. The motion passed unanimously.

B. Consent Agenda to Approve Permanent Certificate Applicants, pending passing the state examination within the substantive time-frame or certification will be denied.

21.  
| Armstrong, Karen | Bauer, Monica | Malone, Debbie | Moore, Karen |
| Pacheco, Melissa | Schweichler, Nenita | Simmons, Debra | Cantrell, Valerie |
| Gaboreanu, Mirela | Garba, Joanna | Lombard, Marie | Maldonado, Marife |
| Polidori, Andrea | Prado, Jenny | Virgen, Juliana | Evory, Tammy |
| Soper, Patty | Gozales, Leticia | Castaneda, Kendra | Barney, Linda |
| Beauvaris, Nadine | Jarmer, Brenda |
Member Pastean made a motion that was seconded by member Morse to approve the 22 permanent certificate applications, pending passing the state examination within the substantive time frame or the certificate will be denied. The motion passed unanimously.

C. Individual Board Review, Consideration and Action on Temporary and or Permanent Applicants for Manager Certification. If approved, pending passing the state examination within the substantive time-frame or certification will be denied.

22. Deaton, Charles (Temporary and Permanent)

License Coordinator Wilkinson summarized the issue regarding the applicant being uncertified. Mr. Deaton was present and addressed the Board. He admitted he let his license expire in 2003 because he did not keep up on his continuing education and that he continued to manage the facility.

Mr. Deaton advised the Board that he would like to withdraw his application for a temporary certificate. The Board accepted the withdrawal.

Member Kidder made a motion that was seconded by Member Kaser to approve the application pending the passing the exam and voluntarily retaking the manager course.

A roll call vote was taken. Members Pastean, Morse and Breen voted aye. Members Kaser, Kidder, Baier and Buie voted nay. The motion failed 3 - 4

Member Baier made a motion that was seconded by Member Kidder to deny the application for manager certification.

A roll call vote was taken. Members Kidder, Kaser and Baier voted aye. Members Morse, Pastean, Breen and Buie voted nay. The motion failed 3 – 4.

The matter was tabled to a future agenda item. Mr. Deaton was encouraged to retake the training courses and pass the examination.

23. Iancu, Nicolae (Temporary and Permanent)

Member Pastean disclosed that she knew the applicant and recused herself.

Member Kidder made a motion that was seconded by Member Baier to go into executive session.

12:35 in executive session
12:44 back in open session

Member Kaser was concerned that there were three different sets of work schedules covering the same time period that were presented to document the 2080 hours of work experience. They appeared to be manufactured.

Member Baier made a motion that was seconded by Member Buie to deny the application for temporary certificate due to the questionable experience. The roll call vote was taken and passed unanimously.

Member Kidder made a motion that was seconded by member Buie to Table the application to a later date.
Board staff was instructed to accept only notarized statements from the owners, documenting hours of work and not accept the Desert Rose Training and require other DHS approved training.

24. Sapanza, Zelma (Permanent)

License Coordinator Wilkinson summarized the documentation issue regarding the applicant. Ms. Sapanza was not present to address the Board.

Member Buie made a motion that was seconded by Member Kidder to deny the application. The motion passed unanimously. The denial was based upon not sufficiently documenting the 2080 hours of paid work experience. A roll call vote was taken and passed unanimously.

IX. OTHER BUSINESS

A. New Business: The Board may Review, Consider and take Action

25. Desert Rose Training

The Executive Director summarized for the Board the types of questionable documentation applicants were presenting to authenticate the training they received from Desert Rose

Member Morse made a motion that was seconded by Member Buie to not accept any training certificates issued by Desert Rose Training, for manager certification. The motion passed unanimously.

The Board instructed staff not to accept Desert Rose Training certificates from current or future applicants and they would have to obtain other DHS approved training.

X. ADMINISTRATIVE MATTERS

The following items concern administrative matters and are provided for informational purposes only. They are not regulatory or policy matters and they do not require Board action.

26. Financial Reports

The Executive Director reviewed with the Board the financial reports. The projections report is based on actual figures from the last 14 to 16 months. The Executive Director reported that there are no outstanding invoices at this time. Questions were answered regarding the telephone, and NAB dues. The Board discussed what NAB does as far as administering the national exam, and what is happening with other states Boards. The Board felt it was important to participate and attend NAB conferences. Along with the national administrator testing, the NAB dues pay for one Board member/staff registration.

27. Complaints Status Report

The Executive Director advised the Board after the meeting today, there are 23 open cases. We are now waiting for responses to complete the investigations.

28. Licensing Report

The Executive Director reported that there is an upward trend in managers passing the exam each month.
29. Legislation update

The Executive Director reported that we need a sponsor for our proposed legislation by November 15th. The committee needs to discuss strategies regarding the different proposals. The Legislative Committee decided to meet at 11:00 am on October 13, 2006.

30. Rules update

The Executive Director reported that the final rule package was heard by GRRC on October 5, 2006, and passed on a consent agenda. The rules will go into effect in 60 days.

XI. CONSENT AGREEMENT

The Board will review, consider and take action on a proposed consent agreement

Linda Blair       Compliant # 99-16, 99-18, 99-20, 99-21

The Board did not hear this matter, as the consent agreement was not signed by Ms. Blair.

XII. FUTURE AGENDA ITEMS

None were mentioned.

XIII. ADJOURNMENT

Member Buie made a motion that was seconded by Member Baier to adjourn the meeting. The meeting was adjourned at 2:08 p.m.

The next regular meeting of the Board will be held on Monday, November 13, 2006 at 1400 W. Washington, Conference Room B-1, Phoenix, Arizona, at 9:00 a.m.