

**STATE OF NEVADA  
BOARD OF EXAMINERS FOR ADMINISTRATORS  
OF FACILITIES FOR LONG-TERM CARE**

**MINUTES OF  
PUBLIC HEARING IN THE COMPLAINTS AGAINST JANICE BURCH, RESIDENTIAL FACILITY  
ADMINISTRATOR, LICENSE NO. 9114, CASE NO. B35953, AND CASE NO. B 35956  
AND  
QUARTERLY REGULAR BOARD MEETING  
THURSDAY, AUGUST 14, 2008  
10:00 A.M.  
GRANT SAWYER STATE OFFICE BUILDING  
CONFERENCE ROOM 4500  
555 EAST WASHINGTON AVENUE  
LAS VEGAS, NEVADA 89101**

1. Margaret McConnell, Chairperson, was delayed and Mary Ellen Wilkinson, Vice Chairperson, called the meeting to order at 10:05 A.M.

2. Terry Pedrotti, Executive Secretary, was asked to call the Roll:

**Board Members:**

Margaret McConnell, Chairperson (Delayed)  
Mary Ellen Wilkinson, Vice Chair  
Douglas Sinclair  
Carol Sala

Donna Rose, Secretary/Treasurer  
Robert W. Shreck, MD  
Terry Clodt

**Staff:**

Michael Wymer, DAG  
Terry Pedrotti

Dan Ebihara, DAG

A quorum was present.

**Guests:**

Sieglinde Donohue, NHA, Henderson Health Care Center  
Susan Levinsky, Division for Aging Services  
Darren Cook, Administrator  
Kathleen Sharrar, Desert Lane Care Center  
Pamela A. Smith, Administrator  
Chris Bovil, Private Citizen  
Marie Andrews, Applicant  
Phyllis Militello, NGEA

Teresa Stricker, Division for Aging Services  
David T. Ayoob, Administrator  
Rajka Campagiorni, CPD Pac. Organization  
B. Nelson, CPD Pac. Organization  
Kathleen Browning, CPD Pac. Organization  
Cipriana Bovil, Applicant  
Janice Burch, Administrator  
Patricia Swager, NGEA

Mary Ellen Wilkinson welcomed the guests and asked that they introduce themselves. Ms. Wilkinson stated that some items would be taken out of order for the purpose of expediency, and that no action would be taken on public comments.

**3.\* HEARING IN THE MATTER OF THE COMPLAINTS AGAINST JANICE BURCH, RESIDENTIAL FACILITY ADMINISTRATOR, LICENSE NO. 90114 AND No. 9114"A", CASES NO. B35953 AND NO. B35956**

MS. Wilkinson asked that Mr. Wymer, Deputy Attorney General, address the issue of the legal complaint against Janice Burch, RFA Administrator, License Numbers 9114 and 9114"A", Case Nos. B35953 and B35956.

Mr. Wymer stated that a discussion and negotiations took place between Mr. Terry Clodt and Janice Burch. As a result, Mr. Wymer prepared a Stipulation For Settlement of Disciplinary Action and an Order Approving the Stipulation For Settlement. The documents had been signed and subject to approval by the Board.

Copies of the documents were distributed to the Board members for their review. The Settlement terms that were agreed to were:

Ms. Burch agrees to pay to Beltca an administrative fine for the sum of \$1200; attorney fees in the amount of \$2,670.47; and finally BELTCA's costs of investigation in the amount \$1,000.00. The total of all charges is \$4,870.47.

Beltca agrees not to pursue any other remedies or fines for the allegations in the original complaint. Ms. Burch requested that payment be made over a period of time, commencing with the initial payment of \$470.47 due on the first day of the month following the approval of the Board. Ms. Burch further agreed to pay the remaining balance at \$400.00 per month over a period of 11 months. The parties agree that no interest will accrue on the \$4,870.47 and that Ms. Burch will receive no discount for early or full payment.

The parties agreed that Ms. Burch's residential facility administrator's licenses will not be placed on probation.

Ms. Burch agreed and understood that the public records law of the State of Nevada may require BELTCA to make the Stipulation and related documents available for inspection.

Ms. Burch agreed and understood that BELTCA may disclose the content of the Stipulation and related documents to any governmental agency, professional organization or member of the public.

Ms. Burch agreed and understood that if the fees and costs are not paid within the time set forth in the Stipulation, Ms. Burch's license may be automatically suspended until such time as the total fees are paid.

Ms. Burch agreed and understood that if the fees and costs are not paid within the time set forth, debt collection actions may be instituted by BELTCA and she will be obligated to pay the costs relating to the collection actions.

Ms. Burch also agreed and understood that by entering into the Stipulation, she waived her rights to a hearing in which she may present evidence in her defense and to be represented by counsel. If the Stipulation is not approved by BELTCA's board members or is not performed by Ms. Burch, the same board members would hear and consider the Complaints referred to in the Stipulation. Each Party shall bear its own attorney's fees and costs.

Ms. Burch also released BELTCA and each of its members, employees and legal counsel from any actions suits, debts, judgments, executions, claims and demands arising from BELTCA's investigation and all other matters related to this issue.

Ms. Burch also agreed to indemnify BELTCA and each of its members, employees and legal counsel against any and all claims, suits and actions brought against those persons as a result of the disciplinary action and all other related matters.

Mr. Wymer reiterated the allegations of the Complaints, i.e.: No qualified caregiver; Deficient employee records; Failure to maintain applicable personnel records as required by law; Insufficient staffing; Failure to provide proper supervision; Unsanitary conditions in the kitchen area; Failure to make a resident's file available upon request.

The Causes of Action in Case No. B35844 were as follows:

First Cause of Action – Respondent Engaged in Unprofessional Conduct;

Second Cause of Action – Respondent Failed to protect Residents;

Third Cause of Action – Respondent Neglected Residents

Fourth Cause of Action – Respondent Failed to Maintain Records Required by Law

The General Allegations in Case No. B35853 were as follows:

Ms. Burch was the only licensed administrator of the group home, but allowed an employee's, John Robinson, name to be used on a brochure as Administrator. This was construed as Unprofessional Conduct contrary to the provisions of NAC 654.210(2) and false, fraudulent, or misleading advertising of Skyview, the group home.

Mr. Wymer requested that the Board review the Stipulation and render its decision as to whether the members accept the Stipulation, or wish to modify it or choose to negate the Stipulation.

Terry Clodt, the investigator, added that during the investigation, Ms. Burch was very cooperative.

Carol Sala moved to accept the Stipulation as presented. Douglas Sinclair seconded the motion. A short discussion followed. Robert Shreck asked whether the request to not place Ms. Burch's license on probation would prevent the Board from future disciplinary actions, if warranted. Mr. Wymer clarified that the Stipulation applies only to the actions in the present cases, and would not prevent the Board from reviewing or observing future conduct or taking future action. The motion was carried.

Mr. Wymer gave the original documents to Terry Pedrotti for filing and obtaining the appropriate signatures on the Order Approving the Stipulation for Settlement of Disciplinary Action and appropriate distribution of the documents.

**4.\* HEARING IN THE MATTER OF THE COMPLAINT AGAINST ADELAIDA GUEVARRA TOLENTINO, RESIDENTIAL FACILITY ADMINISTRATOR, LICENSE NO. 5689, CASE NO. B35957 was unable to be heard due to the inability to appropriately serve Ms. Tolentino was tabled to the next meeting of the Board.**

**5.\* SECRETARY/TREASURER'S REPORTS – DONNA J. ROSE – *final Board Approval is Required***

A.\* Minutes of Board Meeting of May 15, 2008 had been previously distributed to the members. Ms. Rose requested a motion. Robert Shreck moved to approve the Minutes for the Minutes as submitted. Carol Sala seconded the motion. The motion was carried.

The Minutes of the Special Board Meeting held on July 15, 2008 had been distributed previously to the board members. Ms. Rose requested a motion. Carol Sala moved to accept the Minutes as submitted. Douglas Sinclair seconded the motion. The motion was carried.

B.\* The Third Quarter Report;

C.\* Net Worth Reports – April 30, 2008 and June 30, 2008;

D.\* Financial Comparison Reports – April 30, 2008 and June 30, 2008;

The reports had been distributed previously, and Ms. Rose requested a motion. Douglas Sinclair moved to accept the financial reports as presented. Carol Sala seconded the motion. The motion was carried.

F.\* Letter of Engagement for Annual Audit by Holdsworth Russo & Co., P. C. had been distributed previously to the Board members for their review. The fee was raised from \$5,000.00 to \$6,250.00. Although an effort was made to engage a less expensive CPA, only certain certified public accountants qualify for the State's audits. Ms. Rose requested a motion. Douglas Sinclair moved to accept the Letter of Engagement presented. Carol Sala seconded the motion, and it was carried.

E.\* Projected Budget for Fiscal 2008 – 2009.

The projected budget for fiscal 2008 – 2009 reflects the historic lessening of income due to the fewer licenses being renewed biannually. It also reflects the increase in accounting and auditing fees and the increased costs of the implementation of the RC/AL Administrator in Training Program. Thus, a loss in income is projected for this fiscal year. Douglas Sinclair moved to accept the projected budget as presented. Donna Rose seconded the motion. No discussion was held and the motion was carried.

Margaret McConnell had arrived and Mary Ellen Wilkinson stepped down as Chairperson pro tem. Ms. McConnell asked that the Administrative Report be given.

**6.\* ADMINISTRATIVE – TERRY PEDROTTI – Information**

A. Ms. Pedrotti presented the Quarterly Licensee Activity Report as reported to the Legislative Counsel Bureau that consists of Disciplinary Actions and there were none, and the number of licenses issued during the second quarter (calendar year) of which there were 16 total. The report is also posted on the Board's website.

B. All Licensee Activity Report was presented showing the quarterly licensee report for the entire fiscal year.

**7.\* ADMINISTRATOR LICENSES ISSUED – ALL REQUIREMENTS WERE MET – *Final Board Approval Required***

**A.\* NFA Licenses:**

1. Gottlieb-Ware, Barbara

2. Gibson, David

Ms. McConnell requested a motion. Mary Ellen Wilkinson moved to approve the licenses issued. Terry Clodt seconded the motion. There was no discussion. The motion was carried.

**B.\* RFA Licenses:**

1. Afable, Imelda S.
2. Antonio, Margie D.
3. Grafton, Timothy M.
4. Klashka, Scott A.
5. Pophal, Mary L.
6. Runyan, Mary K.
7. Scheile, Teryna C.
8. Womack, Rosemary

Ms. McConnell requested a motion. Douglas Sinclair moved to approve the licenses issued. No discussion followed. The motion was seconded by Donna Rose, and the motion was carried.

**C.\* INACTIVE Licenses:**

1. Carrier, Eleanor P., NFA
2. McCoy, Douglas, NFA

The appropriate fees had been paid and requirements met. Douglas Sinclair moved to approve the inactive status requests. Donna Rose seconded the motion. The motion was carried.

**D.\* APPLICATIONS/LICENSES IN QUESTION:**

1. Marie Andrews, RFA Applicant

Margaret McConnell explained that the issue concerning Ms. Andrews was that she responded negatively to the question regarding criminal charges on the application for licensure. The question clearly states that: "Have you ever, since attaining the age of 18 years, been charged, even if charges were dropped, or dismissed, or convicted of a criminal offense whether a felony, gross misdemeanor or misdemeanor, placed on probation, or granted deferred adjudication, pretrial diversion or had records sealed or expunged, or advised by an attorney that you do not have to list the conviction, in any jurisdiction?"

Since Ms. Andrews responded negatively, and the FBI background report indicated Ms. Andrews had been charged and convicted of a felony (even though it occurred more than 7 years ago), she was asked to appear before the Board to explain the reasons for her negative response. Had she responded affirmatively and provided the necessary documentation regarding the charges, she would not have been asked to appear.

Ms. Andrews explained that while the charges were accurate, they were in self-defense and the charges were dismissed, and she believed they would not appear again. A discussion followed and the board members asked why she chose not to acknowledge the charges. Ms. Andrews responded that she had no intention of deceiving the Board and has not had another charge or arrest prior to or since that incident, and would like the opportunity to become an administrator.

Douglas Sinclair moved to accept Marie Andrews' application. Carol Sala seconded the motion, and the motion was carried.

2. Cipriana Bovill, Provisional RFA License

Margaret McConnell explained that Ms. Bovill, responded negatively to the legal question on the application, and when the FBI background report was received, it revealed that Cipriana Bovill had been charged and arrested with 2 separate charges. Ms. McConnell asked Ms. Bovill to explain why she responded as she did on the application when the question was so clearly stated? Ms. Bovill stated she did not intend to deceive the Board, but felt that the charges had been removed from her record and would not appear ever again. She now realized she should have reported the incidents.

Carol Sala moved to accept the application of Cipriana Bovill. Donna Rose seconded the motion. The motion was carried

3. Linda Pietershanski, RFA Applicant

Margaret McConnell explained that if Ms. Linda Pietershanski had answered affirmatively on the legal question on her application, she would not have had to appear before the Board. Ms. Pietershanski stated that the incident must have occurred when she was in college many years ago (over 20 years ago), but that she had no recollection of being charged or arrested or being in the presence of a police station. The charges listed on the FBI background check were vague and undecipherable, and she was unable to obtain any documentation. Legal Counsel, Michael Wymer, was also unable to decipher the charges.

Robert Shreck moved to approve Ms. Pietershanski's application for licensure. Mary Ellen Wilkinson seconded the motion. The motion was carried.

4. David T. Ayoob, RFA License Renewal

Margaret McConnell announced the issue regarding Mr. Ayoob's appearance before the Board. Mr. Ayoob had received a DUI and explained it was a result of having attended a party, and was driving home when an occupant in his car became ill. He stopped the car and he was apprehended with the DUI. As a result, he was ordered to pay a fine; received a suspended jail time of 29 days, 1 day to be served; attend and complete DUI School with proof of completion being submitted to the Court; attend a Victim Impact Panel with proof of attendance being submitted to the Court; attend Alcoholics Anonymous Meetings once a week with monthly signatures being submitted to the Court; pay for counseling by a certified counselor with monthly reports to the Court; and schedule for a Review Hearing on January 28, 2008. On July 15, 2008, Mr. Ayoob received an order from the Court that he had satisfactorily completed all conditions of the suspended sentence by completing an alcohol treatment program. Because of his responsibilities as an Administrator of Group Homes, Mr. Ayoob, stated he does not believe he is an alcoholic.

Michael Wymer advised the Board of its options: namely, it could refuse to renew Mr. Ayoob's license; the offense of driving under the influence or of a controlled substance can be grounds for disciplinary action; the board members can ask all the questions they wish to try to draw out whatever information they deem necessary to approve the renewal – NAC 654. 210 2. (k) (2).

Margaret McConnell advised the board members they had the options to set any conditions they wished to either approve the renewal or deny the renewal.

A discussion followed. Douglas Sinclair moved to approve the renewal with a condition that if Mr. Ayoob receives another conviction within the next two (2) years, his license will be revoked. A discussion followed and Mr. Sinclair amended his motion to include that a background check be required every six (6) months at his expense. Mary Ellen Wilkinson seconded the motion. The motion was carried. Terry Pedrotti was asked to write a letter to Mr. Ayoob in which the conditions of the renewal are expressed.

Margaret McConnell requested a ten-minute break at 11:45 a.m. The meeting resumed at 12:00 noon

Margaret McConnell called the meeting to order and announced that the next item to discuss would be

**6.\* E.\* NFA PRECEPTOR APPLICATION IN QUESTION for Sieglinde Donohue**

Mary Ellen Wilkinson who conducted an investigation regarding Sieglinde Donohue's request to become a Preceptor for the Nursing Home Administrator-in-Training Program opened the dialogue by stating she would make a motion that the Board not approve Ms. Donohue's request. Ms. Wilkinson went on to explain the reasons for the denial, based on an incident that occurred in the state of Colorado prior to licensing in Nevada, for the present time. Sieglinde Donohue explained that the previous episode in the State of Colorado that precipitated Ms. Wilkinson's decision occurred as a result of stressful situations in her personal life, as well as poor judgment by not doing what she should have done. She willingly surrendered her license when faced with potential large legal fees. The episode occurred over 8 years ago. Ms. Donohue admitted she had made an error in the past and that since that time, in Nevada, has made every effort to fulfill her duties as required.

Mary Ellen Wilkinson moved that the AIT Preceptor/Mentor position not be awarded at this time for two years, for Ms. Donohue. Douglas Sinclair seconded the motion. A discussion followed in which Ms. Wilkinson stated that the primary reason for the denial, at this time, was for lack of documentation of the past incident and that Ms. Donohue needed to prove herself within two (2) years. The decision can be reviewed again at that time. The motion was carried. Donna Rose recused herself from the vote.

Margaret McConnell stated that for the sake of expediency, the next item would be:

**7.\* C.\* PAMELA A. SMITH – Lack of Fulfillment of Financial Obligation to the Board and Review of Current Operating Status.**

Mary Ellen Wilkinson moved that the Board go into "Closed Session". Mr. Wymer explained the procedures for the "Closed Session. Terry Clodt seconded the motion. The motion was carried.

The Closed Session of the Meeting was concluded and reopened at 1:30 p.m.

Margaret McConnell resumed the open meeting and asked Pamela A. Smith to submit her requests, based on the Closed Session of the meeting.

Ms. Smith stated she could make a retroactive payment of \$300.00 per month for the past 3 months at the end of August and after that \$300.00 per month until paid in full, commencing September 1, 2008.

Robert Shreck asked Ms. Smith how she would be able to making payments on her obligation in view of her negative balance of income, based on her bankruptcy documents. Ms. Smith responded that her present new employment would permit her to make the payments she suggested.

...

Douglas Sinclair moved to receive the past-due payments of \$2100.00 immediately and continue with the payments of \$500.00 per month commencing September 1, 2008, or further action will be taken against her, until the full obligation is paid in total. Robert Shreck seconded the motion. A discussion followed in which Ms. Smith's ability and/or credibility to make the payments was questioned. Douglas Sinclair amended his motion to recommend a further disciplinary action to be placed on a future board meeting's agenda, based on Pamela Smith's pattern of irresponsibility that appears to be continuing. Mary Ellen Wilkinson seconded the motion. A discussion followed in which it was determined that the disciplinary hearing would occur at the meeting to be held in October. Mr. Wymer stated that the Board can take any action from suspension of license to revocation of license to additional fines and restitution of legal fees. The motion was carried. The question of default was raised, and using the State Controller's Office for making the collections was given as a remedy. The motion was carried.

**8.\* NEW BUSINESS:**

**A.\*** Lap-Top Computer Request by Terry D. Clodt for Use in Investigations. Mr. Clodt presented his reasons for requesting the purchase of a lap-top computer for his use in the increasing number of licensee investigations. A discussion followed, in which Mr. Clodt justified his request. Douglas Sinclair moved to have the Board purchase a lap-top computer for investigation purposes not to exceed \$1,000.00. Mary Ellen Wilkinson seconded the motion, and the motion was carried. The Board Office will provide Mr. Clodt with the necessary check and documentation.

**11.\* DATE/TIME/LOCATION OF NEXT MEETINGS**

Margaret McConnell requested that the board members review their respective calendars to determine next meeting dates. In as much as it appears that more disciplinary hearings will need to be scheduled, the regular quarterly meeting will be scheduled for Thursday, November 13<sup>th</sup>, at 10:00 a.m. Terry Pedrotti will confirm location.

After consulting their calendars, the board members agreed that the next Special Board meeting to further discuss the proposed amendments to NAC Chapter 654 and the BDR's for NRS 654 and the disciplinary hearing for Pamela A. Smith would be held on October 9, 2008 at 9:00 a.m. by video conference, if it could be arranged. Terry Pedrotti will confirm the arrangements.

**7.\* B.\*** Phyllis Militello reported on the RC/AL AIT Mentor Program, indicating that the total number of candidates at this time is 52. The number of candidates that have applied for licenses but have not received a certificate of completion for the Vigilant Training Course. Nine (9) candidates have passed the Vigilant and have been sent letters asking them to complete the form and return it to her in order that they can be assigned mentors. Fourteen (14) candidates have been assigned mentors and are in various stages of the AIT process. Three (3) of those candidates do not have all of their mentors as yet.

**RC/AL Trainings:** Ms. Militello last reported that plans were underway for trainings on interactive video in August/September and November/December. However, due to unforeseen circumstances, she now plans to have the trainings in October and December via interactive video. The purpose is so that candidates/administrators in the North and South of Nevada can be trained at the same time.

**Mentor Trainings:** In her last report, Ms. Militello stated she was planning to offer mentor trainings in Reno and Las Vegas during August/September. Due to lack of recommendations for new mentors, it is now anticipated trainings will not occur before December 17, 2008. She will plan to have the current mentors meet via interactive video on the same day as the new mentors' training. That meeting will occur either immediately before or after the new mentors' training. It is urgent that

new mentors be selected due to the unexpected large number of candidates. The Board is asked to make recommendations by September 15, 2008, to be able to offer the trainings as planned.

Some problems have occurred with mentor trainings that need to be addressed: i.e.,

Some candidates are not able to absorb the training either because of a language barrier or just not getting it;

If a candidate has a personality conflict with a mentor or is rated poorly, should he/she be placed with another mentor?

If the candidate still does not improve, should he/she be licensed? Should another solution be tried?

What is the Board's stance regarding English comprehension?

A discussion occurred regarding the conflicts that might arise between a mentor and a candidate, and several solutions were suggested. It appears that the major issue has to do with English comprehension. That issue will be researched and a decision will be determined at a future meeting.

Benefits for mentors:

Public appreciation and acknowledgement

CEU's for hours spent with the candidates.

Include Mentors' names on BELTCA's website.

During the discussion that followed, it was suggested that precautions be taken in offering incentives that do not exceed the level of effort and time devoted.

**7.\* A.\*** Patti Swager reviewed the contract that had been approved at the February Board Meeting and stated that due to the unexpected number of applicants, the costs had increased, and asked the Board to consider a supplement to its contract with NGEAC to include an increase in the costs of matching candidates to mentors. It appears that the fees for the RC/AL AIT Program will need to be raised to meet the increased costs. The supplement to the contract will be presented to the Board at its next regular board meeting for approval, together with an increase in the fees that will be determined and charged to the applicants.

Douglas Sinclair moved to raise the fees for the RC/AL AIT Program at the Board's next regular quarterly meeting. Mary Ellen Wilkinson seconded the motion by amending it to state that the fees will be determined when the actual numbers are known. The motion was carried.

## **9. DEPUTY ATTORNEY GENERAL COMMENTS**

### **10.\* PUBLIC COMMENTS**

The three guests, Rajka Campagiorni, B. Nelson and Kathleen Browning, from the CPD Pac. Organization spoke regarding the need for additional legislation to improve the quality of care at nursing homes and the conditions that exist in many of the nursing facilities. Margaret McConnell explained that while the issues they raised are very valid, this board can only address issues that involve administrators, as was done in this meeting. Ms. McConnell suggested the ladies contact the State Health's Division for assistance.

**12.\*** There being no further business, the meeting was adjourned at 3:30 p.m.

Respectfully submitted:

Terry Pedrotti

(Ms) Terry Pedrotti, Executive Secretary

Donna J. Rose

Donna J. Rose, Secretary/Treasurer