

◆ Board News ◆

October 2001

From the Board Administrator

*Dana B. Welborn,
M. S. Gerontology*

Like all of you, the Board and staff were deeply affected by the events that took place in our country September 11, 2001. The Board was scheduled to meet the following day but decided to postpone the meeting as result of the shocking loss of life and threat to us all.



The Board met October 3, 2001. Among other items of business, the Board voted on officers for 2002. Merry Anne Gaddy, who has been the chairperson since February 2000, was re-elected. Dan McLeod, who has been the vice chairperson since September 2000, was re-elected. The Board voted not to fill the office of secretary-treasurer since that office's duties are now the responsibility of the Department of Labor, Licensing and Regulation.

The Board established a new policy on its interpretation of the Board's regulation for the work hours of a CRCFA (S.C. Regulation 93-65(B)). The policy is: Normal business hours for CRCF administrators means between 7 a.m. and 7 p.m., Monday through Friday. Therefore, the minimum hours required (full-time or part-time) must be met during that time period. The Board will enforce this regulation and policy.

Should you have questions about these or other Board-related matters, feel free to call, write or email me.

BOARD MEMBERS

MERRY ANNE GADDY,
CRCFA, CHAIRWOMAN

DANIEL MCLEOD,
VICE CHAIRMAN
CRCF CONSUMER

BROWN MCCALLUM,
SECRETARY
LTCC

KEN HIATT
NHA/HOSPITAL ADMIN-
ISTRATOR

DAVID BUCKSHORN
NHA/NONPROFIT

SONNY KINNEY
NHA/FOR-PROFIT

BETTY TOLBERT
CRCFA

JOANN JAMES
CRCFA

BRENNA DELAINE, MD
NH CONSUMER

LEON FRISHMAN
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BOARD STAFF

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Adult Protection Coordinating Council

*Mavis Riley, Research Staff
SC DHHS*

The Adult Protection Coordinating Council is a 22-member public body created with passage of the South Carolina Omnibus Adult Protection Act in 1993. It is concerned with the protection of the elderly and other vulnerable adults in our state. The Council was created to ensure continued communication, coordination and collaboration among all of the entities involved specifically in the adult protection system. It is located at the S.C. Department of Health and Human Services and is thought to be the only council of its type in the United States. Including two gubernatorial appointees, the Council is composed of the agency directors or their designees of the following 20 public and private organizations:

S.C. Commission on Prosecution Coordination
S.C. Department of Health and Human Services

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This newsletter is a publication of the Board of Long Term Health Care Administrators and the S.C. Department of Labor, Licensing and Regulation.

Points of Interest

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S.C. Department of Disabilities and Special Needs
 S.C. Department of Social Services
 Joint Legislative Committee on Aging
 S.C. Sheriffs' Association
 Protection and Advocacy for People with Disabilities, Inc.
 S.C. Police Chiefs' Association
 S.C. Attorney General
 Board of Long Term Health Care Administrators, Department of Labor, Licensing and Regulation
 Board of Nursing, Department of Labor, Licensing and Regulation
 Bureau of Senior Services (formerly Office on Aging), Department of Health and Human Services
 S.C. Department of Public Safety, Criminal Justice Academy Division
 S.C. Department of Health and Environmental Control
 S.C. Department of Mental Health
 State Law Enforcement Division
 S.C. Medical Association
 S.C. Home Care Association
 S.C. Health Care Association
 State Long Term Care Ombudsman

The Council was convened in February 1994. Meetings are conducted quarterly in accordance with the statutory requirements, and committees, subcommittees, workgroups, etc., are established as needed. The Council adopted by-laws and its quarterly meeting dates, time and location are determined at the beginning of the calendar year. Though not a statutory requirement, the Council publishes an annual report as a record of its accomplishments and plans for future activities.

Officers include a Chair and a Vice Chair. Wilson Dillard, Administrator, Mountainview Nursing Home in Spartanburg, currently serves as chair. "Being part of the Council has been a most enjoyable and rewarding experience," Dillard said. "I continue to be impressed with our members' commitment to the mission of the Council. As issues have been presented to the Council, I feel we have effectively resolved them for the benefit of our vulnerable adults in the state. At issue this year is the impact of budget cuts on our agencies that are directly involved with adult protection. The Council will take a strong advocacy role in ensuring that services remain available and accessible. As we mentioned, the Council meets quarterly, our meetings are open to the public, and we would invite participation from our licensed professionals. I would entertain comments or suggestions on the effectiveness of the Council. I can be reached at Mountainview at 864-582-4175."

The Omnibus Adult Protection Act specifies the duties of the Council that include oversight of the adult protection system. There is coordination and collaboration among various state-level agencies and departments, and these public agencies and the private sectors are working to-

gether through the Council to develop resources and coordinate services. Members have been very active in many areas to include training, public awareness, research and study of issues impacting the protection of adults, assistance with resolution of problems in the adult protection system, and data collection and analysis. The Council is currently exploring the need for a public guardianship program to provide guardianship and conservatorship services for vulnerable adults in our state. Discussions have also been initiated regarding the need for an adult fatality review team modeled after the state's child fatality review team.

Reporting and Investigating Abuse, Neglect and Exploitation

The Omnibus Adult Protection Act provides a comprehensive framework for reporting and investigating abuse, neglect and exploitation of vulnerable adults. The investigative entities are Adult Protective Services, S.C. Department of Social Services, for cases in the community and the Long Term Care Ombudsman Program, S.C. Department of Health and Human Services, for cases in facilities. Law enforcement can investigate in either setting.

The Act defines vulnerable adults as persons over the age of 18 who have a physical or mental condition that prevents them from providing for their own care or protection. This includes persons who have organic brain damage, mental retardation or infirmities due to advanced age, etc. and persons who are residents of facilities.

The Act was amended in 1999 to increase the penalties for *knowingly and willfully* abusing, neglecting or exploiting a vulnerable adult. With this amendment, the penalties were increased from misdemeanors with imprisonment of not more than three years to felonies with imprisonment of not more than five years, if convicted. A fine of not more than \$5,000 could be imposed for exploitation, and restitution could be required. Threatening or intimidating a vulnerable adult subject or a witness, and obstructing or impeding an investigation were also misdemeanors and if convicted, carried a prison sentence of not more than three years and a \$5,000 fine.

Additionally, the 1999 amendment added the following penalties: 1) knowingly and willfully abusing or neglecting a vulnerable adult which resulted in great bodily injury is a felony and upon conviction, carries a prison sentence of not more than 15 years; 2) knowingly and willfully abusing or neglecting a vulnerable adult which results in death is a felony and upon conviction, carries a

prison sentence of not more than 30 years. The penalties were also included in Title 16 and incorporated in the felony crimes classification section of Title 16. Title 16 is the section of the S.C. Code

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utilized most often by law enforcement and prosecutors for charging an individual with abuse, neglect or exploitation of a vulnerable adult.

Adult Protective Services has the responsibility to investigate allegations in the community, and the Long Term Care Ombudsman has the responsibility to investigate in nursing facilities and community residential care facilities. Law enforcement can investigate in either location. If suspected abuse, neglect or exploitation occurs in a facility, reports of your suspicions should be made to the State Long Term Care Ombudsman at 1-800-868-9095. If suspected activity occurs in a private home or in the community, reports should be made to your local county Department of Social Services (number can be found in your telephone directory) or to the State Department of Social Services at 803-898-9095.

The Board is responsible for investigating complaints that are directly and indirectly related to administrators of nursing homes and community residential care facilities. The steps in the disciplinary process are as follows:

Board Complaint Investigations

1. Board or staff receives complaint that appears to allege violation of the practice act.
2. Investigation conducted by LLR staff investigator who writes summary which is approved by the LTHC administrator.
3. The investigative summary is reviewed by the Investigative Review Committee.
4. IRC makes recommendations to the full Board.
5. Board determines by vote in open session whether to dismiss the complaint, continue the investigation or authorize a Formal Complaint.
- 6a. If the case is dismissed, the licensee and the original complainant are notified by letter from the administrator.
- 6b. If a Formal Complaint is authorized, the Office of the General Counsel will prepare the document and send a copy to the professional member of the IRC for review and approval.
7. The Formal Complaint is served upon the licensee, naming the appropriate OGC attorney with whom to correspond concerning this matter. A copy is filed with the Board Administrator.
- 8a. If the licensee seeks an informal resolution (consent order, voluntary surrender of license, etc.), the attorney from the Office of the General Counsel, after consultation with other members of the IRC, may prepare a consent order, a stipulation and petition, or a voluntary surrender document to be signed by the accused licensee. The attorney will inform the licensee that such agreements may not be accepted by the full Board and that the IRC does not have authority to bind the Board to any settlement.
- 8b. If the licensee does not seek an informal resolution, the

- Administrator issues a notice of hearing. All parties are entitled to 30 days notice of the time and place of hearing.
9. The licensee is given an opportunity to appear before the Board either for presentation of the informal resolution or for hearing. The licensee may choose not to appear but must be given the opportunity to do so. The notice of opportunity for a fully contested proceeding is the Notice of Hearing. The notice of opportunity for a proceeding after an informal resolution may be a letter from the administrator or a copy of the meeting agenda showing his name as an item of business.
 10. The Board issues its order based on the facts in the informal resolution document or the hearing, as appropriate. The order includes findings of fact and conclusions of law and a determination of the proper sanction.
 11. An aggrieved licensee may appeal the action of the Board to the Administrative Law Judge Division within 30 days of receipt of the order from a formal hearing. If the licensee does not do so, the order is final. There is no appeal from an informal resolution since the licensee has consented to that resolution.

Other things about complaints are:

- ◆ Complaints are referred to other agencies for investigation when needed
- ◆ The Administrator must respond in writing to the Board when requested.
- ◆ Information pertaining to a complaint is kept in a confidential file.

If you have any questions about the complaint investigation process, feel free to contact Dana Welborn, Board Administrator, at 803-896-4544 or welbord@mail.llr.state.sc.us.

The Board investigator is Wayne Whitworth. Wayne has been with the Board since October 2000. He is from Columbia and lives there along with his wife Linda. They have a son and daughter and five grandchildren. Wayne has a transportation management degree. He retired from the trucking industry after 22 years before joining the West Columbia Police Department. He worked for West Columbia and retired

Board Investigator

as a shift sergeant in January 2001 after 13 years.

Should you have any questions about complaint investigations, you can reach Wayne at 803-896-4545.

UPDATE: Disciplinary Sanctions Issued by the Board of LTHCA

The Board voted to issue the following disciplinary sanctions at the October 3, 2001, quarterly meeting:

- ◆ Administrator was charged with violating the LTHCA Practice Act after she failed to comply with state regulations for the operation of her facility. Administrator voluntarily surrendered her license to practice CRCF Administration.
- ◆ Administrator's license was temporarily suspended after she was arrested and charged with murdering a resident of the facility under her administration by strangulation. The Board was prepared to serve a Notice of Charges alleging that she physically abused a resident, resulting in grievous bodily harm or death of the resident. Administrator voluntarily surrendered her license to practice CRCF Administration.
- ◆ Administrator was charged with violating the LTHCA Practice Act after she continued to operate a CRCF during a period in which her license was lapsed. Administrator was issued a Public Reprimand for her conduct.

***The Department is in the process of posting public Orders on the LTHCA Web site.*

Did you know there is board-approved continuing education

Online Continuing Education

for nursing home administrators and community residential care facility administrators on the Internet? The National Association of Boards of Examiners for Long Term Care Administrators (NAB) has approved several providers of online continuing education, and there are more on the way. Any NAB-approved CE program is accepted by the S.C. Board for license renewal. The S.C. Board has approved one online program thus far. It is offered at www.ceuafe.com.

Other sites with NAB-approved programs include:

www.ceupro.com
www.care2learn.com
www.seasons-seminars.com
www.ceus-r-ez.com

Registration information will be on the provider's Web site. Remember to get the NAB approval code for the online programs for administrators!

Fiscal Year 2001 Statistical Information

Licenses

Nursing Home Administrators	
Renewed Licenses	285
New Licenses	25

Community Residential Care Facility Administrators	
Renewed Licenses	646
New Licenses	63

Dually Licensed Administrators	
Renewed Licenses	128
New Licenses	3

Total Licenses Issued	1150
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Total Licenses Lapsed	81
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Examinations

Nursing Home Administrators	
Passed	
National	18
State	31

Failed	
National	10
State	2

Community Residential Care Facility Administrators	
Passed	
National	73
State	76

Failed	
National	14
State	22

Complaints

Number of Complaints	104
Investigations	73
Board Hearings	1

Disciplinary Actions

Licenses Revoked	1
Licenses Suspended	5
Consent Orders	7
Agreements to Voluntary Surrender	7

LLR - Board of Long
Term Health Care
Administrators
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Columbia, SC 29211-1329
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Information about the Adult Protection Coordinating Council

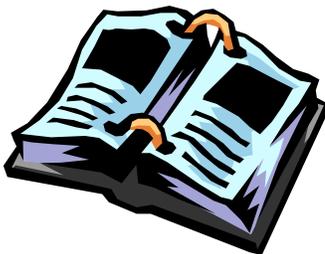
AIT Program News



Wade Taylor completed his Nursing Home Administrator-in-Training Program with Brad Moorhouse, Preceptor, at NHC Healthcare in Anderson.

If you have any questions about the Board's NH AIT program, contact the Board office or read about it on the Board's website: www.llr.state.sc.us.

For information on how to become a NH AIT Preceptor, contact the Board office at 803-896-4544.



2001 Board Meeting Calendar
December 11-12

2002 Board Meeting Calendar
March 6-7
June 5-6
September 4-5
December 4-5