



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

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Douglas A. Ducey
Governor

Allen Imig
Executive Director

Board Members

Charles Seal-Villafranca, President

Nina Louis, Vice President

Ken Kidder, Member

Fred Randolph, Member

Melanie Seamans, Member

David Hasseltine, Member

Pauline Campbell, Member

Susan Archer, Member

MINUTES
REGULAR MEETING

August 12, 2019

1. CALL TO ORDER

President Villafranca called the meeting to order at 9:03 a.m.

2. ROLL CALL

Present: Ken Kidder, Fred Randolph, David Hasseltine, Susan Archer, Charles Seal-Villafranca

Absent: Melanie Seamans, Pauline Campbell, Nina Louis

Attendance: Allen Imig, ED, Phil Smyth, Investigator, Zakiya Mallas, Licensing Specialist, Sabrina Khan, AAG, , Elizabeth Campbell, AAG, Independent Advisor

3. CALL TO THE PUBLIC

No one wished to speak.

4. APPROVAL OF MINUTES

A. Board Review, Consideration and Action on Approval of Minutes

1. June 10, 2019 Regular Board Meeting Minutes

2. July 15, 2019 Regular Board Meeting Minutes

Member Villafranca made a motion that was seconded by Member Hasseltine to approve the June 10, 2019 and July 15, 2019 regular meeting minutes.

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltime Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

5. FORMAL ADMINISTRATIVE HEARINGS, MOTIONS OR PROPOSED CONSENT AGREEMENTS

A. Board Review, Consideration and Action on Formal Administrative Hearings or Motion to Deem Allegations Admitted.

3. Levins, Larristine 18-271 Manager

President Villafranca conducted the hearing.

Sabrina Khan, Assistant Attorney General, was present and represented the state.

Larristine Levins was present for the hearing.

Elizabeth Campbell, Assistant Attorney General was present to advise the Board.

Ms. Khan made an opening statement.

Ms. Levins made an opening statement.

Ms. Khan called Phil Smyth the Board investigator as a witness.

Ms. Khan introduced Exhibits to which Mr. Smyth testified:

- Arizona Department of Health Services, Statement of Deficiencies
- Arizona Department of Health Services, Enforcement Actions Report
- Notice of Complaint, dated 12/18/2018
- Respondent’s Response to Notice of Complaint, dated 1/20/2019 (resident name redacted)
- Respondent’s Request for a Forman Hearing, dated 3/29/2019
- Complaint and Notice of Hearing, dated 6/24/2019
- Respondent’s Answer to the Complaint and Notice of Hearing, dated 7/29/2019

Ms. Levins testified on her own behalf. Ms. Levins explained that the access from the outside is not restricted but it takes a key code to get out. The resident needed someone to open the gate to get out. An outside vendor opened the gate and allowed the resident to leave. The gate has warning signs advising the gate be kept closed. To exit the gate a key code is required. To enter from outside there are only the signs. The area has video surveillance. The resident cottages have alarms when entering and exiting them.

The Board members asked questions of Ms. Levins.

Ms. Levins called Ms. Erlanda Soza-Rice as a witness. Ms. Rice assessed the resident and met with the family members. They felt this was the best fit for the resident and they were satisfied.

Ms. Khan made a brief closing argument.

Ms. Levins made a closing argument. Ms. Levins felt they had things in place to protect the residents. It was an unfortunate incident.

Member Kidder made a motion that was seconded by Member Randolph to adopt the Factual Allegations 1 through 7, from the Complaint and Notice of Hearing, excluding 8 and 9, as the Board’s findings of Fact

A roll call vote passed 4 – 1 with Hasseltine voting nay.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		
No	0								X
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

Member Archer made a motion that was seconded by Member Randolph to dismiss the complaint as the Findings of Fact do not support any alleged violations.

A roll call vote passed 3 – 2 with Member Villafranca and Hasseltine voting nay.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5			X	X		X		
No	0	X							X
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

The hearing was concluded.

4. Hagos, Nuraine 19-26 Manager

President Villafranca conducted the hearing.

Sabrina Khan, Assistant Attorney General, was present and represented the state.

Nuraine Hagos was present for the hearing.

Elizabeth Campbell, Assistant Attorney General was present to advise the Board.

Ms. Khan made an opening statement.

Ms. Hagos made an opening statement.

Ms. Khan called Phil Smyth the Board investigator as a witness.

Ms. Khan introduced Exhibits to which Mr. Smyth testified:

- Arizona Department of Health Services, Statement of Deficiencies
- Arizona Department of Health Services, Enforcement Actions Report
- Notice of Complaint, dated 2/4/2019
- Respondent’s Response to Notice of Complaint, dated 2/4/2019
- Complaint and Notice of Hearing, dated 5/28/2019

- Respondent’s Answer to the Complaint and Notice of Hearing, dated 9/20/2018

Ms. Hagos testified on her own behalf. Ms. Hagos felt the DHS surveyor was over reaching and did not allow her to time to retrieve documents that were requested. As a result Ms. Hagos disputed the findings with DHS.

Ms. Hagos introduced Exhibits and testified to them:

- Employee Disaster Drill Documentation
- Email from DHS
- Evacuation Drill dated 1/9/18

Ms. Khan made a brief closing argument.

Ms. Hagos made a brief closing argument.

Member Kidder made a motion that was seconded by Member Randolph to adopt the Parties and Jurisdictions 1 through 3 and the Alleged Violations items 1 through 12 from the Complaint and Notice of Hearing as the Board’s Findings of Fact.

A roll call vote passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

Member Kidder made a motion that was seconded by Member Randolph to adopt Alleged Violations in the Complaint and Notice of Hearing as the Board’s Conclusions of Law.

A roll call vote passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

After the Board deliberated, Member Kidder made a motion that was seconded by Member Villafranca to place on probation the manager certificate with the following terms

1. Suspension of certificate but stay the suspension as long as terms of the consent agreement are met.
2. Probation for 3 months that includes:
 - a) Civil money penalty payable to the Board in the amount of \$250.00
 - b) 3 hours of Board approved continuing education in communicable diseases
 - c) 3 hours of Board approved continuing education in disaster drills
 - d) 3 hours of Board approved continuing education in personnel requirements
 - e) All continuing education classes must be pre-approved by the Board’s Executive Director
 - f) Any costs of the probation are those of the certificate holder

A roll call vote passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltime Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

The Hearing was concluded.

B. Board Review, Consideration and Action on Motion to Continue Answer Deadline and Administrative Hearing

5. Marghitas, Axenie 18-226 Manager

Sabrina Khan, Assistant Attorney General, was present and represented the state. Ms. Khan summarized for the Board the motion to continue and that the state was not opposed to the continuance.

Elizabeth Campbell, Assistant Attorney General was present to advise the Board.

Member Villafranca made a motion that was seconded by Member Archer to continue the case to the October meeting.

A roll call vote passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltime Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

C. Board Review, Consideration and Action on Motion for Rehearing

6. Carlos, Jose 18-272 Manager

Sabrina Khan, Assistant Attorney General, was present and represented the state.

Elizabeth Campbell, Assistant Attorney General was present to advise the Board.

Mr. Carlos was present and made a statement that the Order was too severe.

Ms. Khan, argued that Mr. Carlos had not provided any evidence based on the statute for a rehearing.

Member Kidder responded the Order was justified based on the severity of the complaint.

Member Villafranca made a motion that was seconded by Member Randolph to deny the Motion for Rehearing.

A roll call vote passed 4 – 1 with Hasseltine voting nay.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		
No	0								X
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

D. Board Review, Consideration and Action on Proposed Consent Agreement for Voluntary Surrender

7. Schoen, Veronica 19-56 Manager

Sabrina Khan, Assistant Attorney General, was present and represented the state.

Elizabeth Campbell, Assistant Attorney General was present to advise the Board.

Investigator Smyth summarized for the Board that Ms. Schoen was offered a consent agreement to complete the manager training and pass the state examination. She is no longer in the business and signed a Consent Agreement to for voluntarily surrender her certificate.

Member Kidder made a motion that was seconded by Member Randolph to accept Consent Agreement for Voluntary Surrender of Ms. Schoen’s manager certificate.

A roll call vote passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

E. Board Review, Consideration and Action to Rescind Prior Board Action and Rehear Complaint

8 Wartenberg, Cheryl 19-03 Administrator

Member Villafranca made a motion that was seconded by Member Randolph to rescind the previous Board action on Cheryl Wartenberg case 19-03 and Constantin Anton case 19-70.

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

Investigator Smyth summarized the complaint for the Board. DHS conducted a recertification survey in conjunction with six complaint investigations at Payson Care Center, located Payson and identified 8 deficiencies in 8 different areas. Some of the deficiencies included:

- Facility failed to ensure one resident was treated with dignity
- Facility failed to ensure a resident was free from physical abuse by a resident

DHS took enforcement action on one violation and assessed a civil money penalty of \$1,500.00.

Ms. Wartenberg was present along with her attorney John Checket. Ms. Wartenberg explained the circumstances regarding the survey. All of the complaint investigations were self-reports to DHS. All of the deficiencies were corrected and signed off by DHS.

Member Kidder made a motion that was seconded by Member Villafranca to dismiss complaint 19-03 against Cheryl Wartenberg, for insufficient evidence of a violation.

The motion passed 4 – 1 with Member Hasseltine voting nay..

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		
No	0								X
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

9. Anton, Constantin 19-70 Manager

The Board tabled the matter, to be heard at the September Board meeting.

6. COMPLAINT CASE

- A. Consent Agenda to not open a complaint investigation on the facility manager that is related to an ADHS enforcement action.

Facility Name

10. Acacia Cove Assisted Living
11. Advantage Adult Healthcare LLC
12. Brookdale North Scottsdale
13. Cactus Glen Care Home
14. Jane’s Place
15. Sun Garden Care Home
16. Villas at La Canada, Villa L
17. White Dove at Sunrise Mountain Assisted Living Home
18. Whitewing Mansion Family Care

Member Kidder made a motion that was seconded by Member Archer to not open complaints on the managers of the facilities listed under agenda items 10 to 18

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

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

19. 19-27 Gunther, Kelly Administrator 02/14/19

Investigator Smyth summarized the complaint for the Board. DHS conducted a recertification survey along with complaint investigations at The Good Samaritan Society – Peoria Good Shephard, located in Peoria and identified 14 deficiencies in 12 different areas. Some of the deficiencies included:

- Facility failed to complete an ongoing neurological assessment for one resident
- Facility failed to implement their policy for advanced directives for one resident

DHS took enforcement action on one violation and assessed a civil money penalty of \$500.00.

Ms. Gunther was present and answered the Board’s questions regarding the complaint.

Member Kidder made a motion that was seconded by Member Villafranca to dismiss complaint 19-27 against Kelly Gunther, for insufficient evidence of a violation.

The motion passed 4 – 1 with Member Hasseltine voting nay.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		
No	0								X
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

20. 19-80 Allison, Rebecca Manager 06/04/19

Investigator Smyth summarized the complaint for the Board. Board staff received a letter of complaint from Christian Perez the daughter of a former resident at the Courtyard Towers., located in Mesa. Ms. Perez alleged:

Ms. Allison was present and answered the Board’s questions regarding the allegations. The resident was seen 21 times by a PA between 8/28/18 and 2/5/19. The POA was not Ms. Perez.

Ms. Perez was present along with her mother and testified to her complaint. Ms. Perez mentioned that medications were not given and the condition of the room was soiled. Ms. Perez said she only spoke to Ms. Allison once. Their contact was primarily with the memory care managers.

After hearing from all parties, Member Kidder made a motion that was seconded by Member Archer to dismiss complaint 19-80 against Rebecca Allison, for insufficient evidence of a violation.

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

21. 19-71 Gatchalian, Ilsa Manager 05/31/19

Investigator Smyth summarized the complaint for the Board. Board staff received a complaint through the portal from Marisall Mata a registered nurse of a resident at Elsa’s Adult Care Home, located in Tucson. Ms. Mata alleged:

- The facility owners prohibited 3 registered nurses and one physical therapist from entering.

Ms. Gatchalian was present at the meeting. Ms. Gatchalian disputed Ms. Mata’s allegations and thought it was to try and get her in trouble. APS investigated and were unable to substantiate the complaint. There was no documentation to support the allegations.

The complainant Ms. Mata was invited but not present at the meeting.

Member Villafranca made a motion that was seconded by Member Hasseltine to dismiss complaint 19-71 against Ilsa Gatchalian, for insufficient evidence of a violation.

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

22. 19-72 Montellanos, Vilma Manager 06/03/19

Investigator Smyth summarized the complaint for the Board. DHS conducted a compliance inspection at Eternal Life Care Center, LLC, located in Tucson and identified 11 deficiencies in 7 different areas. Some of the deficiencies included:

- Manager failed to ensure fingerprint clearance card requirement was met
- Manager failed to ensure residency agreement requirement was met
- Manager failed to ensure quality management plan requirement was met

DHS took enforcement action on one violation and assessed a civil money penalty of \$500.00

Ms. Montellanos was present and represented by attorney Kathleen Lambert. Ms. Montellanos explained she was injured in July 2018 and was not able to physically be at the facility until December 2018. Ms. Montellanos did not authorize her certificate to be used at the facility past December 31, 2018.

Member Villafranca made a motion that was seconded by Member Kidder that the Board finds insufficient evidence of a violation in complaint 19-72 involving manager Vilma Montellanos, but issue a letter of concern. The Board’s concern was that the Manager failed to notify the Board that she was not managing after 30 days of absence.

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

23. 19-74 Montbleau, Sandra Manager 05/31/19

Investigator Smyth summarized the complaint for the Board. DHS conducted a compliance inspection at Ordinary Lifestyle, located in Payson and identified 5 deficiencies in 5 different areas. Some of the deficiencies included:

- Manager failed to ensure resident TB requirement was met
- Manager failed to ensure service plan requirement was met
- Manager failed to ensure personnel requirement was met

DHS took enforcement action on 3 violations and assessed a civil money penalty of \$1,000.00.

Ms. Montbleau was present and answered the Board’s questions regarding the compliance inspection. Ms. Montbleau took in a person from the community who she knew because their heat was not working during a cold spell.

Member Villafranca made a motion that was seconded by Member Randolph 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 19-74 involving manager Sandra Montbleau 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:

1. Suspension of certificate but stay the suspension as long as terms of the consent agreement are met.
2. Probation for 3 months that includes:
 - a) Reimbursement of investigative costs in the amount of \$250.00
 - b) 3 hours of Board approved continuing education in recordkeeping
 - c) 3 hours of Board approved continuing education in residency agreements
 - d) 3 hours of Board approved continuing education in personnel
 - e) All continuing education classes must be pre-approved by the Board’s Executive Director
 - f) Any costs of the probation are those of the certificate holder

A roll call vote passed 4 – 1 with Member Hasseltine voting nay.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		
No	0								X
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

24. 19-78 Dickerson, Kim Manager 06/04/19

Investigator Smyth summarized the complaint for the Board. DHS conducted a compliance inspection at Arizona Angles, located in Prescott Valley and identified 12 deficiencies, of which 3 were repeat deficiencies, in 8 different areas. Some of the deficiencies included:

- Manager failed to ensure medication administration requirement was met
- Manager failed to ensure medical record requirement was met
- Manager failed to ensure TB test requirement was met

DHS took enforcement action on 3 repeat violations and assessed a civil money penalty of \$750.00.

Ms. Dickerson was present along with her husband Larry Dickerson and explained that she had not read the prior deficiencies from a prior survey before she took the job. Ms. Dickerson is no longer the manager at that facility.

Member Kidder made a motion that was seconded by Member Randolph that the Board finds insufficient evidence of a violation in complaint 19-78 involving manager Kim Dickerson, but issue a letter of concern. The Board’s concern was that the Manager failed to maintain accurate resident records.

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

25. 19-79 Lemenager, Gayle Manager 06/04/19

Investigator Smyth summarized the complaint for the Board. DHS conducted a compliance inspection at Broadway Mesa Village, located in Mesa and identified 15 deficiencies in 6 different areas. Some of the deficiencies included:

- Manager failed to ensure there was documentation of caregiver training
- Manager failed to ensure TB requirement was met
- Manager failed to ensure medication policies and procedures requirement was met

DHS took enforcement action on 5 repeat violations and assessed a civil money penalty of \$3,000.00.

Ms. Lemenager was present with Sarah Skradski. Ms. Lemenager quit on October 31, 2018 but backdated the notice to February to protect the business.

Member Villafranca 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 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 19-79 involving manager Gayle Lemenager 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:

1. Suspension of certificate but stay the suspension as long as terms of the consent agreement are met.
2. Probation for 3 months that includes:
 - a) Reimbursement of investigative costs in the amount of \$350.00
 - b) Complete the 40 hour manager training course that is approved by the Board
 - c) Pass the manager state examination
 - d) Any costs of the probation are those of the certificate holder

A roll call vote passed 3 – 2 with member Archer and Hasseltine voting nay.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X				
No	0						X		X
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

26. 19-84 Fisher, William Manager 06/25/19

Investigator Smyth summarized the complaint for the Board. DHS conducted a compliance inspection at Eldercare Springs, located in Flagstaff and identified 7 deficiencies in 5 different areas. Some of the deficiencies included:

- Manager failed to ensure residency agreement requirement was met
- Manager failed to ensure service plans were signed by resident or the representative
- Manager failed to ensure resident inability to ambulate requirement was met

DHS took enforcement action on 4 violations and assessed a civil money penalty of \$4840.00.

Mr. Fisher was present and answered the Board’s questions regarding the compliance inspection. He also addressed the steps he took to correct the deficiencies so they would not reoccur.

Member Villafranca made a motion that was seconded by Member Randolph to dismiss complaint 19-84 against William Fisher, for insufficient evidence of a violation.

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

27. 19-82 Michel, Jean Manager 06/07/19

Investigator Smyth summarized the complaint for the Board. DHS conducted a compliance inspection at MAC Assisted Living, located Chandler and identified 10 deficiencies in 7 different areas. Some of the deficiencies included:

- Manager failed to ensure quality management program requirement was met
- Manager failed to ensure service plan requirement was met
- Manager failed to ensure medication were administered as ordered

DHS took enforcement action on three violations and assessed a civil money penalty of \$750.00.

Jean Michel was not present at the meeting.

Member Villafranca 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 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 19-82 involving manager Jean Michel 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:

1. Suspension of certificate but stay the suspension as long as terms of the consent agreement are met.
2. Probation for 3 months that includes:
 - a) Reimbursement of investigative costs in the amount of \$250.00
 - b) 3 hours of Board approved continuing education in medication administration
 - c) 3 hours of Board approved continuing education in quality assurance
 - d) All continuing education classes must be pre-approved by the Board’s Executive Director
 - e) Any costs of the probation are those of the certificate holder

A roll call vote passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

28. 19-85 Rendon, Rebecca Manager 06/27/19

Investigator Smyth summarized the complaint for the Board. DHS conducted a compliance inspection at Independent Living Adult Care Home, located Tucson and identified 11 deficiencies, 5 of which were repeat deficiencies, in 7 different areas. Some of the deficiencies included:

- Manager failed to ensure employee TB test requirement not met
- Manager failed to ensure service plan requirement not met
- Manager failed to ensure disaster drill requirement not met

DHS took enforcement action on 5 violations and assessed a civil money penalty of \$1750.00.

Ms. Rendon was present and answered the Board’s questions. Ms. Rendon admitted it was her fault on the TB test deficiency. She admitted all of the repeat deficiencies were her fault.

Member Villafranca 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 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 19-85 involving manager Rebecca Rendon 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:

1. Suspension of certificate but stay the suspension as long as terms of the consent agreement are met.
2. Probation for 3 months that includes:
 - a) Reimbursement of investigative costs in the amount of \$250.00
 - b) 3 hours of Board approved continuing education in service plans
 - c) 3 hours of Board approved continuing education in personnel requirements
 - d) 3 hours of Board approved continuing education in emergency disaster preparedness
 - e) All continuing education classes must be pre-approved by the Board’s Executive Director
 - f) Any costs of the probation are those of the certificate holder

A roll call vote passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

29. 19-86 Fuller, Coty Manager 07/01/19

The Board tabled hearing the complaint until the next Board meeting.

30. 19-87 Smith, Blesilda Manager 07/01/19

The Board tabled hearing the complaint until the next Board meeting.

31. 19-88 Whitehat, Victoria Manager 07/01/19

Investigator Smyth summarized the complaint for the Board. DHS conducted a compliance inspection at Vicky’s Loving Home, located in Phoenix and identified 2 deficiencies in 2 different areas. Some of the deficiencies included:

- Manager failed to ensure a caregiver provided documentation of completion of an approved caregiver training program
- Manager failed to ensure toxic materials storage requirements were met

DHS took enforcement action on one violation and assessed a civil money penalty of \$1,000.00.

Ms. Whitehat was present and answered the Board’s questions. Ms. Whitehat admitted she did not check that the caregiver had a valid certificate.

Member Villafranca made a motion that was seconded by Member Archer that the Board finds insufficient evidence of a violation in complaint 19-88 involving manager Victoria Whitehat, but issue a letter of concern. The Board’s concern was that manager failed to verify caregiver training credentials.

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltime Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

32. 19-90 Rosa, Gladys Manager 07/01/19

Investigator Smyth summarized the complaint for the Board. DHS conducted a complaint investigation at Mount Zion Assisted Living, located Phoenix and identified 8 deficiencies, 3 of which were repeat deficiencies, in 5 different areas. Some of the deficiencies included:

- Manager failed to ensure service plan requirement was met
- Manager failed to ensure medication administration requirement was met
- Manager failed to ensure admittance requirement was met

DHS took enforcement action on two repeat violations and assessed a civil money penalty of \$500.00.

Ms. Rosa was present and answered the Board’s questions regarding the repeat violations. According to Ms. Rosa, a RN was supposed to come to the facility for the service plans but was unavailable.

Member Kidder made a motion that was seconded by Member Villafranca 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 19-90 involving manager Gladys Rosa 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:

1. Suspension of certificate but stay the suspension as long as terms of the consent agreement are met.
2. Probation for 2 months that includes:
 - a) Reimbursement of investigative costs in the amount of \$250.00
 - b) 3 hours of Board approved continuing education in service plans
 - c) 3 hours of Board approved continuing education in residency
 - d) All continuing education classes must be pre-approved by the Board’s Executive Director
 - e) Any costs of the probation are those of the certificate holder

A roll call vote passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltime Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

33. 19-58 Leka, Daniela Manager 04/05/19

Investigator Smyth summarized the complaint for the Board. Ms. Leka did not respond to the Board’s request for a response to the complaint. DHS conducted a complaint investigation at Thunderbird Assisted Living Home, located Scottsdale and identified 5 deficiencies, of which 4 were repeat deficiencies, in 4 different areas. Some of the deficiencies included:

- Manager failed to ensure residency agreement requirements were met
- Manager failed to ensure service plan requirement was met

DHS took enforcement action on three violations and assessed a civil money penalty of \$1,000.00.

Mr. Smyth advised the Board that Ms. Leka’s certificate was revoked and no longer a certified manager and recommended the Board close the complaint without prejudice. Should Ms. Leka apply for manager certification in the future the matter could be brought up to be heard at that time. Ms. Leka was not present at the meeting.

Member Kidder made a motion that was seconded b Member Randolph to close the complaint without prejudice.

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

34. 19-61 McKenzie, Melissa Manager 04/22/19

Investigator Smyth summarized the complaint for the Board. DHS conducted a compliance inspection at Pleasant Valley Care Home, located in Prescott and identified 25 deficiencies in 11 different areas. Some of the deficiencies included:

- Manager failed to ensure fingerprint clearance card requirement was met
- Manager failed to ensure quality management requirement was met
- Manager failed to ensure service plan requirement was met

DHS took enforcement action on 7 violations and assessed a civil money penalty of \$5,750.00.

Ms. McKenzie not present at the meeting.

Member Kidder made a motion that was seconded by Member Villafranca 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 19-61 involving manager Melissa McKenzie and to set for formal hearing

A roll call vote passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

7. ADMINISTRATOR LICENSURE AND MANAGER CERTIFICATION

A. Consent Agenda to approve temporary administrator licenses, permanent administrator licenses, temporary manager certificates, permanent manager certificates, pending passing all required examinations within the substantive time frame or the license or certificate will be denied.

35. Temporary Administrator Licenses

Brown, Shannon			
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Permanent Administrator Licenses

Brown, Shannon	vonPahlen- Fedoroff, Timothy		
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Temporary Manager Certificates

Valle, Karen	Buliga, Fanel		
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Permanent Manager Certificates

Valle, Karen	Buliga, Fanel	Cheves, Alishea	Rocha, Briceida
Ruggieri, Marie	Burns, Victoria	DeForest, Abel	Skradski, Sarah
Tracy, Steven	Steiman, Mitchell	Torres, Sergio	Tegene, Abeba
Tucceri, Sue	Sas, Danina	Jasper, Jocelyn	

Member Kidder made a motion that was seconded by Member Villafranca to approve the temporary and permanent administrator licenses, the temporary and permanent manager certificates, pending passing all required examinations within the substantive time frame or the license or certificate will be denied.

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

- B. 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 time frame or the license or certificate will be denied.

36. Johnson, Brenda permanent manager’s certificate

Zakiya Mallas, Licensing Specialist outlined for the Board the issues related to the applicant.

Applicant Brenda Johnson was present and answered the Board’s questions.

Member Villafranca made a motion that was seconded by Member Randolph to approve the permanent manager certificate.

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

36a. Catuna, Andrei permanent manager’s certificate

Zakiya Mallas, Licensing Specialist outlined for the Board the criminal issues related to the applicant.

Applicant Andrei Catuna was present and answered the Board’s questions.

Member Kidder made a motion that was seconded by Member Villafranca to approve the permanent manager certificate pending passing all required examinations within the substantive time frame or the certificate will be denied.

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

8. ASSISTED LIVING FACILITY TRAINING PROGRAMS

- A. Consent Agenda to Approve Assisted Living Facility Caregiver and Manager Training Programs and Renewals of Assisted Living Facility Caregiver and Manager Training Programs.

37. Assisted Living Facility Caregiver Training Program

None	
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Assisted Living Facility Manager Training Program

None	
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Assisted Living Facility Caregiver Training Program Renewal

Accord Healthcare Institute ALCTP-0067	Caregiver Training Institute ALCTP-0001
Caregiver Certification Program ALCTP-0069	Endeavor Training Institute ALCTP-0079
Academy for Caregiver Excellence ALCTP-0054	

Assisted Living Facility Manager Training Program Renewal

None	
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Member Kidder made a motion that was seconded by Member Randolph to approve the assisted living facility caregiver and manager training program and the renewals of caregiver and manager training programs.

The motion passed 5 – 0.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		X
No	0								
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

9. OTHER BUSINESS

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

38. Arizona ALFA’s request for caregiver training rule changes.

The Board discussed ALFA’s request to open the caregiver rules to make changes allowing for on-the-job training to become a caregiver, which was the same as proposed in the last legislative session under SB1346. The Board discussed that the rules would had be opened for SB1244 and not to open a second rulemaking that ALFA requested.

Member Villafranca made a motion that was seconded by Member Randolph to not open caregiver rules at this time per ALFA’s request.

The motion passed 4 – 1, with Member Hasseltine voting nay.

Vote		Villafranca President	Louis V. P.	Kidder Member	Randolph Member	Seamans Member	Archer Member	Campbell Member	Hasseltine Member
Yes	5	X		X	X		X		
No	0								X
Abstain	0								
Recuse	0								
Absent	3		X			X		X	

10. ADMINISTRATIVE MATTERS

The following items concern administrative matters and are provided for informational purposes. The Board may review and discuss the following matters.

39. Financial Reports

Executive Director Imig reviewed the financial reports with the Board. The Board fund ended the fiscal year with a balance of \$460,458, which was 3.18% above projections. Overall expenses were \$22,974 under what was budgeted.

40. Complaints Status Report

Investigator Smyth reported that in July there were 10 complaints opened. There are 5 open complaints from FY18 and 35 from FY19. There are currently 30 active consent agreements.

41. Licensing Report

Licensing Specialist Mallas reported there are 333 active and 22 inactive administrators and 2060 active and 18 inactive managers.

42. Legislation Update

There was not to report.

43. Rules Update

Caregiver rules related to SB1244 will be opened soon.

44. Training Program Report

Executive Director Imig reported there were about 44 caregiver training programs and 13 manager training programs. During the last year from August 2018 to August 2019 there were 2365 caregivers that took the exam for the first time and had an 80% pass rate. There were 371 manager trainees that had a first time pass rate of 80%.

45. Board Meeting Critique

There was a brief board meeting critique.

11. FUTURE AGENDA ITEMS AND MEETING DATES

The next regular meeting of the Board will be held on Monday, September 16, 2019 at 1740 W. Adams, Board Meeting Room C, Phoenix, Arizona, at 9:00 a.m.

12. ADJOURNMENT

President Villafranca adjourned the meeting at 4:01 p.m.