STATE OF ARKANSAS
CHILD WELFARE AGENCY REVIEW
BOARD MEETING

DEPARTMENT OF HUMAN SERVICES
700 WEST MAIN STREET
LITTLE ROCK, ARKANSAS

January 22, 2020 at 1:30 p.m.

BOARD MEMBERS PRESENT:

Mr. Ed Appler, Chairman, Adoptions Unit
Mr. Andy Altom, Foster Care Unit
Ms. Beverly Massey Foti, Psychiatric Residential Care Unit
Mr. Charles Flynn, Emergency Shelters Unit
Mr. David Whatley, Residential Care Unit

ALSO PRESENT:

Ms. Skye Martin, OCC
Mr. David Sterling, DCFS Designee Attorney for the Board
Ms. Ebony Russ, OCC/ECE Program Manager
Mr. Charles Arnold, Licensing Specialist
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CHAIRMAN ED APPLER: So I'll call to order the meeting, of January 22nd, of the Child Welfare Agency Review Board. The first item on the agenda is the approval of the minutes from our last meeting, which were delivered somewhat late to us, but has any -- everyone had a chance to read them? I have not.

MR. ANDY ALTOM: I have not.

CHAIRMAN ED APPLER: Can we table that to the next meeting?

MS. EBONY RUSS: Yes.

CHAIRMAN ED APPLER: Okay. We'll move on from there.

MR. CHARLES ARNOLD: Mr. Chair, this is a new procedure that we are about to do, and we will have time, in Other Business, to talk on how to streamline this procedure, if there's anything that we need to be doing differently, but we have grouped Items 1, a-1, together, because those were granted temporary approvals. And I'm going to be reading these for the record -- what the request is -- with the exceptions of Items e and j, and those two items will be heard just like any other presentation. We have the parties here for your consideration. So I will begin to read for the record these items and then we would
ask that you would -- would vote on them as a whole, 
for the final approval, since the temporary approval 
has already been granted.

So Item 1a, The Division of Children and Family Services is as -- a special consideration for Item -- for Regulations 209.2, "Each bedroom shall have 50 square foot per occupant." This room will have three girls; it measures 140 square feet; there's a bunk bed and a twin bed; and this enables a four-year-old and five-year-old, siblings, to be placed together in with a nine-year-old.

Item 1b is The Division of Children and Family Services is requesting special consideration for 211.5, "Foster home shall not have more than five foster children in care and no more than eight children in their home, including their own children." There are five biological children in this home and three foster placements already. We are asking to add two foster children, which are siblings and have already been placed in this specific home in the past, and now they're back. And so they -- DCFS is asking to -- for them to be placed back in this home, because they feel comfortable there. There is no space requirements needed. Everything is -- is good on space.
CHAIRMAN ED APPLER: Let me just make sure I understand. So there will be 10 children in the home?

MR. CHARLES ARNOLD: Yes.

CHAIRMAN ED APPLER: And -- and someone has gone out to make sure there's adequate space for all children?

MR. CHARLES ARNOLD: Yes. Licensing visited the home on January 2nd of this year and found it to be in good standing.

Item 1c, Division of Children and Family Services is requesting a special consideration to 209.10, "Foster children, except infants under the age of two, shall not share a sleeping room with adults, and this can be increased to age four for grandparents." A five-year-old, in this case, is placed with their grandparents and they are living in a one-bedroom apartment. They have applied for a new -- a two-bedroom apartment and anticipate moving into that new apartment in February of this year. This will allow a grandparent -- a grandchild to be placed with their grand -- grandparents.

Item 1d, The Arkansas Baptist Children's Home and Family Ministries is asking a special consideration for 211.5, "Foster parents -- foster
home shall not have more than five foster children in care." In this case, there is a sibling group of seven, to be placed in this home, that have been recently removed from their home. This family has recently moved into a very large home and sufficient to meet all sleeping arrangements and square footage.

Item 1f, DCFS is requesting a special consideration for 209.1, "Each household occupant shall have a bedroom that provides privacy." This instance, a grandparent has a 16-year-old son already living in a two-bedroom apartment. Their ten-year-old grandchild is being placed in this home and the grandparent will sleep on the couch. And this grandparent is looking for a three-bedroom apartment and will move as -- whenever those come available. This is child-specific and will be time-limited to January of 2022, but they anticipate a new apartment before then.

Item 1g, The Division of Children and Family Services is asking special consideration for 209.2, "Each bedroom shall have at least 50 square feet per occupant." This will allow three children in -- excuse me -- three people in 130 square -- 136-square-foot master bedroom. This is a one-year-old child. And the grandparents will be in the queen-
size bed; the one-year-old will be in the crib. This is also child-specific and this is in the best interest of the child, due to them being relatives; grandparent and grandchild.

Item 1h, DCFS is requesting a special consideration to 209.2, "Each bedroom shall have at least 50 square feet per occupant." This will allow a 15-year-old and a 13-year-old to share a room that is 86 square feet. And this room has a set of bunk beds and this also is -- will enable grandchildren to be placed with their grandparents. This will also be able -- the children will be able to remain in their community and in their same school. And this request is time-limited to January of 2022.

Item 1i, The Division of Children and Family Services is requesting a special consideration for 209.2, "Each bedroom shall have at least 50 square feet per occupant." This will allow a one-and-a -- excuse me -- two-and-a-half-month-old to share a master bedroom with the foster parents and a seven-month-old biological child. The siblings of this two-and-a-half-month-old are already placed in this home and occupy the other bedrooms. This will allow the two-and-a-half-month-old to be placed with her brother and -- excuse me -- her two brothers. And
this is child-specific and is limited until 10/31 of 2021.

Item 1k, DCFS is requesting a special consideration for 209.2, "Each bedroom shall have at least 50 square feet per occupant." This will allow a six -- eight and six-year-old siblings to be placed with the grandparents. The room is 96.9 square feet and they have a twin bed with a trundle bed under that twin bed. And this is in the best interest of the child so that they can be placed with their grandparents.

Item 1l, Meritan, Incorporated is requesting a special consideration to 311.6, "The number of children placed into a therapeutic foster home shall not exceed two except when a sibling group, in that case the maximum will be three." This home already has two TFC children placed in this home. They are wanting to add a 16-year-old to place -- to be placed into this home. This child has disrupted from another placement and Meritan feels that this home is the best placement for this female child. They are actively looking for another placement, but none are currently available. And this is child-specific, and this consideration would expire on January 31, 2022, if not already remedied by finding a new placement.
These are the ones that the temporary approvals were already granted.

CHAIRMAN ED APPLER: Okay, so I suppose the motion would be to approve the cases that you've just presented to us. Is that right?

MR. JOE WEST: As a batch.

CHAIRMAN ED APPLER: Pardon?

MR. JOE WEST: As a batch.

CHAIRMAN ED APPLER: As a package. Okay.

MR. JOE WEST: Yes.

CHAIRMAN ED APPLER: But, however, DCFS will abstain from the ones that have to do with DCFS --

MR. DAVID STERLING: You took the words right out of my mouth.

CHAIRMAN ED APPLER: -- and -- where's Charles?

MR. CHARLES FLYNN: I abstain from d, that 1d.

CHAIRMAN ED APPLER: Okay. So, there's a motion. Is there a second?

MR. ANDY ALTOM: Second.

CHAIRMAN ED APPLER: Motion and a second? Any discussions? If none, all in favor say, "Aye."

(CHORUS OF AYES.)

CHAIRMAN ED APPLER: Opposed, the same.

(NONE.)

CHAIRMAN ED APPLER: Motion carries. Okay.
UNKNOWN FEMALE: Good afternoon. I'm here to present Item 1e. The licensing specialist, Patty Glanton, and the resource worker, Brenda Smith, could not travel in due to the weather. Okay. DCFS is requesting a special consideration for regulations 211.5, "Foster parents shall not have more than five foster children in care. A foster home shall not have more than eight children in their home, including their own children." This includes placement for respite-care. For the home of Ms. G and Mr. W, the home consists of eleven children. Seven of those children are the biological children of the foster parents. There are four placed children. Licensing visited the home on January 6, 2020 and found all other regulations were met with the exception of the requested special consideration for sleeping arrangements for two of the placed siblings, sisters, which were sharing a bed. Licensing explained this too -- this too would need to be corrected before presentation to the Board, as they will want to know the sleeping arrangements of eleven children and two of those foster -- and two foster parents, ensuring all other regulations were met. Licensing was notified the following day the sleeping arrangements were corrected by separate beds.
for all placed children. Other regulations, including square footage, smoke alarms, and operable windows, were met. I approved this request on November 21, 2019. PRLU supports this request in the best interest of keeping the children with known friends and the siblings together. This request is also child-specific and time-limited to January 31, 2022.

MR. ANDY ALTOM: I have a question, Mr. Chair, if it's okay. There was no evidence that that -- that the licensing violation had been corrected in our packet. It has been corrected, though?

UNKNOWN FEMALE: It has been corrected.

MR. ANDY ALTOM: Okay. That was one of my questions. And then the other one was, in the second paragraph of -- or I guess what we would consider the second paragraph -- there -- there's a narrative that describes where the biological aged children are sleeping, as well as the placement age, but one of the things that I have a question about was, it says here -- has, "Biological age 16 and biological age 14 share one room, with double-window, non-operable, queen bed." It says, "Double-window, non-operable," okay? But then, when I looked at the floor plans, it's two-story -- it's a two-story building, so my
concern is that we didn't identify on the -- on the floor plan which bedroom is it that has a non-operable window and is it an upstairs bedroom? Because that would be a concern for fire, that type stuff, so.

UNKNOWN FEMALE: Correct. I do not have that specific information. Patty Glanton will be available by phone if we need to make contact with her right now, if that's a question that you would like to hear an answer from. I can do that if it's okay with the Board.

MR. ANDY ALTOM: Well, I -- I know Sanford's not here, but I know that's one of the things that Sanford would typically say is he's concerned about fire in these type facilities.

UNKNOWN FEMALE: Correct.

MR. ANDY ALTOM: Especially with that large a number. So if we could get an answer to that, that was the only reason I flagged it to -- to want to ask questions for it.

UNKNOWN FEMALE: Sure.

CHAIRMAN ED APPLER: Could you give her a call? And we'll move on down the agenda, but, after you get that information, come back and share it with us?

UNKNOWN FEMALE: Yes, I will.
MS. SHANNON ROUSE: Good afternoon. Shannon Rouse, Placement and Residential Licensing. I have Item 2j on the agenda. This item is for DCFS. DCFS is requesting a special consideration for regulation 209.7 which states, "Children of the opposite sex shall not share the same bedroom if either child is four years old or older except for a parent in foster care with her child." This is a provisional placement -- no, I'm sorry. Okay. This is a provisional placement for an opposite sex sibling group of two. There will be one male, age ten, and one female, age nine, sharing the same bedroom. The bedroom measures 126.04 square feet. PRLU granted a temporary approval with the following provisions: children will get dressed in the bathroom to ensure privacy; a video monitor in the child's room; and the children will need to be monitored throughout the night and documented as a safety precaution. A temporary approval was granted 12/13/19. This request is child-specific and time-limited until 1/31/22. Based on supporting documentation, PRLU supports this request. And licensing did make a licensing visit on 1/13/2020. And I have Keisha Houston here, with DCFS, if you
have any further questions.

MR. ANDY ALTOM: I do have -- I do have a question about -- I understand there's only three people in the building and when I was reading this it says -- can -- could you describe how the video monitoring of a bedroom occurs and how that's documented?

MS. KEISHA HOUSTON: Well currently what they have is it's a baby monitor with a video. And Mr. Johns has a log that he keeps -- a journal. He has alarms set. So, right now, he's periodically checking throughout the night, as well as monitoring through the baby monitor when he's awake. The times that he's asleep, he then has the alarm set so that he can go in and then physically monitor what's going on in the room with the children. He physically goes in there.

MR. ANDY ALTOM: So how often does he check that? Is that --

MS. KEISHA HOUSTON: To my knowledge it's between two to three hours.

MR. ANDY ALTOM: Okay. That was all my -- that was just a question I had and I couldn't ask it when it was just sent to me, so thank you.

MS. KEISHA HOUSTON: Uh-huh.
MR. ANDY ALTOM: Mr. Chairman, I'll make a motion to approve the request.

CHAIRMAN ED APPLER: Motion. Do we have a second?

MS. BEVERLY MASSEY-FOTI: I'll second.

CHAIRMAN ED APPLER: Motion and a second. Any further discussion? If none, all in favor say, "Aye."

(CHORUS OF AYES.)

CHAIRMAN ED APPLER: Opposed, the same.

(NONE.)

CHAIRMAN ED APPLER: Motion carries.

MS. SHANNON ROUSE: Thank you.

CHAIRMAN ED APPLER: Yes, ma'am?

UNKNOWN FEMALE: So we did follow up with Patty Glanton. She advised that the room is on the first floor. And it used to be the old dining room.

MR. ANDY ALTOM: Mr. Chairman, I make a motion to approve that request as well.

MR. DAVID WHATLEY: Second.

CHAIRMAN ED APPLER: Motion and a second. Any further discussion? If none, all in favor say, "Aye."

(CHORUS OF AYES.)

CHAIRMAN ED APPLER: Opposed, the same.
CHAIRMAN ED APPLER: Motion carries. Thank you.

UNKNOWN FEMALE: Thank you.

MS. CHARLOTTE GALUSHA: I'm Charlotte Galusha with Placement and Residential Licensing.

CHAIRMAN ED APPLER: Hang on just a moment. For the record, Mr. Alton will be coming around there, since this is his organization we're talking about.

MS. CHARLOTTE GALUSHA: Charlotte Galusha, with Placement and Residential Licensing. I'm presenting Item 3 for United Methodist Children's Home. They are requesting for their placement license to be placed on inactive status. UMCH had originally decided to go inactive in November of 2017. A request should have been made by PRLU in November of '18, however there was an oversight with the licensing specialist that was assigned to the agency that, at that time, had just resigned. So this is the first official request for an inactive status from the Board. And Mr. Andy Altom's here for questions.

MR. ANDY ALTOM: Yeah. We currently are not using these, but we still are about halfway through full-implementation of the Families First Act, as far as the IV-E money coming in on the other stuff that
DCFS is looking at, as well as the three facets getting their feet on the ground and up on the Medicaid side. So this will primarily be tied to therapeutic foster care, as well as independent living placements. And we'd like to be able to hang onto that license for another year, until we decide, strategically, what we're going to do, as far as operating within our continuum.

MR. CHARLES FLYNN: I make a motion to approve this request for --

MR. DAVID WHATLEY: Second.

MR. CHARLES FLYNN: -- United Methodist.

CHAIRMAN ED APPLER: Motion and second. Any discussion? If none, all in favor say, "Aye."

(CHORUS OF AYES.)

CHAIRMAN ED APPLER: Opposed, the same.

(NONE.)

CHAIRMAN ED APPLER: Motion carries. Thank you, sir.

MS. FATIMA STEPPS: Good afternoon. Fatima Stepps, with the Placement and Residential Licensing Unit. I have Item 4 on your agenda. This request comes from Arkansas Baptist Children's Homes and Family Ministries. Arkansas Baptist Children's Homes is requesting a special consideration on licensing
standard 104.3a that states, "Each agency shall have a caseworker who is responsible for doing assessments, case planning, and casework services possessing at least one of the following:

(psychiatric facilities see Section 906) A bachelor's degree in a human services field." Ms. Spinks currently does not meet the educational requirement for a caseworker as required. She is currently attending the University of Arkansas at Monticello, with plans to receive her Bachelor's degree in Social Work in May of 2020. The agency feels that Ms. Spinks will meet the requirements in a short duration of time and requests that she be granted the approval to work as a caseworker with the agency. PRLU does support the agency's request and I have Mr. Kelly Jones and Ms. Ashley Spinks here, should you have any questions.

CHAIRMAN ED APPLER: So in four months you'll have a BSW?

MS. ASHLEY SPINKS: Yes.

MR. CHARLES FLYNN: Ashley is having some --

MR. DAVID WHATLEY: Based on the fact that she'll be --

MR. CHARLES FLYNN: -- allergy -- sinus problems. You may not be able to hear her, it's hard
for her to talk right now. She's having some bronchial problems.

CHAIRMAN ED APPLER: Okay.

MR. DAVID WHATLEY: Based on the fact that she'll be receiving her Bachelor's degree in social work in May 2020, I make a recommendation that we approve the request.

MR. ANDY ALTOM: Second.

CHAIRMAN ED APPLER: Motion and a second. Any discussion? If none, all in favor say, "Aye."

(CHORUS OF AYES.)

MR. CHARLES FLYNN: I abstain.

CHAIRMAN ED APPLER: Opposed, the same.

(NONE.)

CHAIRMAN ED APPLER: Motion carries. Thank you.

MS. FATIMA STEPPS: Thank you.

MS. SHARRA LITZSEY: Good afternoon. I'm Sharra Litzsey, with the Placement and Residential Licensing Unit. I will pre -- I will be presenting Item Number 5. Habilitation Services is requesting a new psychiatric residential treatment facility license, for the care of 64 out-of-state children that are ages six to 18 years, at their new facility, Little Creek Behavioral Health. The facility will be an extension of their Mill Creek of Arkansas Behavioral
Health Facility. The facility will operate in Conway, Arkansas, and their program -- and will only accept residents into their program that reside from states other than Arkansas. For their administration staff, Nathan Chenault will serve as the Administrator for Little Creek, Megan Morris will serve as their Social Services Director, and other staff, including clinical director, caseworker, and other staff, will be hired pending the approval of this request. The agency does have policies and procedures in place for this license type. A Building and Grounds was conducted on 10/8/2019 and no deficiencies were noted during the visit. A fire inspection was conducted on 9/5/19 and the final fire inspection approval has been received. Health inspection report approval was received on 10/23/2019. The facility is under the Conway Cooperation City Water. Zoning approval is not required for this location. Habilitations Center, Inc. has requested that a new license be granted to operate a psychiatric residential treatment facility, Little Creek Behavioral Health, for 64 out-of-state children, ages six to 18, at their Conway location. Little Creek will only accept residents in their program that reside from states other than Arkansas.
Through licensure of Mill Creek of Arkansas, a residential facility, and Mill Creek of Arkansas, PRTF Programs, the agency has demonstrated the ability to comply with minimum licensing standards for child welfare agencies. The Placement and Residential Licensing Unit is in support of this request and Nathan Chenault is here to answer any questions.

MR. ANDY ALTOM: Mr. Chair, can I be recognized?

CHAIRMAN ED APPLER: Yes, sir.

MR. ANDY ALTOM: I noticed that -- that you guys withdrew the request initially and that -- resubmitting it to the -- to this Board today; it has the letter here. I know one of the issues was the monitoring.

MR. NATHAN CHENAULT: Yes, sir.

MR. ANDY ALTOM: I'm glad Mischa sent another attorney, because she made the argument that, under the law, there does require that there -- does this -- is this the letter that they've put in their packet allowing the -- the licensing to monitor, does that meet the requirements for the statute?

MR. DAVID STERLING: I believe it does. What -- basically what they're asking is for a conditional license conditioned on -- upon, you know, them
submitting to monitoring by DCC/ECE. And it's -- so
-- and their -- the letter from January 14, 2020
addresses all that, as far as, you know, any
deficiencies, you know, being subject to corrective
action plans and so forth. So they're basically just
kind of putting themselves out there to be monitored.
Apparently, according to the letter, no monitoring of
seclusion, because they're not going to be using
seclusion, but as far as restraints and so forth --
but -- but they are subjecting themselves to
monitoring by DHS.

CHAIRMAN ED APPLER: So will it be staffed from
your agency?

MS. SHARRA LITZSEY: Correct. It will be the
licensing specialist assigned to the facility.

CHAIRMAN ED APPLER: Okay.

MR. ANDY ALTOM: Well I do have another
question, though. Is -- is it appropriate for the
provider to say what they can and can't monitor? Or
is this an all-in? You know, you say you can't
monitor seclusions, but do you have seclusion rooms
in your facility?

MR. NATHAN CHENAULT: No, sir. We do not have
seclusion rooms. We don't utilize them in Mill Creek
at the Fordyce Campus either, and we won't be adding
MR. ANDY ALTOM: Oh, okay.

MR. NATHAN CHENAULT: It's just not something we care to use.

MR. ANDY ALTOM: So it's not an -- there's not an opportunity for seclusion?

MR. NATHAN CHENAULT: Correct.

MR. ANDY ALTOM: Okay. But if -- but if someone were to come in and ask a caregiver, "Do you do seclusions?" and they said, "Yes," then that's fair game for them to investigate, correct?

MR. NATHAN CHENAULT: Yes, sir.

MR. ANDY ALTOM: Okay.

MR. NATHAN CHENAULT: Yeah. Just, typically, when people mention restraint, they mention seclusion at the same time, and so we just wanted to --

MR. ANDY ALTOM: Right.

MR. NATHAN CHENAULT: -- rule it out for us.

MR. ANDY ALTOM: I understand. Yeah. I'll make a motion to approve the request.

MR. DAVID WHATLEY: Second.

CHAIRMAN ED APPLER: Motion and a second. Is there any further discussion? If none, all in favor say, "Aye."

(CHORUS OF AYES.)
CHAIRMAN ED APPLER: Opposed, the same.

(None.)

CHAIRMAN ED APPLER: Motion carries. Thank you, sir.

MR. NATHAN CHENAULT: Thank you, sir.

MR. CHARLES ARNOLD: We are now entering into a different phase of our agenda. Jennifer? I wanted to also note, the board members have not seen these packets, yet, and so, as you bring your packets up, if you'll bring them to me, I'll pass them out. But we also ask that you give the -- the Board time to look over these. And sometimes there are some awkward silences as they're -- they're reading. They'll ask questions whenever they're ready, so we ask that you be patient during their reading. Jennifer J.? Item Number 6a was not able to be here today, so we're -- this will be 6b.

MR. DAVID STERLING: Mr. Chair, for the record, I'll be abstaining from all these considerations/permissions from DCFS.

(Board reading packet.)

CHAIRMAN ED APPLER: You like dogs, huh?


CHAIRMAN ED APPLER: So is there any sort of motion?
MR. ANDY ALTOM: I'll make a motion to approve the request.

MR. CHARLES FLYNN: I'll second.

CHAIRMAN ED APPLER: Motion and a second. Any discussion?

MR. DAVID WHATLEY: The only discussion that I have, I noticed it said that you worked hard to get the record expunged in 2007. So was it -- it was expunged?

MS. JENNIFER J.: Yes, sir.

MR. DAVID WHATLEY: Why are we --

CHAIRMAN ED APPLER: Don't ask me.

MR. DAVID WHATLEY: -- hearing the --

CHAIRMAN ED APPLER: I've asked that question before. I don't know.

MR. DAVID WHATLEY: Okay.

MR. CHARLES FLYNN: Congratulations on that.

MS. JENNIFER J.: Thank you.

MR. JOE WEST: So, having been expunged, there's some regulation that someone has told me about that says we still need to vote on this. Something like that.

MR. DAVID WHATLEY: Yeah, I mean, to me expungement would be like it never happened.

MR. ANDY ALTOM: We have a new attorney.
MR. JOE WEST: You -- you --

MR. ANDY ALTOM: Let's ask him what he thinks of
it.

MR. JOE WEST: You would think that, but the law
-- the criminal code is -- is not in agreement that
expunged actually means expunged. It's typically --

MR. DAVID WHATLEY: Oh, wow.

MR. JOE WEST: -- you get -- yeah. And expunged
and sealed have been used interchangeably, so it may
be -- a record may be referred to as being expunged,
but it may only be sealed.

CHAIRMAN ED APPLER: And, yeah, right.

MR. JOE WEST: So that may be -- may be the
situation.

CHAIRMAN ED APPLER: They could get it anytime
they want.

MR. DAVID WHATLEY: Yes, sir.

MR. JOE WEST: Yeah.

CHAIRMAN ED APPLER: So there's a motion and a
second. Any further discussion? If none, all in
favor say, "Aye."

(CHORUS OF AYES.)

CHAIRMAN ED APPLER: Opposed, the same.

(NONE.)

CHAIRMAN ED APPLER: Motion carries. Thank you.
MR. CHARLES FLYNN: Have we been told that, for this Board, that that did not apply or --

CHAIRMAN ED APPLER: It's -- you know, it's been something that's come up occasionally and -- and prior staff pointed out, either in the code or the regulation, that even if there's -- if there's been a felony that's been sealed, or expunged, or pardoned, they still need to come before the Board.

MR. JOE WEST: Because those records, whether sealed or not, still exist and certain -- certain agencies have access to it.

MR. CHARLES ARNOLD: Laura R.?

(BOARD READING PACKET.)

CHAIRMAN ED APPLER: So I see a note on here that I granted temporary approval on December 10th, right?

MS. ATHELIA DISMUKE: Yes.

MS. KATIE GRIFFIN: Yes.

(BOARD READING PACKET.)

MR. ANDY ALTOM: I'll make a motion to approve the request based on the fact that this is over 22 years old -- 22 years ago that this individual had this problem and since hasn't had the problem.

MR. CHARLES FLYNN: I'll second. I hate that you had to come before the Board.
CHAIRMAN ED APPLER: Motion and a second. Any discussion? If none, all in favor say, "Aye."

(CHORUS OF AYES.)

CHAIRMAN ED APPLER: Opposed, the same.

(NONE.)

CHAIRMAN ED APPLER: Motion carries. Thank you.

MS. LAURA R.: Thank you.

MR. CHARLES ARNOLD: Melissa C.?

(Board Reading Packet.)

MR. CHARLES ARNOLD: Mr. Chairman, I would like to point out a typographical error on our agenda. Janet Norris is the resource worker, N-O-R-R-I-S, instead of Janet Harris. That's the resource worker's name.

CHAIRMAN ED APPLER: Okay.

(Board Reading Packet.)

CHAIRMAN ED APPLER: If I'm reading this correctly, some of these arrests were failure to appear because you couldn't get there; you were incarcerated, right?

MS. MELISSA C.: Yes, sir.

CHAIRMAN ED APPLER: Okay.

MR. ANDY ALTOM: So is there -- I noticed that your last -- you had a random drug screen that was negative on 12/11/19. Are you still -- are you still
subject to random testing?

MS. MELISSA C.: Yes, sir. I've taken four.

I've been clean since July 3rd of 2013.

CHAIRMAN ED APPLER: So -- but you've fulfilled

all fines, probation, all that stuff?

MS. MELISSA C.: Yes, sir.

MS. JANET NORRIS: Yes.

CHAIRMAN ED APPLER: And so your random drug

screens, is that because of your employment or are

you just --

MS. MELISSA C.: Well, employment and for DHS.

MS. JANET NORRIS: DHS.

CHAIRMAN ED APPLER: Okay.

MR. DAVID WHATLEY: I'll make a motion to

approve the request.

MS. BEVERLY MASSEY-FOTI: I'll second.

CHAIRMAN ED APPLER: Motion and a second. Any

further discussion? If not, all in favor say, "Aye."

(CHORUS OF AYES.)

CHAIRMAN ED APPLER: Opposed, the same.

(NONE.)

CHAIRMAN ED APPLER: Motion carries.

MS. MELISSA C.: (OUTBURST) Thank you.

MR. CHARLES ARNOLD: Bart?

(BOARD READING PACKET.)
CHAIRMAN ED APPLER: So these arrests occurred like in 2013; Is that right?


CHAIRMAN ED APPLER: Nothing since then?

MS. JANET NORRIS: Nothing since then.

MR. BART C.: That's right.

MR. ANDY ALTOM: How's your daughter doing?

MR. BART C.: She's doing all right. She's -- I think she's been clean for a minute now. You know, she's taking medication and I think that's helping her some. So I take her to work every morning and try to talk with her and try to be a dad.

MR. ANDY ALTOM: Yeah.

MR. BART C.: You know, so --

MR. ANDY ALTOM: I make a motion to approve the request.

MR. DAVID WHATLEY: I second.

CHAIRMAN ED APPLER: Motion and a second. Any discussion? If none, all in favor say, "Aye."

(CHORUS OF AYES.)

CHAIRMAN ED APPLER: Opposed, the same.

(NONE.)

CHAIRMAN ED APPLER: Motion carries. Thank you, sir.

MR. BART C.: Thank you. Thank you.
MR. CHARLES ARNOLD:  Sherry W.

(BOARD READING PACKET.)

MR. ANDY ALTOM:  Sherry, how long have -- how long have you been employed by this -- with this -- who is your employer right now?

MS. SHERRY W.:  It is L.G. Logistics Services.

MR. ANDY ALTOM:  And how long have you been with them?

MS. SHERRY W.:  Just almost a year.

MR. ANDY ALTOM:  Do you like your job?

MS. SHERRY W.:  Love it.

MR. ANDY ALTOM:  What do you do?

MS. SHERRY W.:  Deliver to the post office.

CHAIRMAN ED APPLER:  And you're wanting to have custody of your grand-nephew.  Is that right?

MS. SHERRY W.:  Yes, sir.

CHAIRMAN ED APPLER:  How old is he?

MS. SHERRY W.:  Eight, I believe.

MR. DAVID WHATLEY:  I notice it says that you feel like that you're the best placement for him.  Do you mind expounding on that a little bit, why you feel like that you're the best possible placement?

MS. SHERRY W.:  Well, I love him.  You know, I'll make sure he's well-taken care of and I'll try to give him the best home ever.  You know, as of now,
I go to Fayetteville every now and then and get my other grand-nieces and nephew, take them to see The Lion King or just take them to McDonald's to eat. They love Aunt Sherry. That's what they say anyway. I take them Christmas. So just show him that he's loved.

MR. DAVID WHATLEY: Thank you.

MR. CHARLES FLYNN: I'll make a motion to approve this request.

MR. ANDY ALTOM: I'll second.

CHAIRMAN ED APPLER: Motion and a second. Any further discussion? If none, all in favor say, "Aye."

(CHORUS OF AYES.)

CHAIRMAN ED APPLER: Opposed, the same.

(NONE.)

CHAIRMAN ED APPLER: Motion carries. Take good care of him.


MR. CHARLES ARNOLD: I'm just making sure. Is there a Ricky B.?

MS. EBONY RUSS: Charlie?

MR. CHARLES ARNOLD: Yeah. Yeah.

MS. EBONY RUSS: He's not --
MR. CHARLES ARNOLD: That one -- we're going to have to move that one to the next meeting.

CHAIRMAN ED APPLER: g?

MR. CHARLES ARNOLD: Yes.

CHAIRMAN ED APPLER: Okay.

MR. CHARLES ARNOLD: 6g. And h has not been able to come because of the weather, so both of those will be moved to the next meeting.

MR. DAVID STERLING: So is a also being moved to the next meeting?

MR. CHARLES ARNOLD: Correct. a, g, and h will all be moved to the next hearing on March 25th. The next item on the agenda, Mr. Chairman, is the Report of Temporary Approvals and Actions from December '19 through January of 2020. Everything -- you should have your listing of those and everything was taken care of at our December meeting, or today, or has been placed on the March 25th meeting. There were several items that did not need Board action.

CHAIRMAN ED APPLER: Okay. Let's move on to Other business then. Trinity Behavioral Health.

MR. JOEL LANDRENEAU: Good afternoon. I'm Joel Landreneau of Crochet & Landreneau, PLLC and I appear to you today on behalf of Trinity Behavioral Healthcare. Those of you who were here in December
will recall that I did appear at that time and
presented two different requests to maintain active
license -- maintain licenses in an inactive status.
One was for residential license and one was for
psychiatric license. In that meeting, this Board
granted the request to continue inactive status on
the residential licenses and denied the same request
on the psychiatric license. And a couple of weeks
ago I -- following that action, I did send a letter
to Mr. West, requesting that this Board grant Trinity
an adverse action hearing on the basis that the
continuation of the license -- the denial of the
continuation of the license constitutes a revocation
of the license; that they are no longer holders of
something they were once holders of, and that this
constitutes adverse action. In the conversation I
had with Mr. West, he indicated that he would use his
best efforts to put this matter back on the agenda
again for today for the possibility that this Board
would consider -- or reconsider that -- that action
not to grant the continuation of license, and to
vacate that action, and, in fact, grant the license.
I did prepare a three page letter to Mr. West, with
attachments -- and I don't know if that got
circulated to -- to the board members -- but, in --
in the letter, I basically state that this Board has
properly promulgated rules. The most -- the manual
that you were operating under on December of 2019 was
the one that you promulgated in 2016. And in Section
102.20, of that manual, the agency -- the Board
promulgated a rule that says that an agency -- "If an
agency is inactive for one year the license shall be
closed in good standing, unless the agency requests,
annually, in writing, that the license remains open.
This request shall be approved by the Child Welfare
Agency Review Board." I attached the -- to that
letter a copy of the rule and I did mistakenly put
the placement section of that, instead of the
residential section, but the wording is identical.

Trinity is asking for reconsideration of the
denial of that continuation on the basis that this
action does constitute adverse action; that there did
not come with that action any determination of
findings of fact and conclusions of law; that this
Board did not determine what it is that Trinity
failed to do, in compliance with the rules, that
would result in its losing its (INAUDIBLE) status.
And so, with that having been said, I would point out
-- and I did attach a copy of this, as well -- the
one requirement that this Board imposes to have a
license continued in inactive status is that the licensee requests it in writing, and that did occur on August 23rd of 2019, when Christy Kirk (sic) sent that request to Ms. Fancher. Ms. Fancher acknowledged having received it -- received it and, in so doing, was discussing with Ms. Kirk when would be a good time to appear before the Board to present the request. So, having said that, I don't believe that we need a hearing, but I do believe that if we're going to have adverse action stand then -- then my client has the right to have an adverse action hearing, where evidence is produced and a record is made, and findings of fact and conclusions of law are issued by this Board, so that there is something for circuit court to review. And so, with that having been said, I will retire the microphone for entertaining any questions you might have.

MR. JOE WEST: And, Mr. Chairman, if I may kind of expound upon Mr. Landreneau's conversations he -- or -- conversations with me. He did -- did send that letter to me, asked for an adverse action hearing, and I realized there would not be enough time to get -- get a hearing officer and everything prepared in time before this meeting, and that is why I made the suggestion that he ask the Board for reconsideration
at this time. My recommendation, as your attorney, is to grant the -- this request, because that language, "that request 'shall' be approved by the Board," is -- is mandatory. There's no discretion given to the Board. I know there were some concerns raised about Trinity being able to maintain their license in inactive status, basically, in perpetuity and I think it's been, what, four years? Five years?

MR. JOEL LANDRENEAU: At least.

MR. JOE WEST: And, reading the rule, I -- I'm sure that was something that was not considered when this rule was written and promulgated. This might be something the Board looks at in the future in changing this rule. But the rule, as written, again, leaves you all no discretion. If Mr. Landreneau pursues this action -- if we end up in a circuit court I believe a circuit judge will certainly overturn any denial of the license under this rule. So that's why my recommendation is you grant this now or it -- or a circuit judge will tell you to grant it six to eight months down the road.

MR. ANDY ALTOM: I have a question, Joel.

MR. JOEL LANDRENEAU: Sure.

MR. ANDY ALTOM: On the -- how many -- how many Medicaid beds are currently counted in the bed need
for that area?

MR. JOEL LANDRENEAU: As promulgated by the Health Services Permit Agency, I don't know. I mean, my guess would be around -- in the 90's, but I don't know that for sure. It's been several years since I've looked at one of those reports.

MR. ANDY ALTOM: I -- I mean, I get -- I get the fact that -- I guess where I'm coming from as a board member -- and you're -- you know, we probably should grant it. I was one of the vote -- persons that voted no the last time, but my thought process was, is that you've got providers out there that are regulated by that other agency that does a bed need based on licensed beds and -- or beds that have POA's attached to them or that were grand fathered in. Well, when they're sitting there vacant they're not serving the community that that bed need formula is set up to establish. And so that's my concern is that -- and maybe we do need to look at the Regs -- but, at some point when it -- that -- to me, I feel like it impacts the community as a whole when we have providers out there that have licensed beds that are supposed to serve a need but they're not being used. Because all the other providers who want to also do that in that area can't do it if that area's found to
be over-bedded. Well, it's truly found to be over-bedded in that area, but those beds aren't being used. Do you see what I'm saying?

MR. JOEL LANDRENEAU: Yes, I do, Andy. And I think that would be more a concern for Health Services Permit Agency than it would be for this body. And, to be candid, that is a consideration that I have advised my client on in not letting this go on too long. And that is, there is always the possibility that they could re-examine the POA's that have been granted.

MR. ANDY ALTOM: With that being said, I'll make the motion to approve the request as stated. That you know, for -- to -- to allow them to go forward with their license, in perpetuity, I guess.

CHAIRMAN ED APPLER: And I just -- well, I mean, they -- you've got to come here annually --

MR. JOEL LANDRENEAU: Yes.

CHAIRMAN ED APPLER: -- or, send a letter annually so it's not going to be in perpetuity.

MR. JOEL LANDRENEAU: No, it won't.

CHAIRMAN ED APPLER: It's just going to be until they --

MR. JOEL LANDRENEAU: And --

MR. ANDY ALTOM: All he has to do is send the
letter.

CHAIRMAN ED APPLER: Yeah.

MR. JOEL LANDRENEAU: This Board has the authority to promulgate rules. It has the authority to change what its promulgated as well.

MR. ANDY ALTOM: Well that's coming.

MR. JOEL LANDRENEAU: So, I will be --

MR. ANDY ALTOM: That's coming.

CHAIRMAN ED APPLER: Yeah. Okay.

MR. JOEL LANDRENEAU: I will pass that message along.

MR. ANDY ALTOM: That's coming. So --

MR. DAVID WHATLEY: I'll second that.

CHAIRMAN ED APPLER: Motion and a second. Any further discussion? If not, all in favor say, "Aye."

(CHORUS OF AYES.)

CHAIRMAN ED APPLER: Opposed, the same.

(NONE.)

CHAIRMAN ED APPLER: Motion carries.

MR. JOEL LANDRENEAU: Thank you, Mr. Chairman.

CHAIRMAN ED APPLER: Yes, sir.

MR. ANDY ALTOM: Mr. Chair?

CHAIRMAN ED APPLER: Yes, sir.

CHAIRMAN ED APPLER: I'd like to be recognized that we look at that standard and change the language
that gives us the authority to -- to have some leverage over providers that sat on needed services and, they -- to me, it's an injustice to the community that, you know, that Health Services Agency serves, we're supposed to be a watchdog for, and a regulator for, when they sit there and they're just vacant.

CHAIRMAN ED APPLER: We can address that probably next legislative session or before then?

MR. DAVID STERLING: If it's a rule you can do it in the meantime, though, yeah. One thing I would suggest -- and, I mean, I -- and I'm not as familiar with this particular statute as what you -- you guys may be, but, it seems to me that, what you might want to do is as long as they're inactive status, that those beds can be allocated to someone else. And then, when they try to become active again, they can come back to the -- an agreed upon number of beds; it be something for the Allocations, I think. It just seems to me that -- I -- I see what you're concerned about. I mean, there's some beds that are vacant and could be used in the community and, if they're going to seek to go inactive, we should -- they should -- one of the consequences should be making those beds available to somebody else and then they can still
have inactive, but they won't be able to get the beds allocated until those are available to them. But that's just one consideration.

MR. ANDY ALTOM: Yeah.

CHAIRMAN ED APPLER: So this is a regulation, right, not a code?

MR. DAVID STERLING: It's my understanding, yeah.

MR. JOE WEST: Yes, it's one of your -- it's one of your --

CHAIRMAN ED APPLER: Okay. So --

MR. JOE WEST: -- one of your rules.

CHAIRMAN ED APPLER: So this Board could change that regulation?

MR. JOE WEST: Correct.

MR. DAVID STERLING: Not on its own, but I mean --

MR. JOE WEST: Yeah.

MR. DAVID STERLING: It would have to be promulgated.

CHAIRMAN ED APPLER: Not -- I'm not talking about today, but --

MR. DAVID WHATLEY: Right.

MR. JOE WEST: There will be a process to go through, --
CHAIRMAN ED APPLER: Yeah. Yeah.

MR. JOE WEST: -- through governor's approval and legislative approval, but, yes, it -- it can --

CHAIRMAN ED APPLER: Well, it's been probably three years since we've had any kind of retreat to look at the regulations. Three years, four years. Do you recall?

MS. BEVERLY MASSEY-FOTI: At least that long.

CHAIRMAN ED APPLER: And the environment changes. And so let's see about having, say, let's look at the regulations at some point in time, with staff's recommendation and consider making some changes within the next, say, six months.

MS. EBONY RUSS: Okay.

CHAIRMAN ED APPLER: Okay.

MR. CHARLES FLYNN: One of the questions that I've been asked several times, as it relates to this, has to do with the legislation that changed the number of children in a foster home. So if we could get some direction on that, at that same time, that would be something that I know some agencies have -- would like to see us make an adjustment on that.

MS. EBONY RUSS: Okay.

CHAIRMAN ED APPLER: Okay.

MR. CHARLES ARNOLD: Mr. Chairman, we just
wanted to take the time to go over our procedures for this new -- of putting items together, making sure that our processes, and y'all's receiving of emails, and everything, are on the same page. Temporary approvals are granted by our management staff according to the introductions of the min -- the child welfare standards. What we will do is we will put all those together and we will send out these packets to each of you in an email. What -- what we need from y'all is to respond back to that email, of whether you have questions, so that we can have some appear, and, those that you do not have questions for, we can bulk, like we did this -- this afternoon. So this past time I think we only got three responses back. Two or three. And so, if you -- if we have -- if you need more questions that's not a problem. We'll just have them here. I mean, that's what we've been doing in the past anyway. We will -- but, whenever we send those out, within how long of a time should we expect to get something back from you guys?

MS. BEVERLY MASSEY-FOTI: Well, if I may, Mr. Chairman.

CHAIRMAN ED APPLER: Yes, ma'am.

MS. BEVERLY MASSEY-FOTI: I would just request that we have a little more turnaround time. I think
we had maybe -- I don't remember what it was. 24 or 48 --

MS. EBYON RUSS: (INAUDIBLE).

MS. BEVERLY MASSEY-FOTI: -- hours last time.

And --

MR. CHARLES ARNOLD: We've hit a perfect storm with having a --

MS. BEVERLY MASSEY-FOTI: I understand.

MR. CHARLES ARNOLD: -- a December Board and a January Board, and loss of personnel.

MS. BEVERLY MASSEY-FOTI: Sure.

MR. CHARLES ARNOLD: So we thank you for your patience on this.

MS. EBONY RUSS: All right. And I would officially like to apologize for that. It's not our intention to -- to give you work that needs to be reviewed in a short amount of time and it won't happen again.

CHAIRMAN ED APPLER: A couple of weeks would be a good turnaround time for me. And I know that that may not be possible, because there may be requests submitted after you send that email out.

MR. CHARLES ARNOLD: Right.

MR. CHARLES FLYNN: But would those requests appear on this -- for this meeting? There's a cutoff
date, isn't there, for -- for the meeting?

MS. EBONY RUSS: Uh-huh. Yes.

MR. CHARLES FLYNN: Yeah.

MS. EBONY RUSS: It's usually the 3rd of each month.

MR. CHARLES FLYNN: So after the 3rd you would have everything for the next meeting.

CHAIRMAN ED APPLER: Okay.

MR. CHARLES ARNOLD: Right.

CHAIRMAN ED APPLER: Okay.

MR. CHARLES ARNOLD: So we gather our information to our supervisors by the 3rd; they have a meeting to set the agenda and make sure that all of our packets are correct; then, that meeting, they can send things to you, for your consideration, to see if you need any more information on that.

CHAIRMAN ED APPLER: You --

MR. CHARLES ARNOLD: Is five days -- a week? Because --

CHAIRMAN ED APPLER: Can you combine, like, those dozen files -- separate files into one file like Andy does?

MR. CHARLES ARNOLD: Um, --

CHAIRMAN ED APPLER: Because -- well, I didn't know which one to open, you know, and the --
MR. DAVID WHATLEY: It was a little confusing.

CHAIRMAN ED APPLER: The list on that Word document, where you check yes or no, the names weren't in the same order as the files appeared on my screen.

MR. CHARLES ARNOLD: Okay.

MS. EBONY RUSS: So we currently don't have the technology to send it all at once, because the email will say the file is too large and it won't send. But I have spoken to our assistant director and she's going to see if we -- she can get us the proper technology to do that.

MR. DAVID STERLING: Well, it'll have to be the proper technology on both ends, because you may not be able to receive it if your internet service provider doesn't allow a certain size.

MS. BEVERLY MASSEY-FOTI: We get it from Andy.

CHAIRMAN ED APPLER: Yeah, I was going to say, Andy --

MR. ANDY ALTOM: I don't mind doing it.

CHAIRMAN ED APPLER: -- put some more work on you.

MS. BEVERLY MASSEY-FOTI: But I mean it -- our now -- servers --

CHAIRMAN ED APPLER: Yeah.
MS. BEVERLY MASSEY-FOTI: -- allow us to receive it in one batch.

CHAIRMAN ED APPLER: Okay. Yeah, he just makes one document and it's not a big deal.

MR. CHARLES ARNOLD: Well --

CHAIRMAN ED APPLER: I don't think that needs additional technology. I think maybe --

MR. CHARLES ARNOLD: It's a firewall -- I believe it's a firewall issue with our internet.

MR. ANDY ALTOM: Sure.

MR. CHARLES ARNOLD: And the security systems that we have in place to encrypt sensitive information.

CHAIRMAN ED APPLER: Okay.

MR. ANDY ALTOM: Do y'all get my -- do y'all get my emails that are combined?

MS. BEVERLY MASSEY-FOTI: Uh-huh.

MR. ANDY ALTOM: So your server allows them in?

MS. EBONY RUSS: Yes.

MS. BEVERLY MASSEY-FOTI: Uh-huh.

MR. ANDY ALTOM: It just doesn't allow them out.

MR. CHARLES FLYNN: And their -- maybe your IT person can get permission for that person to send out those size files. I have just kind of a clarification, so -- I know I sent -- I replied. Are
you looking for just one vote or a majority of the votes? If one person wants to hear it, it's --

MR. DAVID WHATLEY: If one person --

MR. CHARLES FLYNN: -- going to be a hearing.

MR. DAVID WHATLEY: Yeah.

MR. CHARLES ARNOLD: Right. If somebody has a question, we're going to bring them here and present them like normal.

MR. CHARLES FLYNN: Okay.

MR. CHARLES ARNOLD: We -- we do not want anybody taking a vote over the internet -- by -- through email because that's against the -- the rules of having a public meeting. So we're just giving you information, so that you will be able to vote intelligently on that -- on that --

CHAIRMAN ED APPLER: And all we'll send back to you is that word document, right?

MS. EBONY RUSS: Correct.

MR. CHARLES ARNOLD: Yes.

MR. CHARLES FLYNN: Yeah.

CHAIRMAN ED APPLER: Okay.

MR. DAVID WHATLEY: And if just one board member has a question then it would come to --

MR. CHARLES ARNOLD: Yes.

MR. DAVID WHATLEY: -- the next Board meeting?
MR. CHARLES ARNOLD: Yes. Because beforehand we didn't have this option and everybody came anyway.

Resource workers, licensing specialists, sometimes foster parents. So --

MR. DAVID WHATLEY: Well, if we can get it to work, I think it's great.

CHAIRMAN ED APPLER: Yeah.

MR. CHARLES FLYNN: Yeah. I do, too.

CHAIRMAN ED APPLER: Yeah, we just need to tweak it.

MR. CHARLES ARNOLD: Yes.

MR. ANDY ALTOM: I just think that it -- when you guys are sending these in, though, if you just tell your -- tell them to think about fire safety. You know, if it's -- if it's two floors and you know -- and you're talking about bedding -- you know, where they're sleeping, what the exit -- you know, y'all heard the questions I had today. That was just pretty much -- and that was from a quick read, --

CHAIRMAN ED APPLER: Uh-huh.

MR. ANDY ALTOM: -- just those two that I could pick up on. But I -- you know and I -- if Sanford would here -- I guarantee he probably --

MS. EBONY RUSS: He would ask it.

MR. ANDY ALTOM: -- sent in, because I know how
he thinks. As a matter of fact, that's why I went ahead and felt okay marking that, because I figured he would mark it, too.

MR. CHARLES ARNOLD: And we want you to be able to ask those questions and don't feel obligated to say, "Oh, no, somebody's going to have to drive in if I have this question." We want all the information to be explained to your full satisfaction.

MR. ANDY ALTOM: Sure.

MR. CHARLES ARNOLD: Whenever you guys get back to us, that enables us to notify the specialist and the resource worker that, yes, they do need to come. And we are basically saying, "You're going to come unless we tell you not to." Does that make sense?

MR. DAVID WHATLEY: Yeah. Sure.

MR. CHARLES ARNOLD: And we will do like it did this morning -- or, this afternoon, just read them all, just a basic synopsis of each one, and that way then it can be on the record for the meeting.

CHAIRMAN ED APPLER: Sounds like a plan.

MR. CHARLES ARNOLD: All right. Thank you.

CHAIRMAN ED APPLER: So this Item c?

MS. EBONY RUSS: Okay. I'm sorry, I didn't say my name earlier. I'm Ebony Russ, DCC/ECE. So I'll
try my best to explain what we're doing. PRLU is currently in the promulgation process for those approved standards that have been approved by the Board. And currently, it was brought to our attention, Section 103 of the minimum licensing standards needed to be updated to reflect the Family First Prevention Services Act. And that language -- I do have reference for you guys to follow along with. Once you receive the packet, if you could please turn to page five and follow along if you would like?

Okay. It reads, "Criminal Record and Registry Checks for Adults Working in Childcare Institutions. FFPSA makes changes to the Title IV-E requirements in section 471(a)(20)(D) of the Act Criminal Record and Child Abuse/Neglect Registry Checks. Currently, as a condition of eligibility for Title IV-E funds, Title IV-E agencies must provide in their IV-E plan that they implement procedures for criminal background checks including fingerprint based criminal records check of national crime information databases as defined in Section 534(f)(3)(A) of Title 28, United States Code, for prospective foster parents, adoptive parents, and relative guardians, and child abuse and neglect registry checks for each prospective foster
or adoptive parent, and any adult in the home. The criminal records check must reveal the perspective foster or adoptive parent has not been convicted of prohibited felonies and, in the case of a foster family home, the home must be licensed or approved, Sections 471(a)(20)(A)(i) and (ii) of the Act. FFPSA requires that Title IV-E agencies apply these same procedures for fingerprint based criminal records check of national crime information databases and child abuse registry checks to any adult working in a childcare institution (CCI), which includes group homes, residential treatment centers, shelters, and other congregate care settings. The statute does not allow any exemptions or exceptions for conducting the checks on any adult who work in such settings. As such, all adults, including adults who do not work directly with children, are subject to background check requirements when working in a CCI. Agencies may determine their own procedures for combining checks on unpaid volunteers. Additionally, the Title IV-E agency may decide which entity within the state/tribe is best situated to conduct the prior checks. The agency is not required to conduct them directly."

So, essentially, what PRLU -- the Placement and
Residential Licensing Unit -- we need to have this reflect in the minimum licensing standards.

CHAIRMAN ED APPLER: Title IV-E. That means you get federal or state funding?

MS. EBONY RUSS: Correct.

CHAIRMAN ED APPLER: Okay.

MS. EBONY RUSS: Correct.

CHAIRMAN ED APPLER: What about agencies that don't get --

MS. EBONY RUSS: Right. That would not pertain to them, from my understanding, and I would -- we're trying to figure out how we can enter this into the minimum licensing standards and have that reflect it. Because here, it says, "Currently as a condition of eligibility for Title IV-E funds, Title IV-E 'agencies'," so I would assume there -- it's specific to those agencies.

MR. CHARLES FLYNN: Typically in -- in items like this, it's a part of DCFS policy rather than minimum standards. Is that -- would that be correct?

CHAIRMAN ED APPLER: Well, and as a private agency, we already do all this. And, you know, we're privately funded, so -- and -- and the reason we do it is because of the regulations.

MS. EBONY RUSS: Correct.
CHAIRMAN ED APPLER: But you're saying that perhaps this language may need to appear in the regulations?

MS. EBONY RUSS: Yes, sir.

MR. DAVID WHATLEY: Well, I would -- if we have this language in the regulations, it would also -- there would almost have to be something that would reflect a private agency, because we don't fall under those same standards.

MS. EBONY RUSS: Okay.

MR. DAVID WHATLEY: So I don't know that it's a good idea to put it in the regulations, period.

CHAIRMAN ED APPLER: Well, there --

MR. DAVID WHATLEY: But --

CHAIRMAN ED APPLER: -- needs to be a distinction, I'm thinking, between privately funded agencies and publicly funded agencies, and -- and clear regulations for both of them.

MS. EBONY RUSS: Yes, sir.

CHAIRMAN ED APPLER: Because if it doesn't get any kind of public money --

MS. EBONY RUSS: Correct.

MR. DAVID WHATLEY: Right.

MS. EBONY RUSS: And we do understand that there are some private institutions or agencies that do not
have to fall under this requirement from the federal perspective.

MR. CHARLES FLYNN: And there are other policies that are -- that are DCFS policy that exceed the regulations. So there already are items that are in DCFS policy that are not in the minimum standards. And so this -- to me, this is exceeding the minimum standards and -- and if you want to work with DCFS that can be in their policy agreement with you.

MR. ANDY ALTOM: Yeah. I want to say this, is that -- this is -- this is very difficult to do. As a provider, I can tell you. Because you're taking providers that are IV-E providers, and if we make this the minimum licensing standard, where everybody has to do it, imagine how many people are going to be lined up trying to get background checks, when they don't really have to have it at the level that this is required. That's my concern, is because, right now, I know when DCFS called us when this (INAUDIBLE) took effect, and they gave us different areas of the state, where they said, "These are the -- go to these DHS cases;" they'd scan your fingerprints, because we had to -- all of us had to redo these. And, when we did them, the -- you know, the test was they were going to turn them around real quick. Well, they
didn't turn them around real quick. It took forever for us to get just our first initial ones. So my concern is if -- if this is -- if this -- if we take this and say this is going to be the minimum licensing standards, for private providers, then we just -- we have a log jam, where we've just created an unnecessary need for individuals doing what IV-E providers are trying to do.

MS. EBONY RUSS: Right.

MR. ANDY ALTOM: And it creates competition of the resources.

MS. EBONY RUSS: Okay.

MR. CHARLES FLYNN: And it evidently is already a part of DCFS policy, because we've already been asked to do it.

MR. ANDY ALTOM: Yeah.

MS. EBONY RUSS: And, again, we would definitely have to make the distinction between provider and those who receive Title IV-E funding. That's something that we're working on. It was recently brought to our attention. And so we wanted to discuss it with the Board to see how we needed to proceed with that.

CHAIRMAN ED APPLER: Why don't you provide us -- come up with some suggestions? Not just one
suggestion, but three or four suggestions, on how to
do that. Sometime -- unless there's some urgency I'm
not aware of -- in the next six months?

MS. EBONY RUSS: Being that we are currently in
the process of promulgation, we've added those that
were approved by the Board and so they're -- they're
holding to see what we need to do with this. So
they're ready to go. They're just holding to see
should this be added.

MR. DAVID STERLING: If you add those and it
gets promulgated, I mean, there'll be -- there'll be
an opportunity for -- first of all, it'll have to get
through the policy review committee here at DHS and
all the eyes that look at that. And then it'll have
to get sent over to the governor's office and get
approved by the governor's office. Then it'll be put
out for public comment. And so all the people that
want to comment on it and everything will have an
opportunity at that point. And so I think the main
thing -- and, in the meantime, if y'all have
concerns, it can always be pulled back, because just
going to the governor's office for approval will
take several months. So, if y'all go ahead and allow
them to move forward with it, and then y'all will
have probably two meetings before it even gets
governor's office approval. It's just a thought. At least get it in the pipelines, to where it's no delay, because it does take several, several, several months.

CHAIRMAN ED APPLER: Uh-huh.

MR. DAVID STERLING: And I'd hate for IV-E funding to be put at risk in the meantime. Just a suggestion.

MR. ANDY ALTOM: I don't think IV-E funding is put at risk. I think those individuals that get that IV-E funding already have to do this. We've already had to do this. What I'm -- what my concern is is this is minimum licensing standards. You're going to say, now, everybody that does this has to do this. And that's not the -- just like --

MR. DAVID WHATLEY: No. Right.

MR. ANDY ALTOM: Have we had to do this?

MR. DAVID WHATLEY: No, we don't take any DCFS kids, we don't take any DCFS funding, and so my concern is also setting a precedent. You know, we do this and so we're mirroring, basically, what -- the DCFS standards. And so my concern is that begins to open a door for it to spill over, when that's not the intent for private agencies at all. It's not anywhere close to what a DCFS agency would represent
or the DCFS standards.

MR. ANDY ALTOM: I get -- I -- I know how promulgation works, and I'm telling you I prefer that this not be out there even to be promulgated as a minimum licensing standard. That's just my opinion. I just think it's going to create a bigger competition for the resources that Arkansas doesn't have in place now. Matter of fact, we've asked can we buy our own scanning machines, because now we still have to send individuals, you know, across town and then you've got to make an appointment with the person that operates the machine to be able to do it. I mean, it's just -- it's cumbersome. And you're just -- and we're going to pass a rule that says now everybody do it. I'm just --

MS. EBONY RUSS: I have --

MR. ANDY ALTOM: I don't think that's -- that doesn't make sense.

MS. EBONY RUSS: And I don't have the answer to this, so may I ask a question? So, being that it's federal funds, would that supercede what the State has involvement with?

MR. ANDY ALTOM: I know -- I know, in the past, whenever we've talked about rules, Mischa or whoever was in Mischa's role would say, "Well, y'all do what
you want, but this is our requirement." You know?
And so it -- we're -- when we're contractors with the
State we have to do what the State tells us to do.
You know, and that's where that IV-E money -- You're
not going to be a IV-E provider and not have a
contract with the State to access those funds. So,
at that point, they can put these requirements on
you. That's why I don't understand why this would be
a minimum licensing. Does that make sense?

CHAIRMAN ED APPLER: Uh-huh.

MR. CHARLES FLYNN: I would assume these are
already in policy, because last year we were told
that these had to be done by the middle of October or
a certain date.

MS. EBONY RUSS: Correct.

MR. CHARLES FLYNN: So they must already be in
-- in DCFS policy, because we were told that we would
need to get it done.

MR. ANDY ALTOM: They are. We did them. We did
them this -- I -- I mean --

MR. CHARLES FLYNN: Yeah.

MR. ANDY ALTOM: I can attest to the limited
resources, and how hard it was to do, and then to
say, you know, in a year from now, there's a
possibility that everybody that does childcare is
having to do the same thing. To me, it just doesn't make any sense.

MS. EBONY RUSS: Okay. All right.

CHAIRMAN ED APPLER: So, have you got the feedback from the Board that you were looking for?

MS. EBONY RUSS: So, I -- no. So, to be specific, I've heard a couple of things. No, you do not recommend that this be added to the promulgation process. And then I also heard, come up with three or four suggestions on how you can --

MR. DAVID STERLING: I think one --

MS. EBONY RUSS: -- differentiate. I'm sorry.

MR. DAVID STERLING: Yeah. I think one of the suggestions could be just that. I mean, come up with three or four suggestions, including not doing anything. You know, so --

CHAIRMAN ED APPLER: Right.

MR. ANDY ALTOM: I'm okay if the regulation says if you're a IV-E provider you have to do this. I'm okay with that, because that's what the State's going to say, but I think to do, cart blanche, everybody has to do this, that's just horrible.

MS. EBONY RUSS: Right.

MR. ANDY ALTOM: That's --

MR. CHARLES FLYNN: I think another concern is--
MR. DAVID WHATLEY: I agree with that, but I don't know that it's really necessary to put that in the regulations.

MR. CHARLES FLYNN: Well how often does DCFS --

MR. DAVID WHATLEY: I mean, does -- we're already at the DCFS family --

MR. CHARLES FLYNN: How often does this policy change? Because we're -- if this -- if we're going to start this precedent then we're going to be changing -- promulgating pretty much on a regular basis as -- as policy changes for IV-E.

MS. EBONY RUSS: It's a possibility, because there are other things that need to be --

MR. CHARLES FLYNN: Yeah.

MS. EBONY RUSS: -- addressed as well, including of what you spoke about earlier about --

MR. CHARLES FLYNN: Well, what I was talking about earlier was voted on by the legislature, which is a change to the Act.

MS. EBONY RUSS: Right.

MR. CHARLES FLYNN: So -- so that was -- that was part of the -- that's part of the Act. That's not IV-E related, so --

MR. ANDY ALTOM: Who -- who told you that this had to be this way?
MS. EBONY RUSS: Well, we were discussing it as a whole with the unit.

MR. ANDY ALTOM: Okay. I'd like to -- because I -- you ought to invite some providers that have had to do this for that discussion. Because we can tell you -- and the people on your end that are having to do it for us. Because I don't think they're too pleased either.

MS. EBONY RUSS: Okay. Well, thank you so much for the opportunity.

CHAIRMAN ED APPLER: Okay. I assume there's no other -- other business?

MR. DAVID STERLING: I've got one quick clarification.

CHAIRMAN ED APPLER: Yes, sir.

MR. DAVID STERLING: I just want the record to reflect that I abstained on Items 2e and j, I mean, since they had to do with -- since they originated from DCFS. I didn't vote, but I did have -- I also didn't speak up and say I was abstaining either. So I just want the record to reflect I didn't vote on those two.

CHAIRMAN ED APPLER: Okay. Good. Got it? You got it? All right. The court reporter, got it? Okay. All right, this meeting is adjourned, I hope.
(THEREUPON, the meeting was adjourned at 3:00 p.m.)
CERTIFICATE

STATE OF ARKANSAS

I, Laura L. Carnahan, Certified Court Reporter, do hereby certify that the facts stated by me in the caption on the foregoing 65 pages are true; and that the foregoing proceedings were recorded verbatim through the use of the Stenomask and thereafter transcribed by me, or under my direct supervision, to the best of my ability, taken at the time and place set out on the caption hereto.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action.

WITNESS MY HAND AND SEAL this 12th day of February, 2020.

______________________________
Laura L. Carnahan
Certified Court Reporter #569