

COMMONWEALTH OF MASSACHUSETTS

**NOTICE OF THE REGULARLY SCHEDULED MEETING OF THE
BOARD OF REGISTRATION IN NURSING**

Wednesday March 12, 2014

9 a.m. to 1 p.m.

239 Causeway Street ~ 4th Floor ~ Room 417A

Boston, Massachusetts 02114

Preliminary Agenda

3/6/2014 1:07 PM

Time	Item #	Item	Exhibits	Presenter
9:00 a.m.	I.	Call to Order & Determination of Quorum		
	II.	Approval of Agenda	Agenda	
	III.	<p>Executive Session The Board will meet in Executive Session as authorized pursuant to M.G.L. c. 30A, § 21 (a)(1) for the purpose of discussing the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual.</p> <ol style="list-style-type: none"> 1. Specifically the Board will discuss and evaluate the Good Moral Character as required for registration pending applicants. 2. Specifically, the Board will discuss and evaluate the reputation, character, physical condition or mental health rather than professional competence, of licensees relevant to their petitions for license status change or relevant to their probation compliance. 3. Approval of prior executive session minutes in accordance with M.G.L. c. 30A, § 22 (f) for sessions held during the February 12, 2014 meeting. 	Closed Session	
Time	Item #	Item	Exhibits	Presenter

	IV.	Adjudicatory Session	Closed Session	
	V.	G.L. c. 112, § 65C Session	Closed Session	
11:30 a.m.	VI.	Approval of Minutes A. February 12, 2014 Regularly Scheduled Meeting	Minutes	
	VII.	Reports A. Chairperson and Board Members' Reports B. Executive Director's Report C. Staff Report 1. Deputy Executive Director 2. Policy and Research 3. Practice 4. Education 5. Complaint Resolution 6. SARP	None Report None Report Report Report Report Report	RH CR CS LT SV AF/HC VI/DM
	VIII.	Consensus Agenda A. NCSBN Update B. Coalition for the Prevention of Medical Errors Update C. 2013 Annual Contract Compliance Evaluation Report, Professional Credential Services, Inc.	Report January & February 2014 Coalition Reports Report	LT LT CS
	IX.	Requests for License Reinstatement None		
	X.	A. Initial Review of Pending Board Complaints 1. E. Hansbury, RN197815, LN44833 (expired), NUR-2013-007 2. C. Cavanaugh, RN282975, NUR-2013-0052 3. L. Cleveland, RN200966, NUR-2013-0102	Investigative Report (IR) IR IR	MEM/ASF ES/HC ES/HC
Time	Item #	Item	Exhibits	Presenter

	X. (cont'd)	B. Resolution of Pending Board Staff Assignments 1. S. Swales, RN277335, SA-INV-3411 2. J. Van Iderstine, RN185147, SA-INV-4342	IR IR	CL/HC MFS/HC
	XI.	Requests for Appointment to SAREC Committees A. Boston B. Tewksbury	Request memo	VI/DM
	XII.	Education A. 244 CMR 6.04(1)(c) & (1)(f) Notifications 1. Northeastern University 2. Laboure College B. 244 CMR 6.05(3)(b): Continuation of full Approval status based on 2013 Annual Reports to BRN 1. Student Numbers (admissions, graduates, and enrollments) 2. 2014 244 CMR 6.06 survey schedule C. 244 CMR 6.08(1)(h) self-study recommendations due to 2013 NCLEX Performance	Compliance Report Reports Report	SV SV SV
	XIII.	Announcements/Other		
1:00 p.m.	XIV.	Adjournment		

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION IN NURSING
239 Causeway Street, Room 417A
Boston, MA 02114

Minutes of the Regularly Scheduled Board Meeting
Wednesday, March 12, 2014

Board Members Present

S. Kelly, RN/NP, Chair
K. Gehly, RN/NP, Vice Chair
M. Beal, RN/NM
P. Gales, RN
J. Killion, LPN
B. Levin, RN
E. Richard Rothmund, Public Member
J. Roy, RN
C. Simonian, PharmD, RPh
C. Tebaldi, RN/NP

Board Members Not Present

A. Peckham, RN

Board Staff Present

R. Harb, RN, Executive Director
O. Atueyi, JD, Board Counsel
H. Cambra, RN, JD, Complaint Resolution Coordinator
A. Fein, RN, JD, Complaint Resolution Coordinator
V. Iyawe, RN, SARP Coordinator
D. Mclellan, RN, SARP Coordinator
C. Silveira, RN, Assistant Director for Policy and Research
M. Strachan, JD, Board Counsel
L. Talarico, RN/NP, Nursing Practice
S. Varghese, RN, Nursing Education
T. Westgate, Paralegal

Board Staff Not Present

C. Robertson, RN, Deputy Executive
Director

Guests

See attached list.

TOPIC:

Call to Order

DISCUSSION:

A quorum of the Board was present.

ACTION:

At 9:07 a.m., S. Kelly, Chairperson, called the March 12, 2014 Regularly Scheduled Board Meeting to order.

TOPIC:

12 Mar 14 Regular Minutes
(Approved 4/9/14)

Approval of the Agenda

DISCUSSION:

None

ACTION:

Motion by K. Gehly, seconded by B. Levin, and unanimously passed to approve the agenda as presented.

TOPIC:

G.L. c. 30A, § 21 Executive Session

DISCUSSION:

None

ACTION:

Motion by E. R. Rothmund, seconded by B. Levin, and unanimously passed by roll call vote to go into Executive Session at 9:12 a.m. as per Purpose One of G.L. c.30A, §21 (a)(1) with the Open Session to reconvene upon conclusion of the Executive Session.

G.L. c. 30A, § 21 Executive Session 9:12 a.m. – 10:45 a.m.

RECESS 10:45 a.m. to 10:55 a.m.

TOPIC:

Adjudicatory Session

DISCUSSION:

None

ACTION:

Motion by J. Roy, seconded by E. R. Rothmund, and unanimously passed by roll call vote to go into Adjudicatory Session at 10:55 a.m. to discuss decisions in pending adjudicatory matters.

Adjudicatory Session 10:55 a.m. to 11:05 a.m.

TOPIC:

G.L. c. 112, s. 65C Session

DISCUSSION:

None

ACTION:

Motion by B. Levin, seconded by M. Beal, and unanimously passed by roll call vote to go into G.L. c. 112, s. 65C Session at 11:05 a.m. to discuss negotiated settlements of complaints.

RECESS 12:20 p.m. to 12:45 p.m.

TOPIC:

Open Meeting Law Update

M. Strachan provided an overview of the OML. In 2010, the Legislature amended the law and transferred enforcement of OML to the Attorney General's Office. Subsequently, the Attorney General created a division dedicated solely to OML. The new division has provided state-wide trainings on the Attorney General's interpretation of the law and provided answers to particular questions from legal staff. Consequently, the Attorney General's advice and direction have resulted in changes in the way the Board conducts its monthly meetings which are subject to the OML. More specifically, many complaints against licensees are heard in closed sessions in order to remain compliant with both the OML and privacy (FIPA) requirements.

DISCUSSION:

The Board Chair advised those in attendance that the Board is sensitive to the needs of the various constituents impacted by the Board's compliance with OML and FIPA – licensees, members of the public, and patients whose records are integral to many investigations. The Board further noted that it is sometimes a difficult balance to be as transparent as possible while maintaining the confidential information necessary to fully understand the issues of any particular complaint.

ACTION:

NONE

TOPIC:

Approval of the Minutes of the February 12, 2014, Regularly Scheduled Board Meeting

DISCUSSION:

None

ACTION:

Motion by E. R. Rothmund, seconded by J. Killion, and unanimously passed to accept the Minutes of the February 12, 2014, Regularly Scheduled Board Meeting.

TOPIC:

Reports

- A. Chairperson and Board Members' Reports
- B. Executive Director's Report
- C. Staff Reports
 - 1. Deputy Executive Director
 - 2. Associate Director for Policy and Research
 - 3. Practice
 - 4. Education
 - 5. Complaint Resolution
 - 6. SARP

DISCUSSION:

12 Mar 14 Regular Minutes
(Approved 4/9/14)

- A. Chairperson and Board Members Reports: None
- B. Executive Director's Report: Board members reviewed R. Harb's previously distributed report
- C. Staff Reports:
 - 1. No report
 - 2. Board members reviewed C. Silveira's previously distributed report.
 - 3. Board members reviewed L. Talarico's previously distributed report. Ms. Talarico noted that the *MA Coalition for the Prevention of Medical Errors*, the *Betsy Lehman Center for Patient Safety and Medical Error Reduction* and *Masspro* will co-sponsor the *2014 Patient Safety Forum* on April 7, 2014 and provided a link for additional information.
 - 4. Board members reviewed S. Varghese's previously distributed report
 - 5. Board members reviewed A. Fein's and H. Cambra's previously distributed report. A. Fein reminded members that they are all welcome and encouraged to attend the 2nd live, CLEAR webinar module, "Roles and Responsibilities of a Board Member" that will be presented at the Board's office on Thursday, March 20, 2014 at 1:00pm.
 - 6. Board members reviewed V. Iyawe's and D. Mclellan's previously distributed report

ACTION:

- A. So noted.
- B. So noted.
- C. So noted.

TOPIC:

Consensus Agenda

- A. NCSBN Update
- B. Coalition for the Prevention of Medical Errors Update
- C. 2013 Annual Contract Compliance Evaluation Report, Professional Credential Services, Inc.

DISCUSSION:

- A. NCSBN Update: Ms. Talarico identified for members that the newly released NCSBN pamphlet entitled "*What You Need to Know About Substance Use Disorder in Nursing*" was distributed to Board members. This pamphlet, in addition to the additional six provided by NCSBN are available to the public in the reception area on the fifth floor. Additionally, Ms. Talarico informed the Board that according to the 2012 NCSBN survey of the certification programs whose exams are used as one of the elements of APRN licensure was recently released. The survey indicated that the number of individuals who are administered APRN certification exams has increased for all APRN categories, especially for Nurse Practitioner certification examinations.
- B. The January and February Coalition for the Prevention of Medical Error reports are in the Board member packets. The February meeting was canceled and minutes for the January, 2014 will be in next month's packet.
- C. Members reviewed the previously distributed 2013 Annual Contract Evaluation Report prepared by Professional Credential Services (PCS). Board member, M. Beal, commented that she had been very satisfied with the timeliness of PCS's correction of an error related to a student's application for licensure by examination.

ACTION:

- A. Accepted by consensus
- B. Accepted by consensus
- C. Accepted by consensus

TOPIC:

Pending Board Complaint: **In the Matter of E. Hansbury**, RN197815, NUR-2013-0007. The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations. The Board members considered the evidence obtained during the investigation relevant to the Licensee's nursing practices.

DISCUSSION:

B. Levin and C. Tebaldi disclosed that they are employed by Partners Healthcare; however, neither knows any of the parties involved, nor have any conflict of interest based on the matter presented by the previously distributed Investigation Report. M. Beal asked whether a nurse who is not authorized to prescribe can enter electronic medication orders/prescriptions. L. Talarico, Board Practice Coordinator stated that standards of practice permit such a nurse to make such entries, but a nurse is not generally responsible for determining when medications are due to be renewed. S. Kelly described the process for electronic prescriptions in the context of her advanced practice role where she is currently employed. M. Matthews, Compliance Officer, also explained the process used for the LMR electronic prescription system used in the facility where she previously worked. E.R. Rothmund, Public Member inquired whether licensed nurses are educated on a periodic basis to update their knowledge of nursing standards. Board members and staff identified that all licensed nurses are required to attest on their license renewal applications that they have completed all required continuing education and adhere to all laws and regulations governing nursing practice. K. Gehly observed that the relatively small percentage of complaints received by the Board in relation to the number of licensed nurses demonstrates that the vast majority of licensed nurses understand the standards of nursing practice.

ACTION:

Motion by E. Richard Rothmund, seconded by P. Gales and voted unanimously to:

- a. Adopt the recommended basis for action on the Complaint including the existing aggravating and mitigating circumstances in accordance with the CRC section of the Investigation Report.
- b. Refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication.

Alternatively, in final settlement of this matter the Licensee may also be offered a STANDARD CONSENT AGREEMENT FOR SUSPENSION of her RN and right to renew her LPN license for at least two (2) years¹ (*that does not include any prior time period that the Licensee asserts she "willingly took off from nursing to reflect on her actions"*) with reinstatement requirements that also include the standard either/or substance abuse related requirements, the standard criminal activity related requirements and documentation of her successful completion of six (6) contact hours in Documentation in Nursing, six (6) contact hours on Legal and Ethical Aspects of Nursing and six (6) contact hours in Critical Thinking and Judgment in Nursing Practice, an Affidavit from the Licensee attesting to her understanding and compliance with the Board's regulation at 244 CMR 5.02 and 5.05 for completion and record retention of required continuing education for license renewal, and a STANDARD POST-SUSPENSION PROBATION for at least one (1) year.

TOPIC:

Pending Board Complaint: **In the Matter of L. Cavanaugh**, RN282975, NUR-2013-0052. The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations. The Board members considered the evidence obtained during the investigation relevant to the Licensee's nursing practices.

DISCUSSION:

C. Simonian initiated discussion related to the appropriateness of requiring nursing practice monitoring via Probation following licensure suspension. The Board members discussed the difficulty of assessing the Licensee's response to a similar situation, given the Licensee's current employment setting and the constraints of a finite probation period. C. Tebaldi acknowledged the allegations by the Licensee of an intimidating work environment; C. Tebaldi then

¹ See *In the Matter of Patricia M. Duggan* Docket No. RN-05-264 (*Revised Final Decision and Order on Remand for Reconsideration of Sanction Imposed April 23, 2011*)

requested clarification on the issue of inconsistency of the Licensee's initial reported response of her interventions to the facility during their initial investigation as well as the Licensee's response to the Notice of Complaint.

ACTION:

Motion by C. Simonian, seconded by M. Beal and voted unanimously to:

- c. Adopt the recommended basis for action on the Complaint including the existing aggravating and mitigating circumstances in accordance with the CRC section of the Investigation Report.
- d. Refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication.

Alternatively, in final settlement of this matter the Licensee may also be offered a STANDARD CONSENT AGREEMENT FOR SUSPENSION of her RN license for an indefinite period with reinstatement requirements that also include the standard documentation of her successful completion of three (3) contact hours on Legal and Ethical Aspects of Nursing, three (3) contact hours on Critical Thinking and Judgment in Nursing Practice, and a signed affidavit that the Licensee has reviewed and understands the Board's Advisory Ruling 0801 *Withholding Initiation of Cardiopulmonary Resuscitation in Long-term Care Facilities*.

TOPIC:

Pending Board Complaint: **In the Matter of L. Cleveland**, RN200966, NUR-2013-0102. The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations. The Board members considered the evidence obtained during the investigation relevant to the Licensee's nursing practices.

DISCUSSION:

B. Levin and C. Tebaldi disclosed that they are employed by Partners Healthcare; however, neither works at the facility where the Licensee is employed, knows any of the parties involved, nor have any conflict of interest based on the matter presented by the previously distributed Investigation Report. B. Levin inquired into the status of the Licensee's New Hampshire nursing license as she reported current employment with a New Hampshire nursing agency; Board staff agreed to verify the status of the Licensee's New Hampshire nursing license prior to transfer to the Office of Prosecution.

ACTION:

Motion by B. Levin, seconded by P. Gales and voted unanimously to:

- a. Adopt the recommended basis for action on the Complaint including the existing aggravating and mitigating circumstances in accordance with the CRC section of the Investigation Report.
- b. Refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication.

Alternatively, in final settlement of this matter the Licensee may also be offered a STANDARD CONSENT AGREEMENT FOR PROBATION of her RN license for one (1) year that also requires the standard documentation of her successful completion of NCSBN's Learning Extension course entitled Documentation: A Critical Aspect of Client Care, three (3) contact hours on Therapeutic Communication, three (3) contact hours on Critical Thinking and Judgment in Nursing Practice, and documentation satisfactory to the Board that the Licensee has successfully completed and additional thirty (30) contact hours to fulfill the Board's regulatory requirement for renewal continuing education.

TOPIC:

Pending Staff Assignment: **In the Matter of S. Swales**, RN277335, SA-INV-3411. The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations. The Board members considered the evidence obtained during the investigation relevant to the Licensee's nursing practices.

DISCUSSION:

C. Simonian offered that if the facility were utilizing the Omnicell® system than the patient's allergies should have appeared on the screen when the Licensee was removing the medication. The Compliance Officer responded that based on information received from the facility, the list of allergies on the screen may only be partial if the patient

had an extensive list of allergies. C. Tebaldi inquired as to whether there was a complaint/investigation against the prescribing physician with the Massachusetts Board of Medicine (BORIM). The Manager of the Nursing Compliance Officers stated that she had contacted BORIM and there had been no investigation initiated.

ACTION:

Motion by K. Gales, seconded by J. Killion and voted unanimously to:

- a. Adopt the recommended basis for action on the Staff Assignment including the existing aggravating and mitigating circumstances in accordance with the CRC section of the Investigation Report.
- b. Close the Staff Assignment and open a complaint, then DISMISS the complaint with a *NON-DISCIPLINARY* caution letter that states all licensed nurses in the Commonwealth are expected to adhere to all laws and regulations governing nursing practice, including but not limited to, medication administration and documentation.

TOPIC:

Pending Staff Assignment: **In the Matter of J. Van Iderstine**, RN185147, SA-INV-4342. The Board's Compliance Officer and CRC reviewed their previously distributed Investigation Report with CRC recommendations. The Board members considered the evidence obtained during the investigation relevant to the Licensee's nursing practices.

DISCUSSION:

None

ACTION:

Motion by B. Levin, seconded by M. Beal and voted unanimously to:

- a. Adopt the recommended basis for action on the Staff Assignment including the existing aggravating and mitigating circumstances in accordance with the CRC section of the Investigation Report.
- b. CLOSE the Staff Assignment without any further action based on insufficient evidence to establish the allegations.

TOPIC:

Request to Appoint to Substance Abuse Rehabilitation Evaluation Committees (SAREC)

- A. Boston
- B. Tewksbury

DISCUSSION:

A: SARP Coordinators recommended that the Board approve Pamela Carrier, LPN, application for the SAREC Membership in Boston.

B: SARP Coordinators recommended that the Board approve Brenda Thibodeau, LPN, application for the SAREC Membership in Tewksbury.

ACTION:

A: Motion by E. R. Rothmund, seconded by P. Gales, and unanimously voted to appoint Pamela Carrier, LPN to the Boston SAREC.

B: Motion by P. Gales, seconded by J. Killion, and unanimously voted to appoint Brenda Thibodeau, LPN to the Tewksbury SAREC.

Topic:

Education

- A. 244 CMR 6.04(1)(c) & (1)(f) Notifications
 1. Northeastern University
 2. Laboure College

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(Approved 4/9/14)

- B. 244 CMR 6.05(3)(b): Continuation of full Approval status based on 2013 Annual Reports to BRN
 - 1. Student Numbers (admissions, graduates, and enrollments)
 - 2. 2014 244 CMR 6.06 survey schedule
- C. 244 CMR 6.08(1)(h) self-study recommendations due to 2013 NCLEX Performance

Discussion:

- A. Board members reviewed S.Varghese's previously distributed memo.
- B1. Board members reviewed S. Varghese's previously distributed report on student numbers noting that among the Practical Nursing Programs, the number of admissions over the last 5 years has remained relatively unchanged; among the ADN Programs, the number of admissions has declined since 2009 and among the baccalaureate and higher degree programs, the student admissions and graduates increased. Data regarding the baccalaureate admission will be confirmed based upon the pending verification of two programs of their reported admission numbers for 2013. Mrs. Varghese also noted that the goal of the Massachusetts Action Coalition is to have 66% of RNs educated at the baccalaureate or higher degree level by 2020
- B2. Board members reviewed S. Varghese's previously distributed memo.
- C. Board members reviewed S. Varghese's previously distributed memo.

Action:

- A. Motion by P. Gales, seconded by B. Levin, and voted unanimously to find compliance with regulation 244 CMR 6.04(1)(c) & (f):
 - 1. in the notification of the appointment of Dr. Tom Olson, Interim Dean of the School of Nursing; and,
 - 2. in the notification of the appointment of Denis M. Edinger, Interim Chair of the Nursing Division, Labour College.
- B1. Noted.
- B2. Noted.
- C. Motion by P Gales, seconded by C. Tebaldi and voted unanimously to:
 - a) Find that the Bay State College Associate Degree Registered Nurse Program and the Medical Professional Institute Practical Nurse Program each have an ongoing annual NCLEX performance of less than 80%;
 - b) Direct the nursing faculty of the Bay State College Associate Degree Registered Nurse Program to conduct an evaluation in compliance with the Board's Guideline for Self-Evaluation Report Related to 244 CMR 6.08(1) (h): Expanded Report of the program's compliance with 244 CMR 6.04(1) through (5) as well as to apply to the Board for Full Approval status. Due by no later than May 30, 2014, the program's evaluation report is to include identification of the possible factors contributing to the program's 2012 and 2013 NCLEX-RN performance and its plan for corrective action; and
 - c) Direct the nursing faculty of the Medical Professional Institute Practical Nurse Program to conduct an evaluation in compliance with the Board's Guideline for Self-Evaluation Report Related to 244 CMR 6.08(1)(h): Focused Report of the program's compliance with the Board's regulations at 244 CMR 6.04(3)(a)2, 6.04(4)(a) and (4)(b), and 6.04(5). Due by no later than May 30, 2014, the program's evaluation report is to include identification of the possible factors contributing to the program's 2009,2012 and 2013 NCLEX-PN performance and its plan for corrective action.

TOPIC:

Announcements

DISCUSSION:

None

ACTION:

None

TOPIC:

Adjournment

DISCUSSION:

None

ACTION:

Motion by E. R. Rothmund, seconded by J. Killion, and passed unanimously to adjourn the meeting at 1:55 p.m.

Respectfully submitted by:



Rula Harb, MS, RN, Executive Director
Board of Registration in Nursing

Agenda with exhibits list attached