

COMMONWEALTH OF MASSACHUSETTS

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

June 11, 2014
239 Causeway Street ~ Room 417 A&B
Boston, Massachusetts 02114

PRELIMINARY AGENDA AS OF 6/5/2014 10:50 AM

Time	#	A. Item	Exhibits	Presented by
9:00 a.m.	I.	B. CALL TO ORDER & DETERMINATION OF QUORUM	None	
	II.	APPROVAL OF AGENDA	Agenda	
	III.	APPROVAL OF BOARD MINUTES A. Draft Minutes for the April 9, 2014 Meeting of the Board of Registration in Nursing, Regular Session	Minutes	
	IV.	REPORTS A. Executive Director's Report B. Staff Report 1. Deputy Executive Director 2. Policy and Research 3. Practice 4. Education 5. Complaint Resolution 6. SARP	Report Report Report Report Report Report	RH CR CS LT SV AF/HC VI/DM
	V.	CONSENSUS AGENDA A. NCSBN Update B. Coalition for the Prevention of Medical Errors Update C. Quarter 1, 2014 NCLEX Performance Reports	Memo March 17, 2014 meeting minutes and April - May 2014 report Report	LT LT SV
9:30 a.m.	VI.	COMPLAINT RESOLUTION PART 1 A. Resolution of Pending Board Complaints 1. A. Bateman , RN/PC169260, NUR-2013-0220 2. S. Cresci , RN189971, NUR-2013-0190 3. T. Vechorko , RN277147, NUR-2013-0191 4. P. Eveleigh , RN/NM210781, NUR-2013-0192 5. J. Dozier , LN64017, NUR-2013-0201 6. R. Agholor , RN263132, NUR-2013-0225 7. K. D'Alessandro aka Gately , LN64369, NUR-2014-0009 8. J. Desmond , RN274515, NUR-2014-0051 B. Resolution of Pending Board Staff Assignments 1. J. Barnes aka Norris , RN252216, SA-INV-2657	Investigation Report per Item	MFS/HC MFS/HC MFS/HC MFS/HC MFS/ASF MFS/ASF ES/ASF ES/ASF MEM/ASF

Time	#	C. Item	Exhibits	Presented by
	VI.	<p>COMPLAINT RESOLUTION</p> <p>PART 2</p> <p>A. Resolution of Pending Board Complaints</p> <p>1. E. Hansbury, RN197815, LN44833 (expired), NUR-2013-0007</p> <p>B. Resolution of Pending Board Staff Assignments</p> <p>1. K. Wallace, RN285121, LN68059 (expired), SA-INV-276</p> <p>2. C. McAndrew, RN273500, LN58049 (expired), SA-INV-2762</p> <p>3. N. Nieves, RN271995, LN63438 (expired), SA-INV-2760</p> <p>PART 3</p> <p>A. Resolution of Pending Board Complaints</p> <p>1. S. Connolly, RN283295, NUR-2013-0193 and NUR-2013-0241</p> <p>2. J. Whelan, RN/NP183552, NUR-2014-0067</p> <p>3. W. McGregor, LN61927, NUR-2014-0060</p> <p>4. D. Miller, LN68562, NUR-2014-0037</p> <p>5. M. Moured, RN2269397, NUR-2014-0038</p> <p>6. C. Clark, RN161215, NUR-2014-0092</p> <p>B. Resolution of Pending Board Staff Assignments</p> <p>1. O. Lemaire, RN2271193, SA-INV-5252</p>	Investigation Report per Item	MEM/ASF MEM/ASF MEM/ASF MFS/ASF MFS/ASF MEM/ASF ES/HC ES/HC ES/HC MFS/ASF
Tentatively Scheduled 9:00 a.m.	VII.	<p>REGULATIONS</p> <p>C. Proposed Revisions to 244 CMR 4.00 Relative to Advanced Practice Registered Nurses - Post August 2013 Public Comments/Testimony</p> <p>D. Emergency Regulations Proposed amendments to 244 CMR 4.00 pertaining to the prescribing of hydrocodone-only extended release medications that are not in an abuse deterrent form</p>	Memo Memo	LT/MS VB
12:30 p.m.		LUNCH		All
1:00 p.m.	VIII.	<p>EDUCATION</p> <p>A. 244 CMR 6.04(1)(c) & (f) Notification</p> <p>1. Medical Professional Institute</p> <p>2. Blue Hills Regional Technical School</p> <p>3. Roxbury Community College</p> <p>B. 244 CMR 6.06(2) Waiver Request</p> <p>1. Salem State College</p> <p>2. Quincy College</p> <p>C. 244 CMR 8.02(1)(b)1 Certification of Graduation</p> <p>1. Atlantic Union College</p>	Memo Memo Memo	SV SV SV
	IX.	<p>REQUEST FOR APPOINTMENT TO SAREC COMMITTEE</p> <p>A. Boston</p>	Memo	VI

	X.	FY 15 Board Meeting Schedule	Memo (revised)	RH
	XI.	FY 15 Election of Board Officers	Oral Nominations and Votes	RH
	XII.	PROBATION REQUESTS FOR EXTENSION A. M. Reilly, LN60414, NUR-2010-0013 B. M. Ahr, RN 153868, NUR-2012-0050 C. C. Madden, LN 68451, NUR-2010-0117 D. W. Kiragga, RN257426, NUR-2011-0166	Memo	KF
	XIII.	PRACTICE A. Proposed Revisions AR 9901: RN First Assistants and AR 9902: NM First Assist	Memo	LT
	XIV.	NCSBN 2014 Delegate Assembly – Summary of Recommendations and Appointment of Delegates	Report	CS
	XV.	FLEX SESSION A. Announcements B. Topics for Next Agenda		
2:00 pm	XVI.	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. 1. 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 changes 2. Approval of prior executive session minutes in accordance with M.G.L. ch.30A, § 22(f) for sessions held during the April 9, 2014 meeting.	CLOSED SESSION	
	XVII.	ADJUDICATORY SESSION (M.G.L. c. 30A, § 18)	CLOSED SESSION	
	XVIII.	M.G.L. c. 112, § 65C SESSION	CLOSED SESSION	
4:00 p.m.	XIX.	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, June 11, 2014

Board Members Present

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

Board Members Not Present

M. Beal, RN/NM

Board Staff Present

R. Harb, RN, Executive Director
V. Berg, Chief Board Counsel (left at 10:10 am)
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. Robertson, RN, Deputy Executive Director
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

O. Atueyi, JD, Board Counsel

Guests

See attached list.

TOPIC:

Call to Order & Determination of Quorum

DISCUSSION:

A quorum of the Board was present. R. Harb introduced and welcomed Susan Taylor, MSN, RN, newly appointed board member and David Murphy, Board Counsel Multiboards

ACTION:

At 9:05 a.m., S. Kelly, Chairperson, called the June 11, 2014 Regularly Scheduled Board Meeting to order.

TOPIC:

Approval of Agenda

DISCUSSION:

R. Harb requested that agenda item VII A Proposed Revisions to 244 CMR 4.00 Relative to Advanced Practice Registered Nurses - Post August 2013 Public Comments/Testimony be deferred due to small administrative issues that need review. R. Harb asked the Chair if Item VII B could be reordered to be heard earlier in the agenda to follow item V.

ACTION:

Motion by B. Levin, seconded by E.R. Rothmund, and unanimously passed to approve the agenda as revised.

TOPIC:

Approval of Board Minutes for the April 9, 2014 Meeting of the Regularly Scheduled Board Meeting

DISCUSSION:

None

ACTION:

Motion by C. Simonian, seconded by J. Killion, and unanimously passed to accept the Minutes of the April 9, 2014, Regularly Scheduled Board Meeting.

TOPIC:

Reports

- A. Executive Director's Report
- B. Staff Report
 - 1. Deputy Executive Director
 - 2. Policy and Research
 - 3. Practice
 - 4. Education
 - 5. Complaint Resolution
 - 6. SARP

DISCUSSION:

- A. Executive Director's Report: Board members reviewed R. Harb's previously distributed report and noted the appointment of S. Taylor, Board member and D. Allwes, Bureau Director for Health Care Safety and Quality.
- B. Staff Reports:
 - 1. Board members reviewed C. Robertson's previously distributed report. Ms. Robertson gave personnel updates.
 - 2. Board members reviewed C. Silveira's previously distributed report. With regard to her report dated 5/6/14, Ms. Silveira noted the *Standards for Educational and Psychological Testing*, developed by the American Educational Research Association, the American Psychological Association and the National Council on Measurement in Education, are used by the National Council of State Boards of Nursing to ensure the validity and reliability of the National

Council Licensure Examinations® in order to allow nursing boards to make defensible licensure decisions.

3. Board members reviewed L. Talarico's previously distributed report. Ms. Talarico noted that, subsequent to Governor Patrick's declaration of a public health emergency in response to the growing opioid epidemic in April 2014, Commissioner Bartlett requested and received the approval of the Public Health Council expanding access to naloxone (Narcan) for individuals in a position to assist a person experiencing an opioid-related overdose. Whereas MGL 94C authorizes unlicensed persons to possess and administer naloxone, LPNs, RNs and APRNs in all settings, as provided for in the regulations at 244 CMR 3.00, may and should teach any individual to administer naloxone as a professional activity which does not constitute delegation.

In addition, Ms. Talarico noted that Senator Richard Moore filed Amendment # 935 to the Senate Budget that would, among other statutory amendments, remove the physician supervision requirement for APRN prescriptive practice in Massachusetts. The re-drafted version was approved on May 22, 2014. The amendment will go before a Conference Committee as part of the budget process. They have until June 30th to release it - either with or without changes. If released, it will go to the Governor's desk and requires his signature to become law.

4. Board members reviewed S.Varghese's previously distributed report
5. Board members reviewed A. Fein's and H. Cambra's previously distributed report. H. Cambra identified that a copy of *The HCCA HIPAA Training Handbook, 3rd edition* has been obtained and is available for Board members' review. She also reminded members that they are all welcome and encouraged to attend the 5ht and last live, CLEAR webinar module, *Assessing Competence* that will be presented on Thursday, June 12, 2014 at 1:00pm.
6. Board members reviewed V. Iyawe's and D. Mclellan's previously distributed report. V. Iyawe noted that there were (10) SARP admissions during the month of May 2014 (the largest number of admissions in a single month since June 2010).

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. Quarter 1, 2014, NCLEX® Performance Reports
 - a. 2014 Pass rate Trends licensure by Examination Quarter 1 Corrected
 - b. Candidates Applying for Mass Licensure by Examination Quarter 1
 - c. NCLEX Performance Statistical Reports Memo

DISCUSSION:

- A. Board members reviewed L. Talarico's previously distributed report. Ms. Talarico noted that NCSBN reported to its members information regarding NCSBN's Transition to Practice (TTP) team. The Research Advisory Panel is analyzing data gathered in a randomized, multisite study of transition to

practice using the TTP model. A final research report will be given to the Board of Directors at its July meeting, and the results will be presented at the NCSBN 2014 Annual Meeting in August. In addition, NCSBN reported to its members that a recent cost-benefit study published in the Journal of American Medical Association Pediatrics could assist policy makers tasked with making decisions related to resource allocation by helping them understand the benefit of school nurse programs. Researchers conducted a case study of the Massachusetts Essential School Health Services program (which includes 78 school districts) to demonstrate the cost-benefit of school health services delivered by full-time registered nurses.

- B. Ms. Talarico noted that the most recent Coalition Report and minutes were included in the Board packet for member review.
- C. Board members reviewed S. Varghese's Quarter 1, 2014 NCLEX Performance Reports

ACTION:

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

TOPIC:

- A. **Proposed Revisions to 244 CMR 4.00 Relative to Advanced Practice Registered Nurses - Post August 2013 Public Comments/Testimony - agenda item deferred to July 9, 2014 Regularly Scheduled Board Meeting**

- B. **Emergency Amendments to 244 CMR 4.00 - Prescribing hydrocodone-only medications**

DISCUSSION:

Ms. Berg reviewed proposed emergency amendments to the Board's regulations at 244 CMR 4.28, as previously distributed to Board members, along with a supporting memorandum. Ms. Berg noted that if these emergency regulations are promulgated by the Board, registered nurses with advanced practice authorization (APRNs) who seek to prescribe hydrocodone-only extended release medications that are not in an abuse deterrent formulation will be required to meet certain requirements. These requirements include first undertaking a risk assessment of his/her patient and then entering into an agreement with the patient regarding the use of the prescribed medication. APRNs would also be required to issue a "letter of medical necessity" that would be provided to the patient to bring to the pharmacy with the prescription. Ms. Berg noted that the Board of Registration in Medicine has already, on April 22, 2014, promulgated virtually identical emergency regulations to this effect. Further, Ms. Berg stated the Board of Registration in Pharmacy adopted corresponding regulations at its meeting on May 6, 2014 which require presentation of a letter of medical necessity before this medication may be dispensed. Finally, Ms. Berg noted DPH recommends the Board adopt the proposed emergency regulations as part of a coordinated effort with the boards of registration in Medicine, Pharmacy, Dentistry, Physician Assistants and Podiatry.

Ms. Berg provided the context and rationale for promulgating the proposed amendments on an emergency basis at this time, based on the convergence of two factors: First, Massachusetts is facing a broadening epidemic of opioid abuse with an unprecedented rate of unintentional opioid related overdose deaths. Second, the FDA has recently approved a new opioid medication into the prescription drug market: hydrocodone-only extended release medications that are not in an abuse deterrent form. The FDA advisory committee commented in December 2012 that if this medication were approved, it would be associated with higher levels of abuse than hydrocodone combination

products currently in the market. The first of these two factors warrants broad action and described actions taken towards that end. The Governor declared a Public Health Emergency on March 27, 2014 empowering the Commissioner of DPH to take necessary actions to address the crisis. The Commissioner has convened a task force to review, from an interdisciplinary perspective, measures to appropriately address opioid abuse, misuse and overdose generally. However, in considering such measures, DPH is cognizant that abrupt changes applicable to the prescribing and dispensing of opioid medications on a general basis may have a disruptive impact on persons with therapeutic regimens already in place that include such medications. This disruption is why the second factor - the recent introduction of this particular medication - warrants emergency action now. Specifically, with the introduction of a new medication, there is a short window of opportunity to implement measures intended to reduce the potential for abuse, misuse and overdose *before* widespread initiation of therapy with this medication. The hope is that the Commonwealth would be able to proactively meet the anticipated impact of this addition to the prescription opioid market rather than react after the fact. Thus these measures are presented on an emergency basis, because unless the measures are set prior to broad based commencement of treatment with this medication, the opportunity would be lost, to the detriment of the public health, safety and welfare.

During the discussion, C. TEBALDI asked how the regulations would affect prescribers' ability to provide prescriptions for this class of medications to patients who present in an Emergency Room. V. Berg noted that it was unlikely that the emergency room provider would be in a position to meet the requirements (e.g., entering into a patient treatment agreement or verifying that other treatments failed). V. Berg noted that the provisions contemplate that this class of medications would be prescribed for management of chronic conditions where the prescriber monitors the patient's use, rather than as an emergency treatment measure.

ACTION:

Motion by P. Gales, seconded by C. Tebaldi, and unanimously voted to promulgate, the proposed amendments to 244 CMR 4.00 at 4.28, on an emergency basis.

TOPIC:

Pending Board Complaint: **In the Matter of A. Bateman**, RN/PC169260, NUR-2013-0220. 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:

M. Sheckman, Health Care Investigator provided additional information obtained after the investigation was completed including that the U.S. DEA had reported that the Licensee's DEA registration was in violation of their requirements due to the registration identifying the Licensee's home address rather than the required employer's information. M. Sheckman also reported that she had contacted the MA DCP related to the Licensee's MA controlled substances registration and the information was pending. H. Cambra presented additional information that she obtained since the Investigative Report was sent to the Board members including submitted Guidelines of Prescriptive Practice and a current Curriculum Vitae from the Licensee; both of these documents were reviewed by L. Talarico and determined to meet the Board's regulatory requirements. H. Cambra also reported concerns that the Licensee did not appear to understand what the 96-hour review provision of the guidelines meant; Board members discussed the Licensee's demonstrated compliance with a portion of what was requested, the further need to restrict her APRN authorization, and concerns that the Licensee has demonstrated a knowledge deficit related to her scope of practice.

ACTION:

Motion by E.R. Rothmund, seconded by B. Levin 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 APRN authorization for an indefinite period with reinstatement requirements that also includes, submission of appropriate controlled substance registration with the DEA and MADPH, successful completion of three (3) contact hours in Critical Thinking and Nursing Judgment, three (3) contact hours in Legal and Ethical Aspects of Nursing Practice, and a signed affidavit that the Licensee read and understands 244 CMR 4.00.

TOPIC:

Pending Board Complaint: **In the Matter of S. Cresci**, RN189971, NUR-2013-0190. 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 K. Gehly, seconded by E.R. Rothmund 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. DISMISS this complaint without prejudice with a *non-disciplinary* caution that states all nurse licensed in the Commonwealth are expected to adhere to all laws and regulations governing nursing practice, including but not limited to: effective communication with collaborating health care providers, patient advocacy, and maintaining the responsibilities of a nurse in the management role.

TOPIC:

Pending Board Complaint: **In the Matter of T. Vechorko**, RN277147, NUR-2013-0191. 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:

S. Taylor voiced concern that this Licensee did not initiate the "Stop the Process" Policy to ensure the patient's safety; H. Cambra clarified that the Licensee, in her response to the Notice of Complaint did recognize and state that she should have invoked this process during her care of this patient.

ACTION:

Motion by J. Killion, seconded by B. Levin 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. DISMISS this complaint without prejudice with a *non-disciplinary* caution that states that all nurses licensed in the Commonwealth are expected to adhere to all the laws and regulations governing

nursing practice, including but not limited to: scope of nursing practice and acceptable standards of nursing documentation.

TOPIC:

Pending Board Complaint: **In the Matter of P. Eveleigh**, RN/NM210781, NUR-2013-0192. 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 A. Peckham 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 nursing license and APRN authorization for an indefinite period with reinstatement requirements that also include the standard documentation of her successful completion of: six (6) contact hours on Obstetrical Care of the High Risk Patient, three (3) contact hours on Critical Thinking and Judgment in Nursing Practice, the NCSBN Learning Extension Course entitle Documentation: A Critical Aspect of Client Care, three (3) contact hours on Effective Communication within Health Care Providers, three (3) contact hours in Legal and Ethical Aspects of Nursing Practice, and evidence sufficient to the Board of completion of the facility-required Advanced Fetal Heart Monitoring Course. The terms of the POST-SUSPENSION PROBATION to be determined at the time of the request for reinstatement.

TOPIC:

Pending Board Complaint: **In the Matter of J. Dozier**, LN64014, NUR-2013-0201. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Board Complaint: **In the Matter of R. Agholor**, RN263132, NUR-2013-0225. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Board Complaint: **In the Matter of K. D'Alessandro aka Gately**, LN64369, NUR-2014-0009. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Board Complaint: **In the Matter of J. Desmond**, RN274515, NUR-2014-0051. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Staff Assignment: **In the Matter of J. Barnes aka Norris**, RN252216, SA-INV-2657. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Board Complaint: **In the Matter of E. Hansbury**, RN197815, LN44833 (expired), NUR-2013-0007. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Staff Assignment: **In the Matter of K. Wallace**, RN285121, LN68059 (expired), SA-INV-276. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Staff Assignment: **In the Matter of C. McAndrew**, RN273500, LN58049 (expired), SA-INV-2762, SA-INV-276. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Staff Assignment: **In the Matter of N. Nieves**, RN271995, LN63438 (expired), SA-INV-2760. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Board Complaint: **In the Matter of S. Connolly**, RN283295, NUR-2013-0193 and NUR-2013-0241. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Board Complaint: **In the Matter of J. Whelan**, RN/NP183552, NUR-2014-0067. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Board Complaint: **In the Matter of W. McGregor**, LN61927, NUR-2014-0060. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Board Complaint: **In the Matter of D. Miller**, LN68562, NUR-2014-0037. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Board Complaint: **In the Matter of M. Moured**, RN2269397, NUR-2014-0038. This matter was transferred into closed session as authorized by M.G.L c. 112, § 65C.

TOPIC:

Pending Board Complaint: **In the Matter of C. Clark**, RN161215, NUR-2014-0092. This matter was deferred.

TOPIC:

Pending Staff Assignment: **In the Matter of O. Lemaire**, RN2271193, SA-INV-5252. This matter was deferred.

TOPIC:

Agenda Revision

DISCUSSION:

S. Kelly, Chairperson asked that the agenda be revised by moving all the remaining cases listed under agenda item VI., Complaint Resolution to the agenda of G.L. c.112 § 65C closed session to preserve the privacy of the patients involved.

ACTION:

Motion by P. Gales, seconded by B. Levin, and unanimously passed to revise the June 11, 2014 Regular Agenda by deleting the items referred to the G.L. c.112 § 65C Session. Specifically this change includes agenda items VI., Complaint Resolution Part 1, A.5 to A.8 and B.1, Part 2, A.1 and B.1 to B.3, and Part 3, A.1 to A.6 and B.1 to the closed session.

TOPIC:

Education

A. 244 CMR 6.04(1)(c) & (f) Notification

1. Medical Professional Institute
2. Blue Hills Regional Technical School
3. Roxbury Community College

B. 244 CMR 6.06(2) Waiver Request

1. Salem State University
2. Quincy College-Practical Nursing Program

C. 244 CMR 8.02(1)(b)I Certification of Graduation

1. Atlantic Union College

DISCUSSION:

A. Members reviewed S.Varghese's previously distributed memo.

B. Members reviewed S.Varghese's previously distributed reports.

C. Members reviewed S.Varghese's previously distributed memo.

ACTION:

A. Motion by B. Levine, seconded by K. Gehly and unanimously voted to find compliance with regulations 244 CMR 6.04(1)(c) and (1)(f) in the notification of the appointments of: Paul T Jones, MSN, FNP-C, Practical Nursing Program Administrator, Medical Professional Institute; Ann Marie Fortin, RN, MSN-Ed Program Administrator, Blue Hills Regional Technical School; and Angela M. Macdonald, DNP-PHNL, RN, Interim Director of Nursing, Roxbury Community College.

B. 1. Motion by P. Gales, seconded by B. Levine and unanimously voted to grant a waiver of 244 CMR 6.06(1)(a) to Salem State University's Baccalaureate and Direct Entry Graduate Programs based on the findings and recommendations of the September 26, 2012, Commission on Collegiate Nursing Education (CCNE) accreditation survey and the Programs' Annual Report to the Board.

B. 2. Motion by K. Gehly, seconded by C. Simone and unanimously voted to grant waiver of 244 CMR 6.06(1)(a) to Quincy College's Practical Nurse Program based on review of the findings and

recommendations of the Accrediting Commission for Nursing Education (ACEN), formerly the National League of Nursing Accrediting Commission and the Program's Annual Report to the Board, directing the Program to submit its follow-up report to ACEN, due October, 2014, and the subsequent letter from the ACEN Commissioners to the Program regarding their action following their review of the follow-up report.

C. Motion by E. Rothmund, seconded by K. Gehly and voted unanimously to accept certification of graduation status completed by the Interim Registrar, Rosalie Tkachuk, Atlantic Union College, as evidence of compliance with CMR 8.02(1)(b)1.

TOPIC:

Request to Appoint to Substance Abuse Rehabilitation Evaluation Committee (SAREC), Boston

DISCUSSION:

SARP Coordinators recommended that the Board approve Philip Lydeard, Public Member, application for the SAREC Membership in Boston.

ACTION:

A: Motion by E. R. Rothmund, seconded by B. Levin, RN, and unanimously voted to appoint Philip Lydeard, Public Member to the Boston SAREC.

TOPIC:

FY 15 Board Meeting Schedule

DISCUSSION:

Board members reviewed R. Harb's previously distributed report and noted the additional special meeting on August 13, 2014 to take final action post public hearing on the emergency regulations at 244 CMR 4.00 adopted today. All members present are able to attend the August meeting except for one which would be sufficient for quorum; the meeting will be scheduled at 9 a.m.

ACTION:

Motion by C. Simonian, seconded by J. Killion, and unanimously passed to approve the FY 15 Board meeting schedule as revised. Monthly meetings are scheduled every second Wednesday of the month from 9 a.m. to 3 p.m. at 239 Causeway Street, 4th Floor, Boston, MA 02114, unless otherwise noted. Meetings will be held on July 9, 2014, August 13, 2014 – Special Board Meeting, September 10, 2014, October 8, 2014, November 12, 2014, December 10, 2014, January 14, 2015, February 11, 2015, March 11, 2015, April 8, 2015, May 13, 2015, and June 10, 2015

TOPIC:

FY 15 Election of Board Officers

DISCUSSION:

J. Killion nominated Sandra Kelly for Chairperson and K. Gehly for Vice-Chairperson as Board officers for FY 15

ACTION:

The Board voted unanimously to elect Sandra Kelly as Chairperson and K. Gehly as Vice-Chairperson for FY 15, by the following vote: **In favor:**, P. Gales, RN, K. Gehly, RN, S. Kelly, RN/NP, J. Killion, LPN,

B. Levin, RN, A. Peckham, RN, MSN, E. Richard Rothmund, C. Simonian, PharmD, R.Ph., S. Taylor, MSN, RN, C. Tebaldi, RN, MS **Opposed:** None **Abstained:** None **Absent:** M. Beal, RN/NM

TOPIC:

Probation Requests for Extension

1. Melissa Reilly, LN60414, NUR-2010-0013: K. Fishman reviewed her previously distributed memo in which she discussed the Licensee's request for an additional Extension beyond the Board's last granted six (6) month extension on August 21, 2013, in order to fulfill the active practice terms of the Consent Agreement for Probation for one (1) year that she entered into with the Board effective October 11, 2011. The Licensee was working as a nurse at Newton Health Care Center at the time when the probation went into effect, but was later let go from the position on November 4, 2011 because the facility could not provide the supervision required by the Consent Agreement. The Licensee reports regularly to K. Fishman that she has been unable to obtain an appropriate nursing position since being let go from Newton Health Care Center, despite her attempts. The Licensee has reported that she volunteers for the Red Cross and plans to seek assistance with her interviewing skills in the hopes of gaining employment.

DISCUSSION: R. Harb brought it to the attention of the Board that granting the extension would go beyond the Board's normal policy of doubling the time of probation in order for the Licensee to complete the active practice terms of her probation. C. Tebaldi asked if the Licensee was working at the Red Cross as a nurse. K. Fishman stated that she did not know, but would find out.

ACTION: Motion by E. Richard Rothmund, seconded by B. Levin, and unanimously voted to grant to the Licensee a final extension of six (6) months to fulfill the active practice terms of her probation.

TOPIC: Probation Request for Extension

2. Mary T. Ahr, RN153868, NUR-2012-0050: K. Fishman reviewed her previously distributed memo in which she discussed the Licensee's request for an Extension of the Post-Surrender Consent Agreement for Probation she entered into with the Board, effective March 4, 2013, in order to complete the active practice terms of the agreement. The Licensee has been unable to obtain an appropriate nursing position, despite her continued efforts. The Licensee has maintained monthly contact with K. Fishman through letters that have summarized her efforts to gain employment.

DISCUSSION: None.

ACTION: Motion by E. Richard Rothmund, seconded by P. Gales, and unanimously voted to grant to the Licensee an extension of six (6) months to fulfill the active practice terms of her probation.

TOPIC: Probation Request for Extension

3. Christine Madden, LN68451, NUR-2010-0117: K. Fishman reviewed her previously distributed memo in which she discussed the Licensee's request to either extend the time allowed for the Licensee to fulfill the active practice terms of her Consent Agreement for Stayed Suspension and Probation that she entered into with the Board on March 1, 2011, or to consider that the Licensee has satisfactorily completed the terms and conditions of her Probation. The Licensee was employed at the Judge Rotenburg Center in Canton, MA from prior to the effective date of the Consent Agreement to June 1, 2012. The original termination date for the Probation was March 1, 2012, but was tolled until June 1, 2012 because the Licensee took a three (3) month maternity leave during the Summer of 2011. The Licensee resigned from her position on June 1, 2012 at the Rotenburg Center because she believed that she had completed her

probationary period. On the fourth and final required Supervision Report, the Licensee was given “needs improvement” marks by Rob Duquette, RN, Assistant Director of Medical Services that the Licensee claims to have never been supervised by. Due to these marks and mitigating circumstances surrounding the Licensee’s separation from the Rotenburg Center, Board staff extended the Probation for a period of three (3) months, but allowed the Licensee one (1) year to complete the needed three (3) months of supervised nursing practice. The Licensee has not been able to obtain employment as a nurse since leaving her position at the Rotenburg Center despite her efforts. The Licensee has reported to K. Fishman on a regular basis regarding her attempts to gain employment as a nurse.

DISCUSSION: A. Fein questioned why the Licensee left her position at the Rotenburg Center and if her reason for leaving related to the allegations of dishonesty from the original complaint. K. Fishman explained that the Licensee left the Rotenburg Center because the Licensee was being given work unrelated to nursing practice, as well as not liking the environment of the work place. K. Fishman reported that the Licensee’s reasoning for leaving the Rotenburg Center did not relate to dishonesty.

ACTION: Motion by K. Gehly, seconded by P. Gales, and unanimously voted to consider the Licensee as having satisfactorily completed the terms and conditions of her Probation.

TOPIC: Probation Request for Extension

4. William Kiragga, RN257426, NUR-2011-0116: K. Fishman reviewed her previously distributed memo in which she discussed the Licensee’s request for an Extension of the six (6) month Non-Disciplinary Consent Agreement for Stayed Probation he entered into with the Board, effective November 8, 2011, in order to complete the active practice terms of the agreement. The licensee was unable to obtain appropriate nursing employment to fulfill the active practice terms of the agreement until recently, when he obtained employment and began working as a nurse at Golden Living Centers in Attleboro, MA on April 22, 2014.

DISCUSSION: None.

ACTION: Motion by K. Gehly, seconded by C. Simonian, and unanimously voted to grant to the Licensee an extension of six (6) months to fulfill the active practice terms of his probation.

TOPIC:
Practice

DISCUSSION:

Ms. Talarico summarized the proposed Revisions to Advisory Ruling (AR) 9901: *Registered Nurses As First Assistants at Surgery* and AR 9902: *Nurse Midwife as First Assist at Surgical Procedures* based upon recommendations of Nursing Practice Advisory Panel (NPAP) as detailed in previously distributed memo. Included, was a recommendation, for clarity, to retain two distinct AR as the educational requirements and scope of practice for the RN and APRN roles as First Assist at surgery differ significantly in that:

- 1) Education
 - a) The complexity of knowledge and skill required to effectively care for patients receiving perioperative nursing services necessitates RNs to be specialized and to continue their education beyond generic nursing programs.
 - b) The complexity of knowledge and skill required to effectively and autonomously care for patients receiving pre and post operative services is included in the educational content of generic APRN

educational programs. The complexity of knowledge and skill required to effectively care for patients receiving intraoperative services necessitates APRNs continue their education beyond generic APRN programs.

2) Scope of practice

- a) The scope of practice of an APRN would include the activities of diagnosing and prescribing where the scope of RN practice would not.

Additional NPAP findings included:

- 1) Since the time the Board issued AR 9901: *Registered Nurses as First Assistants at Surgery*, the Association of periOperative Registered Nurses (AORN) has revised its position statement: *RN First Assistants* to require, as of January 1, 2020, a baccalaureate degree as a prerequisite to RNFA certification. AORN suggests that regulatory agencies allow RNFA currently practicing to be grandfathered by not requiring a baccalaureate degree for those individuals.
- 2) Neither Board AR 9901: *Registered Nurses as First Assistants at Surgery* or AR 9902: *Nurse Midwife as First Assist at Surgical Procedures* address the practice of additional APRN categories that function as first assist at surgery. Nurse Practitioners or Nurse Anesthetists may possess the competency required to provide safe surgical first assistant services.
- 3) AORN has issued a revised position statement in 2014: *Advanced Practice Registered Nurses in the Perioperative Environment* which specifies that the APRN who functions as a first assist must acquire the knowledge and skills needed to provide safe, competent surgical first assistant services by completing education that covers the content of the AORN *Standards for RN First Assistant Education Programs*. The position statement recognizes that APRN education has prepared the APRN to practice in the pre and post operative settings using the AORN “standards of perioperative practice”, but intraoperative knowledge and skill attainment would require education beyond generic APRN programs. AORN recommends that APRNs currently practicing in the first assist role should be grandfathered.
- 4) AORN found that the facilities in which a nurse performs the first assist role at surgery should have a formal process in place to review specific competency criteria and grant clinical privileges to those nurses.
- 5) Evidence based research or literature pertaining to RNFA practice was limited to historical or editorial information.

ACTION:

Motion by J. Killion, seconded by B. Levin, and unanimously voted to find that the Board’s current requirement for competency based RNFA practice is consistent with the AORN position statement *RN First Assistants*, and to revise AR 9901: *Registered Nurses as First Assistants at Surgery*:

- a) to specify that educational requirements for RNFA must be consistent with those in the AORN position statement *RN First Assistants*,
- b) to incorporate the nurse in a management role responsibility to ensure organizational policy includes a system to validate RNFA education, training, and experience that demonstrate competence in first assist duties,
- c) with updated references, and
- d) with non-substantive format changes.

Additionally, motion by P. Gales, seconded by A. Peckham, and unanimously voted to:

- a) Find that the AORN position statement *Advanced Practice Registered Nurse Practicing in the Perioperative Setting* is consistent with the Board’s current requirements for competency based practice for RN/NM who function as first assist at surgery,
- b) Rename the AR to *Advanced Practice Registered Nurses as First Assist at Surgical Procedures* to identify that Nurse Practitioners (RN/NP) and Nurse Anesthetists (RN/NA), in addition to Nurse

Midwives, may have the competency to practice in this specialized role, consistent with AORN's position statement *Advanced Practice Registered Nurse Practicing in the Perioperative Setting*, revise AR 9902: *Nurse Midwife as First Assist at Surgical Procedures*, and

c) Revise AR 9902:

- i) to expand the Board's current requirements for competency based practice for RN/NM who function as first assist at surgery to include categories of RN/NP and RN/NA,
- ii) to specify that educational requirements for APRNs who practice as first assists at surgery must be consistent with those in the *AORN Position Statement on Advanced Practice Registered Nurses in the Perioperative Environment*,
- iii) to incorporate the nurse in a management role responsibility to ensure organizational policy includes a system to validate APRN education, training, and experience that demonstrate competence in first assist duties, and
- iv) with updated references.

TOPIC:

NCSBN 2014 Delegate Assembly – Summary of Recommendations and Appointment of Delegates

DISCUSSION:

Members reviewed the C. Silveira's previously distributed memo. Ms. Silveira provided some background information related to the NCSBN Board of Directors' recommendations.

ACTION:

Motion by P. Gales, seconded by B. Levin, and voted unanimously to appoint Rula Harb and Laurie Talarico as Massachusetts Delegates to the Delegate Assembly at the 2014 National Council of State Boards of Nursing Annual Meeting to be held August 13-15, 2013, in Chicago, IL, directing them to vote in favor of adoption of the:

- Proposed revision to the NCSBN Model Practice Act and Rules;
- Proposed amendments to the NCSBN Bylaws addressing the simultaneous vacancy of the president and president-elect positions;
- Proposed revision to the APRN Interstate Compact;
- Associate Membership of the: College of Licensed Practical Nurses of Newfoundland and Labrador; Nurses Association of New Brunswick; Nursing and Midwifery Council New South Wales; and Yukon Registered Nurses Association;
- 2014 Slate of Candidates for election to the Board of Directors (President, President-elect, Treasurer, Directors-At-Large [2 positions]) and the Leadership Succession Committee (Area I – III; no one is running for Area IV representative to this Committee).

TOPIC:

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

DISCUSSION:

None

ACTION:

Motion by P. Gales, seconded by B. Levin, and unanimously passed by roll call vote to go into G.L. c. 112, s. 65C Session at 1:35 p.m. to discuss negotiated settlements of complaints.

G.L. c. 112, s. 65C Session 11:35 a.m. to 12:10 p.m.

Lunch Recess 12:10 p.m. to 12:45 p.m.

**G.L. c. 112, s. 65C Session 12:10 p.m. to 2:05 p.m.
In recess from 2:05 p.m. to 3:20 p.m.**

TOPIC:

G.L. c.30A, §21 Executive Session

DISCUSSION:

None

ACTION:

Motion by J. Killion, seconded by E.R. Rothmund, and unanimously passed by roll call vote to go into Executive Session at 2:05 p.m. as per Purpose One of G.L. c.30A, §21 (a)(1).

G.L. c. 30A, § 21 Executive Session 2:05 p.m. to 3:15 p.m.

TOPIC:

Adjudicatory Session

DISCUSSION:

None

ACTION:

Motion by K. Gehly, seconded by B. Levin, and unanimously passed by roll call vote to go into Adjudicatory Session at 3:15 p.m. to discuss decisions in pending adjudicatory matters.

Adjudicatory Session 3:15 p.m. to 3:20 p.m.

TOPIC:

G.L. c. 112, s. 65C Session (resumed after recess from 2:02 p.m. to 3:20 p.m.)

G.L. c. 112, s. 65C Session 3:20 p.m. to 4:35 p.m.

TOPIC:

Adjournment

DISCUSSION:

11 Jun 14 Regular Minutes
(Approved 7/9/14)

None

ACTION:

Motion by E.R. Rothmund, seconded by J. Killion, and unanimously passed to adjourn the meeting at 4:35 p.m.

Respectfully submitted by:

A handwritten signature in blue ink that reads "Rula Harb on behalf of Rula Harb". The signature is written in a cursive, flowing style.

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

Agenda with exhibits list attached