

COMMONWEALTH OF MASSACHUSETTS

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

April 9, 2014
239 Causeway Street ~ Room 417 A&B
Boston, Massachusetts 02114

PRELIMINARY AMENDED AGENDA AS OF 4/8/2014 4:42 PM

Time	#	Item	Exhibits	Presented by
9:00 a.m.	I.	CALL TO ORDER & DETERMINATION OF QUORUM	None	
	II.	APPROVAL OF AGENDA	Agenda	
	III.	APPROVAL OF BOARD MINUTES A. Draft Minutes for the March 12, 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 7. Probation Monitor	Report Report Report Report Report Report Quarterly Report	RH CR CS LT SV AF/HC VI/DM KF
	V.	CONSENSUS AGENDA A. NCSBN Update B. Coalition for the Prevention of Medical Errors Update	Memo January 2014 minutes and March 2014 report	LT LT
	VI.	COMPLAINT RESOLUTION A. Resolution of Pending Board Complaints 1. M. Gill , LN49460, NUR-2013-0053 2. J. Capone , RN/NP2266103, NUR-2013-0229 3. A. Bateman , RN/PC169260, NUR-2013-0220 B. Resolution of Pending Board Staff Assignments 1. E. Seymour , RN229162, SA-INV-5089 2. K. Wallace , RN285121, LN68059 (expired), SA-INV-2763 3. C. McAndrew , RN273500, LN58049 (expired), SA-INV-2762 4. N. Nieves , RN271995, LN63438 (expired), SA-INV-2760	Investigation Report (IR) IR IR IR IR IR IR IR	ES/ASF MFS/ASF MFS/HC MFS/ASF MEM/ASF MEM/ASF MEM/ASF

Time	#	Item	Exhibits	Presented by
	VII.	PRACTICE A. Nurse Administration of Paralytic Medications	Memo	LT
	VIII.	EDUCATION None		
	IX.	REQUESTS FOR LICENSE REINSTATEMENT A. J. Brown, RN280744, NUR-2009-0117	Memo	TW/MS
	X.	REQUEST FOR APPOINTMENT TO SAREC COMMITTEE A. Boston	Memo	VI/DM
	XI.	HEARINGS None		
10:00 a.m.	XII.	<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 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. 2. Specifically, the Board will discuss and evaluate pending disciplinary complaints that involve patient records and treatment of patients. 3. Approval of prior executive session minutes in accordance with M.G.L. ch.30A, § 22(f) for sessions held during the March 12, 2014 meeting. 4. Specifically the Board will discuss and evaluate the Good Moral Character as required for registration pending applicants. 		CLOSED SESSION
	XIII.	ADJUDICATORY SESSION (M.G.L. ch. 30A, § 18)		CLOSED SESSION
	XIV.	M.G.L. c. 112, § 65C SESSION		CLOSED SESSION
12:00 p.m.	XV.	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, April 9, 2014**

Board Members Present

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

Board Members Not Present

S. Kelly, RN/NP, Chair
P. Gales, 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. 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

Guests

See attached list.

TOPIC:

Call to Order & Determination of Quorum

DISCUSSION:

A quorum of the Board was present. K. Gehly, Vice-Chairperson, informed Board members that a member of the public in the audience is recording the open session.

ACTION:

At 9:00 a.m., K. Gehly, presiding Vice-Chairperson, called the April 9, 2014 Regularly Scheduled Board Meeting to order.

TOPIC:

Approval of Agenda

DISCUSSION:

H. Cambra requested the addition of a matter to Agenda Item XII Executive Session that will require the Board to discuss and evaluate Good Moral Character of an individual as required for registration pending application and which satisfies the requirements for an emergency late-entry for Board review.

M. Campbell, Manager of the Office of Public Protection, thanked Ms. Ellen Sandler, Nursing Compliance Officer, for her many years of service and contributions to the mission of the Board.

ACTION:

Motion by B. Levin, seconded by J. Killion, and unanimously passed to approve the agenda as revised.

TOPIC:

Approval of Board Minutes for the March 12, 2014 Meeting of the Regularly Scheduled Board Meeting

DISCUSSION:

None

ACTION:

Motion by B. Levin, seconded by E.R. Rothmund, and unanimously passed to accept the Minutes of the March 12, 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
7. Probation Monitor

DISCUSSION:

A. Executive Director's Report: Board members reviewed R. Harb's previously distributed report. Ms. Harb gave an update about to the national conversation related to future licensing models. In March 2014 Ms. Harb attended a meeting with the leadership of the state executive directors and the NCSBN to develop consensus on how to facilitate cross border telehealth nursing practice. Currently two major licensure models exist in the United States for nursing regulation: the historical single state model and the mutual recognition model implemented through the Nurse Licensure Compact. Both models are state based and support states' rights. Recently, members of the U.S. Congress, many state

legislatures, and health professionals have expressed interest in a model of nurse licensure that would improve access to care through telehealth and decrease health care costs. Boards of nursing recognize that something needs to be done so that the requirement to have a license in every state of practice is not a barrier to mobility, access, and cost.

Ms. Harb extended the Board's well wishes and thanks to Donna Levin, DPH General Counsel, who is leaving DPH on April 9th, 2014; she has accepted a new appointment as Director of the National Network for Public Health Law.

B. Staff Reports:

1. Board members reviewed C. Robertson's previously distributed report. Ms. Robertson gave an update about the National Council of State Board of Nursing (NCSBN) Mid-Year meeting she attended March 10-12, 2014.
2. Board members reviewed C. Silveira's previously distributed report. Ms. Silveira noted that two applicants for the vacant Nursing Education Coordinator position had withdrawn from the application process.
3. Board members reviewed L. Talarico's previously distributed report. Ms. Talarico noted her attendance at a state-wide meeting presented by The Care Transitions Education Project (CTEP) that gave attendees an overview of the project. CTEP, developed through a grant from *Partners Investing in Nursing's Future*, a collaborative of the Robert Wood Johnson Foundation and the Northwest Health Foundation. CTEP provides an interactive educational experience that better equips nurses with the foundational knowledge, skills and attitudes needed to lead and improve patient-centered care transitions. CTEP educates nurses from all care settings and roles together, and increases their abilities to collaborate to achieve common patient-centered goals, including reducing avoidable hospital readmissions. The curriculum includes three major components: interactive learning modules, a quality improvement activity, and a "patient tracer" experience in which nurses shadow patients as they transition into different care settings. In 2013, twenty-eight service and academic organizations in Western MA piloted the curriculum with 350 nurses and nursing students. A one day train-the-trainer session for the CTEP will be held on May 13, 2014 in Marlborough, MA during which participants will receive a toolkit and guidance on how to implement cross continuum teams within their organizations. Board members were provided with the following web site to obtain additional information:
http://www.maseniorcarefoundation.org/initiatives/care_transitions.aspx
4. The Board members reviewed S. Varghese's previously distributed reports. Ms. Varghese noted that during the NCSBN Education Consultants Webinar/Conference Call, April 3, the presenter identified 17 nursing education and workforce initiatives in the Affordable Care Act. Ms. Varghese also noted the Massachusetts Action Coalition goal that 66% of RNs be educated at the Baccalaureate level by 2020.
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 3rd live, CLEAR webinar module, "Administrative Rulemaking" that will be presented at the Board's office on Thursday, April 10, 2014 at 1:00pm.
6. Board members reviewed V. Iyawe's and D. Mclellan's previously distributed report.
7. Board members reviewed K. Fishman'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

DISCUSSION:

A. L. Talarico directed members to the previously distributed memo. She referenced NCSBN's report related to Medical Home Intervention research. Additionally she noted that in Massachusetts, the Health Policy Commission¹, in consultation with stakeholders and in consideration of existing national standards, has developed a limited list of 45 "high-value" criteria in a progressive "Pathway" for voluntary certification of Patient-Centered Medical Homes (PCMH) in the Commonwealth. It is accepting public feedback on the proposed PCMH Certification criteria at HPC-PCMH@state.ma.us until April 4, 2014. Members were directed to <http://www.mass.gov/anf/docs/hpc/regs-and-notices/pcmh-public-comment-document.pdf> for additional information.

B. none

ACTION:

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

TOPIC:

Pending Board Complaint: **In the Matter of M. Gill**, LN49460, NUR-2013-0053. 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 J. Killion, seconded by M. Roy 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 LPN license for one (1) year period that also requires documentation of her successful completion of six (6) contact hours on Effective Communication Skills in Nursing Practice that includes the topic of Communication Among Members

¹ The Health Policy Commission (HPC) is established by Chapter 224 of the Acts of 2012, titled "An Act Improving the Quality of Health Care and Reducing Costs through Increased Transparency, Efficiency and Innovation." The HPC is a new independent state agency that monitors the reform of the health care delivery and payment systems in Massachusetts and develops health policy to reduce overall cost growth while improving the quality of patient care.

of the Health Care Team, three (3) contact hours on Conflict Resolution, three (3) contact hours on Legal and Ethical Aspects of Nursing, three (3) contact hours on Critical Thinking and Clinical Judgment in Nursing Practice, and an Affidavit from the Licensee attesting to her review and understanding of the Board's Standard of Conduct Policy 0101, Determination of Compliance with the Standard of Conduct at 244 CMR 9.03(15) Prohibiting Patient Abandonment.

TOPIC:

Pending Board Complaint: **In the Matter of J. Capone**, RN/NP2266103, NUR-2013-0229. 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 stated that it is unfortunate that the dermatological and cosmetic practice where the Licensee was practicing during December 2012 through September 2013 did not maintain a reliable record of its inventory of dermal fillers. She emphasized that she agreed it is important for the Board to pursue an investigation to determine if the Licensee has administered dermal fillers or other controlled substances without a valid order from an authorized prescriber when, or since, she performed services at Medical Laser Solutions. B. Levin also noted that it was interesting that the dermatological and cosmetic practice where the Licensee had been employed previously had posted on its web site notice that the Licensee was no longer associated with their practice.

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 based on insufficient evidence that the Licensee stole Botox or other substances from the facility that she administered to individuals in her home.
- c. OPEN a Staff Assignment to investigate whether the Licensee was, or is, improperly prescribing controlled substances without authorization when she performed services at Medical Laser Solutions or since, and if prescribing, that she is in compliance with the Board's regulations at 244 CMR 4.00 et seq.

TOPIC:

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

DISCUSSION:

None

ACTION:

C. Tebaldi disclosed that she needed to recuse herself from all consideration of this matter. Consequently, there was no longer a quorum of the Board members present to address this Complaint and it was DEFERRED to a future Board meeting.

TOPIC:

Pending Staff Assignment: **In the Matter of E. Seymour**, RN229162, SA-INV-5089. 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 E. R. Rothmund 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 further action as a complaint is not warranted considering all of the circumstances presented by this investigation.

TOPIC:

Pending Staff Assignment: **In the Matter of K. Wallace**, RN285121, LN68059 (expired), SA-INV-2763.

DISCUSSION:

None

ACTION:

Based on K. Gehly's recusal from any consideration of SA-INV-2760 that was consequently deferred for lack of quorum (see above), since the incident and circumstances that gave rise to SA-INV-2760 are relevant to the determination of this Staff Assignment as well as SA-INV-2762 (see below), in order to avoid any possibility of a conflict of interest, this Staff Assignment and SA-INV-2762 are also DEFERRED to a future Board meeting.

TOPIC:

Pending Staff Assignment: **In the Matter of C. McAndrew**, RN273500, LN58049 (expired), SA-INV-2762.

DISCUSSION:

None

ACTION:

Based on K. Gehly's recusal from any consideration of SA-INV-2760 that was consequently deferred for lack of quorum (see above), since the incident and circumstances that gave rise to SA-INV-2760 are relevant to the determination of this Staff Assignment as well as SA-INV-2763 (see above), in order to avoid any possibility of a conflict of interest, this Staff Assignment and SA-INV-2763 are also DEFERRED to a future Board meeting.

TOPIC:

Pending Staff Assignment: **In the Matter of N. Nieves**, RN271995, LN63438 (expired), SA-INV-2760.

DISCUSSION:

None

ACTION:

K. Gehly disclosed that she knew this Licensee and recused herself from all consideration of this matter. Consequently, there was no longer a quorum of the Board members present to address this Staff Assignment and it was DEFERRED to a future Board meeting.

TOPIC:

Practice

A. Nurse Administration of Paralytic Medications

DISCUSSION:

L. Talarico reviewed with Board members the Board's *Guide for Evidence Based Policy Analysis and Development* that members reviewed at its 5/9/12 meeting. Ms. Talarico used the document to explain the process Board staff use when determining to bring a practice inquiry to the Board for consideration. One example is a situation when the activity has been previously reviewed by the Board where a finding was made; since the time that the finding was made, new evidence based information is available that could impact practice. It is important that members review the new information to determine whether or not to adapt previously made decisions. In her explanation, Ms. Talarico reminded members that Board staff, when responding to inquiries, reference previous responses to ensure consistent application of the Board's standards. Those responses have been crafted using the Board's decision making guidelines. When new or controversial inquiries are posed, Ms. Talarico will often consult with the Nursing Practice Advisory Panel (NPAP). After describing the practice or activity, the NPAP examines existing statutes or regulations to determine whether or not the practice or activity is specifically permitted or prohibited. Under Ms. Talarico's direction, the NPAP also looks at standards defined by national nursing organizations and supporting data from nursing literature and research. Sometimes the answers are not clear or involve other stakeholders or interests. Should this be the case, a memo is prepared for Board review. The memo typically presents the issue statement, statutory or regulatory impact, evidence-based literature review, position statements from professional organizations, and conclusions with recommendations for policy intervention. The responsibility of Board members is to review the information and determine whether or not sufficient information has been presented to make a finding that is in the interest of public safety. Once the Board has made a finding, the information is disseminated to MA nursing and healthcare organizations through notification on the Board's website and through an email distribution.

A. As specified in the memo *Nurse Administration of Paralytic Medications*:

When referencing the Board's regulations at 244 CMR 3.00 and 9.00 and after review of additional statutory or regulatory impact, evidence-based literature, position statements from professional organizations and other states' Boards of Nursing, Nursing Practice Advisory Panel members concluded that registered nurses may administer NMBA:

- pursuant to a prescriber order;
- when the nurse has acquired the educational preparation and clinical competence to administer NMBA;
- in settings where organizational policies require the presence of a provider trained in anesthesia or expert in airway management;

- in settings where organizational policies require uninterrupted monitoring of patient consciousness and vital signs or when the patient is simultaneously receiving mechanical ventilation (*important to note that when the patient is not receiving mechanical ventilation, there must be a provider trained in anesthesia or expert in airway management present who is prepared to mechanically ventilate the patient simultaneous to the patient receiving paralytic medications – noted in response to request for clarification by A. Fein*); and
- when the nurse in the management role is responsible for and has ensured the development and implementation of relevant organizational protocols that ensure safe nursing practice.

ACTION:

Motion by J. Killion, seconded by C. Simonian, and unanimously voted to:

1. Find that the registered nurse caring for a non-mechanically ventilated patient may administer medications capable of producing neuromuscular blockade when in the presence of and pursuant to the orders of a licensed physician or CRNA. The nurse must acquire and maintain the necessary knowledge, skills, and abilities; demonstrating competency in the procedure. The nurse in the management role must ensure the development and implementation of relevant organizational protocols that ensure safe nursing practice.
2. Find that the registered nurse caring for a mechanically ventilated patient may administer medications capable of producing neuromuscular pursuant to the orders of a licensed physician or CRNA. The nurse must acquire and maintain the necessary knowledge, skills, and abilities; demonstrating competency in the procedure. The nurse in the management role must ensure the development and implementation of relevant organizational protocols that ensure safe nursing practice.

TOPIC:

Requests for License Reinstatement In the Matter of Jillian Brown, RN280744 and LN64545; NUR-2009-0117.

DISCUSSION:

None

ACTION:

Motion by E. R. Rothmund, seconded by B. Levin, and unanimously voted to reinstate the respondent's license with no conditions as she has met all of the requirements.

TOPIC:

Request for Appointment to Substance Abuse Rehabilitation Evaluation Committee (SAREC)

DISCUSSION:

SARP Coordinator reviewed with the Board the previously distributed report. SARP Coordinators recommended that the Board approve Christine McCarthy, Public member, application for the SAREC Membership in Boston.

ACTION:

Motion by B. Levin, seconded by M. Beal, and unanimously voted to appoint Christine McCarthy, Public member to the Boston SAREC.

TOPIC:

G.L. c.30A, §21 Executive Session

DISCUSSION:

None

ACTION:

Motion by M. Beal, seconded by J. Killion, and unanimously passed by roll call vote to go into Executive Session at 9:55 a.m. as per Purpose One of G.L. c.30A, §21 (a)(1) with the open session to be reconvened at the end of all the closed sessions to adjourn the meeting.

G.L. c. 30A, § 21 Executive Session 9:55 a.m. to 10:49 a.m.

Recess 10:50 a.m. to 11:00 a.m.

TOPIC:

Adjudicatory Session

DISCUSSION:

None

ACTION:

Motion by J. Killion, seconded by B. Levin, and unanimously passed by roll call vote to go into Adjudicatory Session at 11:00 a.m. to discuss decisions in pending adjudicatory matters.

Adjudicatory Session 11:00 a.m. to 11:07 a.m.

TOPIC:

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

DISCUSSION:

None

ACTION:

Motion by E.R. Rothmund, seconded by M. Beal, and unanimously passed by roll call vote to go into G.L. c. 112, s. 65C Session at 11:07 a.m. to discuss negotiated settlements of complaints.

G.L. c. 112, s. 65C Session 11:07 a.m. to 11:45 a.m.

TOPIC:

Adjournment

DISCUSSION:

None

ACTION:

Motion by E.R. Rothmund, seconded by J. Killion, and unanimously passed to adjourn the meeting at 11:45 a.m.

Respectfully submitted by:



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

Agenda with exhibits list attached