

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

**Minutes of the Regularly Scheduled Board Meeting  
Wednesday, September 10, 2014**

**Board Members Present**

S. Kelly, RN/NP, Chair  
K. Gehly, RN/NP, Vice Chair  
A. Alley, RN  
M. Beal, RN/NM  
P. Gales, RN  
J. Killion, LPN  
B. Levin, RN  
A. Peckham, RN (out 1:05pm)  
E. Richard Rothmund, Public Member  
C. Simonian, PharmD, RPh  
S. Taylor, RN (out 12:25pm)

C. Tebaldi, RN/NP

**Board Members Not Present**

Urena, Cheryl, LPN

**Board Staff Present**

R. Harb, RN, Executive Director  
K. Ashe, RN, Nursing Education Coordinator  
O. Atueyi, JD, Board Counsel  
H. Cambra, RN, JD, Complaint Resolution Coordinator  
D. M. DeVaux, RN, SARP Coordinator  
A. Fein, RN, JD, Complaint Resolution Coordinator  
K. Fishman, Probation Monitor  
K. Keenan, Licensing Coordinator  
V. Iyawe, 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 Coordinator  
S. Varghese, RN, Nursing Education Coordinator  
T. Westgate, Paralegal

**Board Staff Not Present**

**Guests**

See attached list.

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**TOPIC:**

Call to Order, Determination of Quorum & Introductions

**DISCUSSION:**

10/9/2014 10 Sept 14 Regular Minutes (Approved 10-8-14)  
(Approved October 8, 2014)

A quorum of the Board was present. Ms. Harb welcomed A. Alley, RN, Board member, K. Ashe, RN, Nursing Education Coordinator, D. M. DeVaux, RN, SARP Coordinator, K. Keenan, Licensing Coordinator

**ACTION:**

At 9:05 a.m., S. Kelly, Chairperson, called the September 10, 2014, Regularly Scheduled Board Meeting to order.

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**TOPIC:**

Approval of Agenda

**DISCUSSION:**

A. Fein asked that the agenda Item IV B5 be changed to no report

**ACTION:**

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

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**TOPIC:**

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

**DISCUSSION:**

S. Kelly requested the deletion of Ms. Roy from the list of members present on page 1. A. Fein will change all references to a complaint replacing it by staff assignment in the entry for staff assignment in the matter of O. Lemaire on page 3

**ACTION:**

Motion by S. Taylor, seconded by A.M Peckham, and unanimously passed to accept the Minutes of the July 9, 2014, Regularly Scheduled Board Meeting.

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**TOPIC:**

Approval of Board Minutes for the August 13, 2014, Special Meeting of the Board.

**DISCUSSION:**

S. Kelly requested changing the presiding officer at the meeting to be K. Gehly Vice Chairperson on page 1

**ACTION:**

Motion by B. Levin, seconded by J. Killion, and unanimously passed to accept the Minutes of the August 13, 2014, Special Meeting of the Board.

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**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: Members reviewed R. Harb's previously distributed memo. R. Harb expanded on the national efforts to enhance telehealth, interstate practice and the proposed changes to the Nursing Licensure Compact. S. Taylor asked about the different test used to assess English proficiency and P. Gales offered the Board's endorsement of these efforts and continued participation in meetings about the NLC and interstate practice.
- B. Staff Reports:
1. Member's reviewed Ms. Robertson's previously distributed memo. Ms. Robertson announced that the Office Specialist I vacancy position is posted and interviews will be conducted soon.
  2. Members reviewed Ms. Silveira's previously distributed memo. Ms. Silveira introduced Kathleen Ashe who was appointed to the Board's vacant Nursing Education Coordinator position on 8/11/14 and noted that she anticipated the 2014 edition of *Nursing Board News* will be published during the week of 9/15/14.
  3. Members reviewed L. Talarico's previously distributed memo. Ms. Talarico noted in her report the response to an inquiry related to cryolipolysis determining the use of a medical device to perform the procedure to be within the scope of nursing practice within the context of Advisory Ruling 1301: *Cosmetic and Dermatologic Procedures* and by referencing the Board's decision making guidelines. Additionally, Ms. Talarico noted that the Centers for Medicare and Medicaid Services awarded the Quality Innovation Network Quality Improvement Organization contract to Heathcentric Advisors, which will replace the former agreement with MassPro.
  4. Members reviewed S.Varghese's previously distributed memos. Ms. Varghese provided a brief summary of the finding of the National Council of State Boards of Nursing (NCSBN) Simulation Study noting that the study provided strong evidence of the use of simulation as a substitute for unto 50% of the traditional clinical experience in all pre-licensure core nursing courses will result in excellent student outcomes. Also, informed the Board of the National League for Nursing's announcement of its new accreditation division, The Commission for Nursing Education Accreditation (CNEA) and that the NCSBN revised definition of "entry-level nurse as one with 6 months or less experience to a nurse having more than 12 months of experience".
  5. None.
  6. Members reviewed V. Iyawe's and D.M. DeVaux's previously distributed report. Ms. Iyawe noted that there had been an increase in the number of Licensee's requesting admission to SARP in July 2014 and August 2014.

**ACTION:**

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

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**TOPIC:**

Consensus Agenda

- A. NCSBN Update
- B. Coalition for the Prevention of Medical Errors Update
- C. Quarter 2, 2014 NCLEX Performance Reports
  - a. 2014 Pass Rate Trends Licensure by Examination Quarter 2
  - b. Candidates Applying for Mass Licensure by Examination Quarter2
  - c. NCLEX Performance Statistical Reports Memo

## DISCUSSION:

A. Board members reviewed L. Talarico's previously distributed memo. Ms. Talarico provided a synopsis of highlights of the NCSBN Annual Meeting where Ms. Harb and Ms. Talarico represented the Board as voting delegates. Ms. Talarico noted highlights of some of the significant actions approved by the member Boards of Nursing include:

- Commitment to Facilitating Interstate Practice Resolution;
- Adoption of revisions to the NCSBN Model Practice Act and Rules;
- Adoption of the revisions to the NCSBN Bylaws; and
- Approval of the Nurses Association of New Brunswick, College of Licensed Practical Nurses of Newfoundland and Labrador, Nursing & Midwifery Board of New South Wales, Yukon Registered Nurses Association and Nursing & Midwifery Board of Australia as associate members of NCSBN.

Ms. Talarico also noted that NCSBN reported on testimony by Federal Trade Commission (FTC) presented on July 16, 2014 which detailed that, even when licensure is warranted, regulations can have adverse effects on competition. By FTC testimony, an example of a regulation that may have adverse effects on competition was the physician supervision requirements some states impose on advanced practice nurses (APRNs). FTC noted that collaborative practice agreements raise competition concerns because they have the ability to restrict access to the market by another competing group of health professionals. Further, the FTC quoted expert bodies for the proposition that APRNs are "safe and effective as independent providers of many health care services within the scope of their training, licensure, certification and current practice." The FTC opined that mandatory physician supervision may not be a justified form of occupational regulation for APRNs.

- B. Board members received minutes from the May, 2014 and July, 2014 meetings and the June, 2014 and July, 2014 reports from the Coalition for the Prevention of Medical Errors in their Board packets.
- C. Board members reviewed S. Varghese's Quarter 2, 2014 NCLEX Performance Reports. Board member S. Taylor noted the 2014 Pass Rate Trends table recorded a passing rate of 0 % for MA Diploma programs. The 2014 Pass Rate Trends for MA Diploma programs YTD column will correctly reflect 100 % pass rate, not 0%, as submitted.

## ACTION:

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

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## TOPIC:

Pending Board Complaint: **In the Matter of M. McMullen**, RN180059, NUR-2013-0045. The Board's Compliance Officer and Complaint Resolution Coordinator presented their previously distributed Investigation Report with CRC recommendations **outlining the allegations reported, information obtained regarding the Licensee's practice related conduct** and any corresponding mitigating and aggravating circumstances, and any remedial activities completed. Specifically, the CRC recommended that the information and documentation obtained during the investigation substantiated that after the Licensee's RN license expired during May 2012, she continued to engage in nursing practice for about the next eight (8) months when she learned that her license had not been properly renewed, upon which she promptly contacted the Board and renewed her license. The investigation also substantiated mitigating circumstances that included, but were not limited to, the Licensee's original submission of a timely renewal application, lack of awareness that her license had not been timely renewed, prompt and appropriate actions upon her

discovery of her license status, absence of any prior practice issues, board complaints or discipline, and a long and positive history of competent and safe nursing practice. During investigation, however, although requested, the Licensee had not provided documentation substantiating that she has complied with Board regulations requiring her completion of 15 contact hours of continuing education during each of her prior two (2) RN license renewal periods.

**DISCUSSION:**

M. Matthews informed the Board that as of 9/10/14 after the investigation was completed, the Licensee had submitted copies of certificates of completion of 18.8 contact hours of continuing nursing education in lieu of the 30 that she asserted she had completed for her 2010-2012 and 2012-2014 RN renewal periods, but for which she has not been able to retrieve records to substantiate.

**ACTION:**

Motion by E.R. Rothmund, seconded by B. Levin and voted unanimously to adopt the CRC recommendations and, *provided that* the Licensee submits within thirty (30) days of this offer documentation of her successful completion of the remaining twelve (12) contact hours of continuing education in lieu of those that were required by Board regulations for valid renewal of her prior two (2) RN license renewal periods, DISMISS this complaint without prejudice with a *NON-DISCIPLINARY CAUTION* that all nurses engaged in nursing practice in Massachusetts that includes, but is not limited to, performing nursing education in an academic nursing education program are required to maintain a current Massachusetts nursing license, among other requirements, and also all nurses licensed by the Board are required to comply with the Board's regulations at 244 CMR 5.05 for retention of records verifying the nurse's completion of at least fifteen (15) contact hours of continuing education during each of the nurse's prior two (2) renewal cycles. *Otherwise*, refer the complaint to the Office of Prosecutions for issuance of an OTSC and adjudication; and alternatively, in final settlement of this matter the Licensee may also be offered a STANDARD CONSENT AGREEMENT FOR REPRIMAND of her RN license.

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**TOPIC:**

**Education**

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

1. Diman Regional School of Practical Nursing
2. University of Massachusetts Dartmouth College of Nursing
3. MassBay Community College Associate Degree Nursing Program
4. Greenfield Community College Associate Degree Nursing Program and Greenfield Community College Practical Nursing Program
5. Mildred Elley School Practical Nurse Program

B. 244 CMR 6.08(1)(a)Evaluation: Mildred Elley School Practical Nurse Program  
(Administrator appointment and plan)

**DISCUSSION:**

- A. Members reviewed Ms. Varghese's previously distributed memo
- B. Members reviewed Ms. Varghese's previously distributed memo and considered it with agenda item A5. Members noted that the Mildred Elley School Practical Nurse Program has provided a written plan to precept Dr. Patricia Newman by Ms. Susan Sosa, the Interim Chair of the Mildred Elley School Practical Nurse Program.

**ACTION:**

- A. Motion by M. Beal, seconded by J. Killion, and unanimously passed to find 244 CMR 6.04(1)(c) and (1)(f) in the appointments of:
- Karen Ellenwood, Program Director, Diman Regional School of Practical Nursing;
  - Kimberly Christopher, Dean, College of Nursing University of Massachusetts Dartmouth;
  - Carol E. Mallia, Interim Nurse Administrator of MassBay Community College Associate Degree Nursing Program;
  - Nancy Craig-Williams, Assistant Dean, Greenfield Community College Associate Degree and Practical Nursing Programs; and
  - Susan Sosa, the Interim Chair, Mildred Elley School Practical Nurse Program for a period not to exceed seven months at the Pittsfield campus to enable Dr. Patricia Newman to acquire the seven additional months of nursing education experience to comply with 244 CMR 6.04(2)(a)(3) and to continue the Initial Approval Status of Mildred Elley School Practical Nurse Program.

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**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 9:40 a.m. as per Purpose One of G.L. c.30A, §21 (a)(1).

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**G.L. c. 30A, § 21 Executive Session 9:40 a.m. to 12:25 p.m.**

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**Lunch Recess 12:25 p.m. to 12:50 p.m.**

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**TOPIC:**

Adjudicatory Session

**DISCUSSION:**

None

**ACTION:**

Motion by E. R. Rothmund, seconded by B. Levin, and unanimously passed by roll call vote to go into Adjudicatory Session at 12:50 p.m. to discuss decisions in pending adjudicatory matters.

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**Adjudicatory Session 12:50 p.m. to 1:05 p.m.**

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**TOPIC:**

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

**DISCUSSION:**

None

**ACTION:**

Motion by B. Levin, seconded by P. Gales, and unanimously passed by roll call vote to go into G.L. c. 112, s. 65C Session at 1:07 p.m. to discuss negotiated settlements of complaints.

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G.L. c. 112, s. 65C Session 1:07 p.m. to 2:32 p.m.

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**TOPIC:**

Adjournment

**DISCUSSION:**

None

**ACTION:**

Motion by B. Levin, seconded by J. Killion, and unanimously passed to adjourn the meeting at 2:33 p.m.

Respectfully submitted by:



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

Agenda with exhibits list attached

**COMMONWEALTH OF MASSACHUSETTS**

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

September 10, 2014  
239 Causeway Street ~ Room 417 A&B  
**Boston, Massachusetts 02114**

**PRELIMINARY AGENDA AS OF 9/3/2014 3:19 PM**

<b>Estimated Time</b>	<b>#</b>	<b>Item</b>	<b>Exhibits</b>	<b>Presented by</b>
9:00 a.m.	I.	<b>CALL TO ORDER &amp; DETERMINATION OF QUORUM</b>	None	
	II.	<b>APPROVAL OF AGENDA</b>	Agenda	
	III.	<b>APPROVAL OF BOARD MINUTES</b> A. Draft Minutes for the July 9, 2014 Meeting of the Board of Registration in Nursing, Regular Session B. Draft Minutes for the August 13, 2014 Special Meeting of the Board of Registration in Nursing, Regular Session	Minutes	
	IV.	<b>REPORTS</b> 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 None Report	RH  CR CS LT SV AF/HC VI/DMD
	V.	<b>CONSENSUS AGENDA</b> A. NCSBN Update B. Coalition for the Prevention of Medical Errors Update C. Quarter 2, 2014 NCLEX Performance Reports	Memo Report Report	LT LT SV
	VI.	<b>COMPLAINT RESOLUTION</b> A. Resolution of Pending Board Complaints 1. <b>M. McMullen, RN180059, NUR-2013-0045</b>	Investigation Report per complaint	MEM/ASF
	VII.	<b>PRACTICE</b> None		

Estimated Time	#	A. Item	Exhibits	Presented by
	<b>VIII.</b>	<b>EDUCATION</b> A. 244 CMR 6.04(1)(c) & (f) Notification 1. Diman Regional Practical Nursing Program 2. University of Massachusetts Dartmouth 3. MassBay Community College 4. Greenfield Community College 5. Mildred Elley School of Practical Nursing Program  B. 244 CMR 6.08 (1) (a) evaluation: Mildred Elley School PNP (administrator appointment and plan)	Memo  Memo	SV  SV
	<b>IX.</b>	<b>REQUESTS FOR LICENSE REINSTATEMENT</b> None		
	<b>X.</b>	<b>FLEX SESSION</b> A. Announcements B. Topics for Next Agenda		
	<b>XI.</b>	<b>HEARINGS</b> None		
9:30 a.m.	<b>XII.</b>	<b>EXECUTIVE SESSION</b> 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 Good Moral Character as required for registration for 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 probation changes.  3. 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.  4. Approval of prior executive session minutes in accordance with M.G.L. ch.30A, § 22(f) for sessions held during the July 9, 2014 meeting.		<b>CLOSED SESSION</b>
10:30 a.m.	<b>XIII.</b>	<b>ADJUDICATORY SESSION (M.G.L. ch. 30A, § 18)</b>		<b>CLOSED SESSION</b>
11:30 a.m.	<b>XIV.</b>	<b>M.G.L. c. 112, § 65C SESSION</b>		<b>CLOSED SESSION</b>
		<b>LUNCH.</b>		
2:00 p.m.	<b>XV.</b>	<b>ADJOURNMENT</b>		