

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

Minutes of the Emergency Board Meeting
Thursday, October 1, 2015

Board Members Present

K. Gehly, CNP, Chair
P. Gales, RN, Vice Chair
A. Alley, RN
M. Beal, CNM
J. Killion, LPN
B. Levin, RN
A. Peckham, RN
C. Simonian, PharmD, RPh
S. Taylor, RN
C. Urena, LPN

Board Members Not Present

E. Richard Rothmund, Public Member
C. Tebaldi, CNP

Staff Present

C. Silveira, RN, Assistant Director
O. Atueyi, JD, Board Counsel
V. Berg, Chief Board Counsel
H. Cambra, RN, JD, Complaint Resolution Coord.
D.M. DeVaux, RN, SARP Coordinator
K. Keenan, Licensing Coordinator
L. Talarico, CNP, Nursing Practice Coordinator

Staff Not Present

K. Ashe, RN, Nursing Education Coordinator
A. Fein, RN, JD, Complaint Resolution Coord.
K. Fishman, Probation Monitor
V. Iyawe, RN, SARP Coordinator
T. Westgate, Program Coordinator

Guests

See attached list.

TOPIC:

Call to Order & Determination of Quorum

DISCUSSION:

None.

ACTION:

At 8:30 a.m., K. Gehly, Chairperson, called the October 1, 2015, Emergency Board Meeting to order and called roll. A quorum of the Board members was determined to be present.

TOPIC:

Approval of Agenda

DISCUSSION:

Chief Board Counsel, V. Berg, announced that the meeting would be recorded.

ACTION:

Motion by B. Levin and seconded by J. Killion and voted unanimously to approve the Agenda as presented.

TOPIC:

Update on Fraudulent Applications

DISCUSSION:

Board members were provided with the following update on the fraudulent application cases that have been identified to date. On September 9, 2015, eleven fraudulent license complaints were presented to the Board: of these, four alleged licensees had signed Consent Agreements sent to them by Board Counsel prior to the Board meeting (Baptiste, Maceus, Philippe and Belony) and the remaining seven were summarily suspended (Smith, Phanor, Aubourg, Adebisi, Phanord, Clemat, and Okon) on September 11, 2015. (Note: Prior to the identification of these eleven, the first two fraudulent licensees were identified (Eustache and Tunis), who had signed Consent Agreements for Voluntary Revocation that were made effective August 10, 2015).

Of these remaining seven, Phanord and Clemat have had 7-day Summary Suspension hearings and Prosecution is awaiting the Administrative Hearing Counsel's decisions. Clemat signed a Consent Agreement for revocation of his fraudulent RN license and had a 7-day Summary Suspension hearing to retain his Massachusetts LN license that he obtained properly. Adebisi and Okon defaulted at their 7-day Summary Suspension hearings scheduled on September 16 and 18, 2015, respectively. Smith, Phanor, and Aubourg have Pre-Hearing Conferences scheduled in October, prior to their respective 7-day Summary Suspension hearings.

Phanor is a licensed LN in New Jersey who asserts she never applied for an RN License in Massachusetts. Adebisi, who defaulted at his 7-day Summary Suspension hearing in September, has contacted the Board since then and claimed that he never applied for a Massachusetts license; nonetheless, he remains summarily suspended due to his default.

In the event that the Administrative Hearing Counsel finds sufficient facts based on oral and documentary evidence, and a majority of the full Board votes to continue the summary suspensions based on those findings of fact, Orders to Show Cause will issue and be scheduled for full adjudicatory hearings on the merits, unless Consent Agreements are executed.

Since these initial eleven were presented to the Board, two additional fraudulent license applications by reciprocity have been identified and complaints have been opened (Bleck and Raymond); both matters of these matters are before the Board today.

ACTION:

So Noted

TOPIC:

Update on Expanded Audit of Nurses Licensed by Reciprocity

DISCUSSION:

The Board was provided with the following brief update on the audit of nurses licensed by reciprocity by the Board. The members were informed that there is an ongoing audit into approximately 21,000

Massachusetts nurses licensed by reciprocity since January 1, 2010. These applications were cross-checked with the National Council of State Boards of Nursing's Nursys database to verify that the Licensee has a license in the identified reciprocity state on record with the Board. In those instances where the Board record of the Massachusetts nurses licensed by reciprocity did not have an exact match in the Nursys database, the following manual review followed: (a) verification of licensure by exam in the Nursys database using several identifiers including social security number, first and last name, and some times, maiden name, and (b) if verification of the licensure by exam could not be completed, staff conducted a review of the original paper application, followed by verification of licensure by exam in the Nursys database using the license number listed as the initial license. For those that staff could not verify as outlined above, direct contact was made with the state of initial licensure to confirm licensure by exam. A more detailed review of this audit will be provided when the audit is complete.

ACTION:

So Noted

TOPIC:

Proposed Policy: Board Delegation of Authority to Board Chairperson to Issue an Order of Summary Suspension

DISCUSSION:

V. Berg proposed that the Board adopt a staff action which would authorize the Board's Chair to act on the Board's behalf in summary suspension matters, advising the Board as follows: The policy recognizes that in matters where there is an immediate and serious threat to public health, safety and welfare there is a need for correspondingly immediate action but that convening a quorum of the full board on short notice can be difficult. The policy calls for staff to present a request for an order of summary suspension to the Board Chair, same as they would present to the full board. The Board Chair would need to make the same determinations that the full Board would make under existing regulations at 244 CMR 7.05 and if the determinations support a summary suspension, the Board Chair would authorize the Executive Director to issue an Order of Summary Suspension and Notice of Hearing. The policy calls for all board members to receive a copy of the request and order within one day and provide a mechanism by which any board member may request that the full board reconsider the Order of Summary Suspension prior to the time that the board would review and vote on the outcome of the adjudicatory hearing. S. Taylor inquired whether there is any precedent among other Boards for a board chair to be authorized to issue an Order of Summary Suspension on a board's behalf. V. Berg noted that there is a similar provision in the regulations of the Board of Registration in Pharmacy, and that she anticipated recommending that this Board incorporate a similar change in its own regulations as part of regulatory review. B. Levin suggested that staff make note to use the Interchange system when providing the copy of the request and order within one day. V. Berg noted that prior to the meeting, P. Gales suggested to her that the title of the policy be rephrased to "Delegation of Authority to Authorize the Issuance of an Order of Summary Suspension."

ACTION:

Motion by S. Taylor, seconded by B. Levin, and unanimously passed to adopt the policy as proposed, but changing the title of the policy to "Delegation of Authority to Authorize the Issuance of an Order of Summary Suspension."

TOPIC:

Requests for Ratification of the Issuance of Order of Summary Suspension and Consent Agreement for Permanent Licensee Revocation in the Matter of Y. Bleck, LN88619, NUR-2015-0162.

DISCUSSION:

V. Berg advised the board that in anticipation of the policy just adopted, and consistent with the actions taken by the board on September 9, 2015 in similar factual circumstances, board staff requested and Board Chair authorized the issuance of an Order of Summary Suspension against the licensee on September 23, 2015. V. Berg highlighted the facts contained in the request for summary suspension. The licensee submitted an application in August 2011 in which the licensee represented that she attended a nursing program at American Samoa Community College and that she was licensed as an LPN in Guam in 2001. Investigators spoke with officials for both American Samoa Community College and the Guam Board of Nursing and determined that the information provided was false in both instances. V. Berg noted that the Board Chair K. Gehly determined that continued practice by the licensee presented an immediate and serious threat to the public health, safety and welfare and that summary suspension was necessary to prevent that threat. V. Berg requested that the full board ratify the September 23, 2015 issuance of the Order of Summary Suspension. V. Berg further updated the board members that following the issuance of the Order of Summary Suspension, the licensee contacted O. Atueyi and entered into a Consent Agreement for Voluntary Permanent Revocation with the Board, effective September 25, 2015. V. Berg noted that the Executive Director's entry into this agreement was authorized by the policy adopted by the Board on September 9, 2015, but, since the matter is already before the board, requested that the ratify the consent agreement.

ACTION 1:

Motion by C. Simonian, seconded by J. Killion, and unanimously passed to ratify the September 23, 2015 issuance of the Order of Summary Suspension, and the Board Chair's determinations.

ACTION 2

Motion by P. Gales, seconded by M. Beal, and unanimously passed to ratify the Consent Agreement for Voluntary Permanent Revocation between the licensee and the board.

TOPIC:

Requests for Ratification of the Issuance of Order of Summary Suspension and Consent Agreement for Permanent Licensee Revocation in the Matter of J. Raymond, RN2298137, NUR-2015-0168

DISCUSSION:

V. Berg advised the board that in anticipation of the policy just adopted, and consistent with the actions taken by the board on September 9, 2015 in similar factual circumstances, board staff requested and Board Chair authorized the issuance of an Order of Summary Suspension against the licensee on September 23, 2015. V. Berg highlighted the facts contained in the request for summary suspension. The licensee submitted an application in June of 2014, and provided additional information in August of 2014, in which the licensee represented that she was licensed as an RN in Puerto Rico in 1990 and in Oklahoma in 2014. Board staff spoke with officials for both the Puerto Rico and the Oklahoma Boards of Nursing and determined that the information provided was false in both instances. V. Berg noted that the Board Chair K. Gehly determined that continued practice by the licensee presented an immediate and serious threat to the public health, safety and welfare and that summary suspension was necessary to prevent that threat. V. Berg requested that the full board ratify the September 23, 2015 issuance of the Order of Summary Suspension. V. Berg further updated the board members that following the issuance of the Order of Summary Suspension, the licensee contacted O. Atueyi and entered into a Consent Agreement for Voluntary Permanent Revocation with the Board, effective September 28, 2015. V. Berg noted that

the Executive Director's entry into this agreement was authorized by the policy adopted by the Board on September 9, 2015, but, since the matter is already before the board, requested that the ratify the consent agreement.

ACTION 1:

Motion by A. Peckham, seconded by B. Levin, and unanimously passed to ratify the September 23, 2015 issuance of the Order of Summary Suspension, and the Board Chair's determinations.

ACTION 2:

Motion by C. Urena, seconded by J.Killion, and unanimously passed to ratify the Consent Agreement for Voluntary Permanent Revocation between the licensee and the board.

TOPIC:

Adjournment

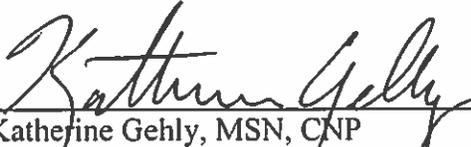
DISCUSSION:

None.

ACTION:

Motion by C. Simonian, seconded by A. Peckham, and unanimously passed to adjourn the meeting at 9:31am.

Minutes of the Board's October 1, 2015, Emergency Session were approved by the Board on October 14, 2015.


Katherine Gehly, MSN, CNP
Chairperson
Board of Registration in Nursing

Agenda with exhibits list attached

**COMMONWEALTH OF MASSACHUSETTS
NOTICE OF AN EMERGENCY MEETING OF THE
BOARD OF REGISTRATION IN NURSING**

October 1, 2015

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

PRELIMINARY AGENDA AS OF September 28, 2015 3:45 pm

Estimated Time	#	A. Item	Exhibits	Presented by
8:30 a.m.	I.	B. CALL TO ORDER & DETERMINATION OF QUORUM	None	
	II.	APPROVAL OF AGENDA	Agenda	
	III.	UPDATE ON FRAUDULENT APPLICATIONS	None	MF/TSL
	IV.	PROPOSED POLICY: Board Delegation of Authority to Board Chair for Issuance of An Order of Summary Suspension	Proposed Policy	VPB
	V.	REQUESTS FOR RATIFICATION OF ISSUANCE OF ORDER OF SUMMARY SUSPENSION 1. Y. Bleck, LN88619, NUR-2015-0162 2. J. Raymond, RN2298137, NUR-2015-0168	Request memorandum and supporting documentation	VPB/MF VPB/MF
9:30 a.m.	VI.	ADJOURNMENT		