

COMMONWEALTH OF MASSACHUSETTS

THIS IS NOTICE OF THE REGULARLY SCHEDULED MEETING OF THE
BOARD OF REGISTRATION IN NURSING

Wednesday, February 8, 2012
9 a.m. to 2 p.m.

239 Causeway Street ~ 4th Floor ~ Room 417A
Boston, Massachusetts 02114

Agenda

2/1/2012 3:05 PM

Estimated Time	Item #	Item	Exhibits	Staff Contact
9:00 a.m.	I.	Call to Order		
	II.	Approval of Agenda	Agenda	
	III.	Adjudicatory Session	Closed Session	
	IV.	G.L. c. 112, § 65C Session	Closed Session	
9:45 a.m.	V.	Approval of Minutes A. January 11, 2012 Regularly Scheduled Meeting B. January 11, 2012 Adjudicatory Session C. January 11, 2012 65C Session	Minutes Minutes Minutes	

Estimated Time	Item #	Item	Exhibits	Staff Contact
	VI.	Reports A. Chairperson and Board Members' Reports B. Executive Director's Report C. Staff Report 1. Deputy Executive Director 2. Policy and Research 3. Practice 4. Education 5. Complaint Resolution 6. SARP	none report report report report report report	RH CR CS LT JMP/BCM AF/HC VI/DM
	VII.	Consensus Agenda A. NCSBN Update B. Coalition for the Prevention of Medical Errors Update C. NCLEX 1. 2011 NCLEX performance statistical reports a. Licensure by examination b. BRN-approved program performance (first-time writers) c. Pass rate trends for first-time writers educated in Massachusetts	none Dec. 2011/Jan. 2012 Report Nov. 2011 Minutes Table Table Table	LT LT JMP
10:00 a.m.	VIII.	Revision to Board Regulations A. 244 CMR 3.05 Delegation and Supervision: Collaborative Task Force Findings and Recommendations	Memo, Report, PowerPoint Presentation	LT

Estimated Time	Item #	Item	Exhibits	Staff Contact
11:00 a.m.	IX.	A. Resolution of Pending Board Complaints 1. W. Maher, RN213557, NUR-2011-0255 2. H. Lavoie, LN60625, NUR-2011-0256 3. L. Donoghue, LN47299, NUR-2011-0118 4. M. Scharf, LN85181, NUR-2011-0215 5. L. Mascarelli, RN217929, NUR-2011-0278 6. J. Harris, RN213433/LN50392(exp), NUR-2011-0043 7. M. Ramirez, RN110170, NUR-2011-0242 8.	Investigative Report (IR) IR IR IR IR IR IR	MFS/HC MFS/HC MFS/AF IH/AF LMM/AF LMM/HC MEM/HC
		Lunch 12:00 p.m. to 12:30 pm		
12:30 a.m.	X.	Massachusetts Board of Registration Annual Report: 2011 Major Accomplishments	Report	RH
	XI.	Education A. 244 CMR 6.05(1) Prerequisite Approval, Mildred Elley School; Practical Nursing Program B. 244 CMR 6.08(1)(h) evaluation related to 2011 NCLEX performance C. 244 CMR 6.05(3)(b): Continuation of full Approval status based on 2011 Annual Reports to BRN 1. Staff report and recommendations 2. Student Numbers (admissions, graduates, and enrollments) 3. 2012 244 CMR 6.06 survey schedule	Compliance Report Memo Compliance Report	JMP JMP BCM
	XII.	Announcements/Other		
2:00 p.m.	XIII.	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, February 8, 2012**

Board Members Present

S. Kelly, RN/NP, Chair
K. Gehly, RN/NP, Vice Chair
M. Beal, RN/NM
J. Faye Dubose, LPN
J. Killion, LPN
C. Lundeen, RN
A. Peckham, RN
E. Richard Rothmund, Public Member
C. Simonian, PharmD, RPh
C. Tebaldi, RN/NP

Board Members Not Present

J. Roy, RN
C. Weekes-Cabey, RN

Board Staff Present

R. Harb, RN, Executive Director
V. Berg, 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
J. Pelletier, RN, Nursing Education 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
T. Westgate, Paralegal
B. Mackey, RN, Nursing Education Coordinator

Board Staff Not Present

Guests

See attached list.

TOPIC:

Call to Order

DISCUSSION:

A quorum of the Board was present.

ACTION:

At 9:02 a.m., S. Kelly, Chairperson, called the February 8, 2012, Regularly Scheduled Board Meeting to order.

6/13/2012 8 Feb 12 Regular (approved march 14, 2012)
(Approved March 14, 2012)

TOPIC:

Approval of the Agenda

DISCUSSION:

None

ACTION:

Motion by K. Gehly, seconded by E.R. Rothmund, and unanimously passed to approve the agenda as presented.

TOPIC:

Adjudicatory Session

DISCUSSION:

None

ACTION:

Motion by E.R. Rothmund, seconded by J. Killion, and unanimously passed by roll call vote to go into Adjudicatory Session at 9:04 a.m. to discuss decisions in pending adjudicatory matters.

Adjudicatory Session 9:04 a.m. to 9:20 a.m.

TOPIC:

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

DISCUSSION:

None

ACTION:

Motion by K. Gehly, seconded by C. Simonian, and unanimously passed by roll call vote to go into G.L. c. 112, s. 65C Session at 9:20 a.m. to discuss negotiated settlements of complaints.

G.L. c. 112, s. 65C Session 9:20 a.m. to 9:45 a.m.

TOPIC:

Approval of Minutes:

1. Approval of the Minutes of the January 11, 2012, Regularly Scheduled Board Meeting
2. Approval of the Minutes of the January 11, 2012, Adjudicatory Session
3. Approval of the Minutes of the January 11, 2012, 65C Session

DISCUSSION:

None

ACTION:

Motion by J. Killion, seconded by E. R. Rothmund, and unanimously passed to accept the Minutes of the January 11, 2012, Regularly Scheduled Board Meeting.

Motion by E. R. Rothmund, seconded by J. Killion, and unanimously passed to accept the Minutes of the January 12, 2012, Adjudicatory Session.

Motion by C. Simonian, seconded by C. Lundeen, and unanimously passed to accept the Minutes of the January 11, 2012, 65C Session.

TOPIC:

Reports

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

DISCUSSION:

- A. Chairperson and Board Members Reports: None
- B. Executive Director's Report: Board members reviewed R. Harb's previously distributed report.
- C. Staff Reports:
 - 1. Board members reviewed C. Robertson's previously distributed report
 - 2. Board members reviewed C. Silveira's previously distributed report
 - 3. Board members reviewed L. Talarico's previously distributed report.
 - 4. Board members reviewed J. Pelletier's and B. Mackey's previously distributed report
 - 5. Board Members reviewed A. Fein's and H. Cambra's previously distributed memo
 - 6. Board members reviewed V. Iyawe's and D. McLellan's previously distributed report

ACTION:

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

TOPIC:

Consensus Agenda

- A. NCSBN Update
- B. Coalition for the Prevention of Medical Errors Update
- C. NCLEX
 - 1. 2011 NCLEX performance statistical reports
 - a. Licensure by examination
 - b. BRN-approved program performance (first-time writers)
 - c. Pass rate trends for first-time writers educated in Massachusetts

DISCUSSION:

- A. NCSBN Update
- B. Coalition for the Prevention of Medical Errors Update: none
- C. NCLEX
 - 1. 2011 NCLEX performance statistical reports
 - a. Licensure by examination
 - b. BRN-approved program performance (first-time writers)
 - c. Pass rate trends for first-time writers educated in Massachusetts

ACTION:

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

TOPIC:

Revision to Board Regulations

244 CMR 3.05 Delegation and Supervision: Collaborative Task Force Findings and Recommendations

DISCUSSION:

L. Talarico offered a power point presentation to the Board summarizing the findings and recommendations of the 244 CMR 3.05 Collaborative Task Force (CTF). Three members of the CTF (M. Rota, S. Brown and K. Ruggiero) were presented to and recognized by the Board. S. Kelly invited the CTF members to the table. The presentation highlighted evidence-based concepts for safe nurse delegation, supervision and training of unlicensed persons derived through CTF review of current, authoritative literature and jurisdictional review.

ACTION:

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

- 1. Accept the 3.05 Collaborative Task Force report.
- 2. Reserve (retire) the current section 3.05: *Delegation and Supervision of Selected Nursing Activities by Licensed Nurses to Unlicensed Personnel* in 244 CMR 3.00: *Registered Nurse and Licensed Practical Nurse* and replace with a revised section to attain currency, define concepts, and to clarify the licensed nurse role in nurse delegation to UP, inclusive of all settings, pursuant to the proposed language is identified in Attachment 2. Update language at 244 CMR 3.01: *Definition - Registered Nurse*, and 3.02: *Responsibilities and Function - Registered Nurse*, 3.03: *Definition - Practical Nurse* and 3.04: *Responsibilities and Functions - Practical Nurse* to attain currency.
- 3. Maintain the position that nurse delegation of medication administration is limited to, and must be consistent with, only those conditions defined at M.G.L 94C and its related regulations.
- 4. Maintain the position that it is the delegating nurse who, based on his or her nursing assessment, has final decision making authority as to what nursing activities can safely be delegated to the UP.
- 5. For the purpose of any additions to MGL c. 94C and its related regulations opine that the Commissioner should approve only those rules and regulations governing medication administration by UP which include the following requirements to ensure patient safety:
 - a. literacy;
 - b. standardized training;
 - c. psychometrically sound, legally defensible initial and continued competency measures;
 - d. certification; and

- e. registration with an appropriate agency charged with enforcement.
6. Add a new section: *Responsibilities of the Licensed Nurse in Training Caregivers in Settings in Which Healthcare is Incidental* to attain currency and to clarify the licensed nurse consultative role in training caregivers in settings where licensed nurse presence is not consistent and/or scheduled.
7. Invite review and comment by stakeholders on the proposed 3.05 CTF Working Document (February 8, 2012) for Board consideration prior to drafting a proposal to amend Board regulations.

RECESS 10:50 a.m. – 11:00 a.m.

TOPIC:

Resolution of Pending Board Complaints

1. W. Maher, RN213557, NUR-2011-0255
2. H. Lavoie, LN60625, NUR-2011-0256
3. L. Donoghue, RN203034/LN47299 (exp.), NUR-2011-0118
4. M. Scharf, LN85181, NUR-2011-0215
5. L. Mascarelli, RN217929, NUR-2011-0278
6. J. Harris, RN213433/LN50392(exp), NUR-2011-0043
7. M. Ramirez, RN110170, NUR-2011-0242

DISCUSSION:

Compliance Officers and the Complaint Resolution Coordinators presented their previously distributed Investigative Reports for Board Review and Action together with relevant clarifications, supplemental information and revised Complaint Resolution Coordinators' recommendations as necessary, if any.

ACTION:

1. W. Maher, RN213557, NUR-2011-0255 – Motion by E.R. Rothmund, seconded by J. Killion and voted unanimously to 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 REPRIMAND of his RN license.
2. H. Lavoie, LN60625, NUR-2011-0256 – Motion by E.R. Rothmund and seconded by J. Killion and voted unanimously to 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 SARP if determined eligible or a STANDARD CONSENT AGREEMENT FOR SURRENDER of her LPN license for an indefinite period with reinstatement requirements that also include the standard either/or substance abuse related requirements, completion of a standard medical evaluation, completion of a standard mental health evaluation (that may be incorporated in the addictionologist evaluation if the Licensee obtains this alternative), and successful completion of three (3) contact hours on Legal and Ethical Aspects of Nursing, six (6) contact hours on Maintaining Professional Boundaries, and three (3) contact hours on Critical Thinking and Judgment in Nursing, and provide the Board with substantiation of her successfully completing the requisite continuing education for the prior two renewal cycles.
3. L. Donoghue, RN203034/LN47299 (exp.), NUR-2011-0118 – Motion by E.R. Rothmund and seconded by J. Killion and voted unanimously to 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 SARP if determined eligible or a STANDARD CONSENT AGREEMENT FOR SURRENDER of her RN license *and* right to renew her LPN license for

three (3) years with reinstatement requirements that also include the standard substance abuse related requirements, a standard mental health evaluation, the standard criminal activity related requirements, and documentation of her successful completion of six (6) contact hours on Medication Administration and Documentation in Nursing including the topic of Medication Security and Integrity in Nursing Practice, six (6) contact hours on Legal and Ethical Aspects of Nursing, six (6) contact hours in Pain Management in Nursing and six (6) contact hours in Critical Thinking and Judgment in Nursing.

4. M. Scharf, LN85181, NUR-2011-0215 – Motion by K. Gehly and seconded by J. Faye Dubose and voted unanimously to 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 if determined eligible or a STANDARD CONSENT AGREEMENT FOR SUSPENSION of her LPN license for an indefinite period with reinstatement requirements that also include documentation of her successful completion of six (6) contact hours on Recognizing and Preventing Patient Abuse, Six (6) contact hours on Caring for the Cognitively Impaired Patient , six (6) contact hours Patient Rights and six (6) contact hours on Therapeutic Interpersonal Skills in Nursing.
5. L. Mascarelli, RN217929, NUR-2011-0278 – Motion by E.R. Rothmund and seconded by A. Peckham and voted unanimously to 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 REPRIMAND her RN license *provided that* she submits an affidavit substantiating that she has reviewed and understands a licensed nurse's obligations to maintain the security and integrity of controlled substances as required by applicable related Board Regulations at 244 CMR 9.03 (5), (35), (44) and (47), and the responsibilities of a nurse employed in a management role to develop and implement the necessary measures to promote and manage the delivery of safe nursing care in accordance with accepted standards of nursing practice as required by Board Regulations at 244 CMR 9.03 (46).
6. J. Harris, RN213433/LN50392 (exp), NUR-2011-0043 – Motion by C. Simonian, seconded by K. Gehly and voted unanimously to DISMISS THE COMPLAINT WITHOUT PREJUDICE for insufficient evidence to establish the allegations presented.
7. M. Ramirez, RN110170, NUR-2011-0242 – Motion by E. R. Rothmund, seconded by J. Dubose and voted unanimously to DISMISS THE COMPLAINT WITHOUT PREJUDICE with a non-disciplinary caution that all licensed nurses are expected to adhere to the laws and regulations governing nursing practice including, but limited to, proper medication administration and documentation practices and error/incident reporting.

TOPIC:

Massachusetts Board of Registration Annual Report: 2011 Major Accomplishments

DISCUSSION:

Board members reviewed R. Harb's previously distributed report in conjunction with a Power Point presentation highlighting the major accomplishments.

ACTION:

Board Chair thanked Board members for all their hard work and acknowledged the Executive Director and the Board staff for their invaluable efforts in making 2011 such a success.

TOPIC:

Education

A. 244 CMR 6.05(1) Prerequisite Approval, Mildred Elley School, Practical Nursing Program

6/13/2012 8 Feb 12 Regular (approved march 14, 2012)

(Approved March 14, 2012)

B. 244 CMR 6.08(1)(h) evaluation related to 2011 NCLEX performance

C. 244 CMR 6.05(3)(b): Continuation of full Approval status based on 2011 Annual Reports to BRN

1. Staff report and recommendations
2. Student Numbers (admissions, graduates, and enrollments)
3. 2012 244 CMR 6.06 survey schedule

DISCUSSION:

A. Patricia Duckworth, RN, MSN, CNE, Program Administrator was present to answer questions. Also attending: S. McCartee, VP of Administration, Empire Education; L. Houlihan, Dean of Academic Affairs; and TJ Elder, Campus Director. Members reviewed J. Pelletier's previously distributed compliance report, the program application, and supporting documents. It was noted that Mildred Elley School operates board-approved Practical Nurse education programs at their campuses in New York.

B. Board members reviewed J. Pelletier's previously distributed memo, noted three (3) programs had an 2011 NCLEX pass rate of less than 80% for first-time writers. One program, Atlantic Union College Associate Degree RN program had approval withdrawn effective July 31, 2011.

C. B. Mackey reviewed her previously distributed memo regarding continuation of Full Approval status based her review of the 2011 Annual Reports in compliance with 244 CMR 6.05(3)(b) and the 2011 Annual Report summary table which was distributed at the meeting. Members noted the table contains data which demonstrates compliance with 244 CMR 6.04 by all programs except the following: Salter College – Practical Nursing (Pre-requisite Approval); and Bay State College – Associate Degree RN, Blackstone Valley Regional Vocational Technical – Practical Nursing and Westfield State University – RN Baccalaureate (Initial Approval). Members also noted that the Atlantic Union College Full Approval status was withdrawn effective 7/31/11. Ms. Mackey also reviewed her previously distributed tables with 2011 admissions, graduates and enrollments data, noting trends, as well as the 2012 244 CMR 6.06 survey schedule.

ACTION:

A. Motion by E. R. Rothmund, seconded by K. Gehly and unanimously voted to find that Mildred Elley School has provided satisfactory information describing its potential ability to establish a Practical Nurse education program complying with 244 CMR 6.04: *Standards for Nursing Education Program*, noting the following remain outstanding: construction of proposed program facilities [ref: 244 CMR 6.04 (5)(c) & (d)]; and Grant Mildred Elley School Prerequisite Approval Status to establish its proposed Practical Nurse education program, directing that an on-site survey be conducted in fall 2012 academic year to verify program compliance with 244 CMR 6.04(5)(c) and (d).

B. Motion by J. Killion, seconded by K. Simonian to find a self-evaluation report related to 244 CMR 6.08(1)(h) to identify possible factors contributing to the Program's NCLEX performance, as well as a plan for corrective action is required, directing: Salem State College nursing program faculty evaluate the Program's compliance with all Board regulations at 244 CMR 6.04(1)-(5); and University of Massachusetts Dartmouth nursing program faculty evaluate the Program's compliance with the regulations at 244 CMR 6.04(3)(a)2, (4)(a) and (b), and (5).

C. Noting that, in accordance with Board Policy 99-03, the Full Approval status has been continued for all nursing education programs except Bay State College AD, Blackstone Valley Regional Vocational Technical Practical Nursing, Salter College Practical Nursing and Westfield State University BSN, no

DRAFT as of 3/14/2012 3:34 PM

action was taken. Also, no action was taken regarding the 2011 admissions, graduate and enrollment data and 2012 244 CMR 6.06 survey schedule.

TOPIC:

Announcements

DISCUSSION:

S. Kelly, Board Chair expressed her appreciation for J. Faye Dubose, LPN, Board member commitment to the mission of the Board and wished her success in her future endeavors. Ms. Faye Dubose is resigning her position on the Board as of 2/9/12

ACTION:

None

TOPIC:

Adjournment

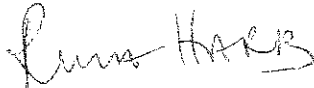
DISCUSSION:

None

ACTION:

Motion by K. Gehly, seconded by C. Simonian, and passed unanimously to adjourn the meeting at 12:15 p.m.

Respectfully submitted by:



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

Reviewed by: Mary Strachan, Board Counsel
Board of Registration in Nursing