

COMMONWEALTH OF MASSACHUSETTS

BOARD OF REGISTRATION OF NURSING HOME ADMINISTRATORS

THIS AGENDA CONSTITUTES NOTICE OF THE REGULARLY SCHEDULED MEETING OF THE BOARD OF REGISTRATION OF NURSING HOME ADMINISTRATORS IN COMPLIANCE WITH THE OPEN MEETING LAW, M.G.L. c. 30A, § 20

Friday, December 17, 2021
10:00 a.m.

General Session will be held via WebEx at:

<https://statema.webex.com/statema/j.php?MTID=m8a2f10dca1bd12038b27fe2b684c08c4>

Call-In Telephone number 1-866-692-3580 (toll-free)
Meeting Number/Access Code: 2425 831 4482
Meeting Password: ePRPCENJ633

All Votes Must Be Via Roll Call

Agenda

Time	Item #	Item	Exhibits	Staff Contact
10:00 a.m.	I	Call to Order Determination of Quorum Notice of Electronic Recording		Board Chair
	II	Conflict of Interest Approval of Regular Session Agenda	Draft Agenda	Board
	III	Approval of Minutes of Regularly Scheduled Board Meeting A. November 19, 2021 General Session Minutes	Draft Minutes	Board
	IV	Investigations: <i>Triage(s): N/A</i> <i>Complaint(s): N/A</i> <i>Staff Assignment(s):</i> A. SA-INV-18312: Neville, Shawn, NH5256 Facility: Beaumont University Campus Attorney: N/A COI:		
	V	Administrator-in-Training Request for Credit: A. Sarah Motta, Application No. 1048997 B. Brian McNeaney, Application No.1051129	Memo & Verbal	Board Secretary & ED

Time	Item #	Item	Exhibits	Staff Contact
	VI	Flex Session A. Announcements B. Topics for the next Agenda	Verbal	ED
	VII	Executive Session (Roll call vote) 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 consider approving prior executive session minutes in accordance with M.G.L. ch.30A, § 22(a) for previous executive sessions of the Board. 2. Finally, the Board will discuss complaints or charges brought against a Licensee or Licensees. The Board will not reconvene in open session subsequent to the closed session(s).	Closed Session	Board Chair
	VIII	65C Session: N/A		Board Counsel
	IX	Adjudicatory Session: N/A		Board Counsel
2:00 p.m.	X	Adjournment: Next Board meeting scheduled for January 21, 2022		Board

COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION OF NURSING HOME ADMINISTRATORS
BOARD MEETING

**Friday, December 17, 2021
VIA WebEx**

(OPEN SESSION)
MINUTES

Board Members

Present:

William J. Graves, N.H.A, Chair | Nursing Home Administrator 1
Mary K. Moscato, N.H.A., Secretary | Hospital Administrator
Stephen Davis | Department of Public Health
Carolyn Fenn | Executive Office of Elder Affairs
Nancy Lordan, N.H.A. | Nursing Home Administrator 3
Tarah Loy, PhD | Educator
Naomi M. Prendergast | N.H.A | Nursing Home Administrator 4
Dr. Madhuri Reddy, M.D. | Physician
Pavel Terpelets | Office of Long-Term Services and Supports
Roxanne Webster, R.N. | Registered Nurse

Board Members

Not Present:

Sister Jacquelyn McCarthy, N.H.A. | Nursing Home Administrator 2
Patrick J. Stapleton, N.H.A., Vice-Chair | Nursing Home Administrator 5

Staff Present:

Karen Geoghegan | Assistant Executive Director - Multi-Boards, BHPL
Mary Strachan | Board Counsel - Office of the General Counsel, DPH
Lisa Seeley-Murphy | Board Investigator – Multi-Boards, BHPL
Eleanor

I. Call to Order | Determination of Quorum:

Mr. William Graves, Board Chair, called the meeting of the Board of Registration of Nursing Home Administrators to order at 10:04 A.M. and provided verbal notice of recording. A quorum was established with members present via WebEx via roll call as follows: Stephen Davis: present; Carolyn Fenn: present; William Graves: present; Nancy Lordan: present; Tarah Loy: present; Mary K. Moscato: present; Naomi M. Prendergast: present; Dr. Madhuri Reddy: present; Pavel Terpelets: present, Roxanne Webster: present. Absent: Sr. Jacquelyn McCarthy, Patrick Stapleton.

II. Conflict of Interest | Approval of Regular Session Agenda

Mr. Graves asked members to review the agenda.

DISCUSSION:

None.

ACTION:

Motion by Dr. Madhuri Reddy to approve the agenda as presented, seconded by Ms. Mary Moscato and unanimously approved by roll-call vote as follows: Stephen Davis: yes; Carolyn Fenn: yes; William Graves: yes; Nancy Lordan: yes; Tarah Loy: yes; Mary K. Moscato: yes; Naomi M. Prendergast: yes; Dr. Madhuri Reddy: yes; Patrick J. Stapleton: yes; Pavel Terpelets: yes, Roxanne Webster: yes. Absent: Sr. Jacquelyn McCarthy, Patrick Stapleton. Abstained: None. Recused: None.

Document: December 17, 2021 Draft Agenda

III. Approval of Minutes

A. November 19, 2021

DISCUSSION:

Ms. Roxanne Webster abstained as she was not present at the November meeting.

ACTION:

Motion by Ms. Moscato to approve the November 19, 2021 minutes as presented, seconded by Ms. Naomi Prendergast and unanimously approved by roll-call vote as follows: Stephen Davis: yes; Carolyn Fenn: yes; William Graves: yes; Nancy Lordan: yes; Tarah Loy: yes; Mary K. Moscato: yes; Naomi M. Prendergast: yes; Dr. Madhuri Reddy: yes; Pavel Terpelets: yes, Roxanne Webster: abstain. Absent: Sr. Jacquelyn McCarthy, Patrick Stapleton. Abstained: Roxanne Webster. Recused: None.

IV. Investigations:

Triage(s): N/A

Complaint(s): N/A

Staff Assignment(s):

A. SA-INV-18312: Neville, Shawn, NH5256

Facility: Beaumont University Campus

Attorney: N/A

COI: None

The Licensee was not present.

Board Investigator, Ms. Lisa Seeley-Murphy presented the Staff Assignment to the Board. The reason for the investigation is general practice standards regarding regulations for the Administrator of Record during the closure of a facility. The Bureau of Healthcare Safety and Quality requested an investigation be opened to determine whether all state and federal regulations had been followed during the closure process. The facility was permanently closed on November 1, 2021.

At 10:10 AM, Mr. Patrick Stapleton joined the WebEx.

DISCUSSION:

Mr. Graves stated that his impression is that the Licensee did not follow the correct processes for closure. He asked Mr. Stephen Davis to explain the process for closure to the Board. Mr. Davis explained that prior to notifying families, Licensees are required to submit a notice of closure and a draft closure plan to the Division of Health Care Facility and Licensure (DHCFL) 120 days prior to the date of closure. Then a hearing would be set up no later than 90 days prior to the proposed closure date. In this case, Beaumont notified the residents in May 2021. The notice of closure came to the department at the end of June 2021. Prior to submitting a notice of closure, Beaumont discharged about 50 residents.

Ms. Nancy Lordan explained that she has done a closure before. It seemed to her that this was not adequate as the Licensee did a formal notice of closure before submitting the plan and receiving the approval to give the formal notice. Ms. Moscato asked if there were any complaints by family or residents regarding the notice. She additionally asked if the Licensee had ever closed a facility before. Mr. Davis explained that he did not know whether or not the Licensee had done a closure before but that his perception was that there were a number of moving parts with the sale of a building as well as a lease and that they ultimately got ahead of themselves. Ms. Webster stated that it seemed like they were trying to give the residents and families a “heads up” as it would come as a surprise if they were to read that the building was going to be sold. She did not believe that it was an intent to be deceptive. Ms. Prendergast wondered if the corporation had been providing guidance to the Licensee.

Mr. Graves asked how this case came before the Board. Ms. Lordan stated that the Department of Public Health has very clear instructions and standards for how to do a closure of a Nursing Home and the process matters to DPH. Ms. Carolyn Fenn pointed to the Investigative Report where there was an email from Mr. Sherman Lohnes, formerly the Director of the Division of Healthcare Facility Licensure and Certification. He cited guidance for facility closure from Centers for Medicare and Medicaid Services (CMS) that contains provisions for fines. Mr. Davis explained that the guidance is very clear and that it could set a dangerous precedent to ignore the fact that the Licensee did not follow regulatory requirements.

Ms. Fenn noted that the Ombudsman’s Office had concerns with regard to residents’ rights which were not addressed by the Licensee in his response. All the discharge notices were issued but the Ombudsman had no opportunity to speak with the residents or their families about appeal rights and to ensure that this was something that they were ok with. Board members discussed their options. Ms. Moscato stated that she felt that they should open a formal complaint.

Ms. Webster clarified that they were looking at a six-week window where the Licensee had not followed protocol. The entity who was trying to purchase the building had put a suitability notice in the paper and the Licensee sent the notice of closure before the plan. Ms. Lordan noted that it seemed like they had done things halfway. They were not being secretive about it as they notified families and staff, but they did not submit this

information to DPH until later. Mr. Pavel Terpelets interjected that the Licensee also violated MassHealth regulations. He stated that there are a number of facilities that do not follow the correct closing protocol. Ms. Webster expressed concern that this Licensee, who appeared to be trying to do right by the residents and staff, would be disciplined. Mr. Davis explained that most facilities go through the correct closure process and often run into issues with how they are presenting it to staff and families. They are not able to do transfers or discharges until the plan for closure has been approved. However, families can opt to voluntarily transfer, but they are not obligated to until the plan for closure has been approved. Mr. Terpelets clarified that it is difficult to determine whether all discharges are truly voluntary.

Board members walked through their tool. They determined that the Licensee violated 245 CMR 5.02 (6): Responsibility and Accountability.

ACTION:

Motion to open a formal Complaint by Ms. Moscato, seconded by Dr. Reddy and unanimously approved by roll-call vote as follows: Stephen Davis: yes; Carolyn Fenn: yes; William Graves: yes; Nancy Lordan: yes; Tarah Loy: yes; Mary K. Moscato: yes; Naomi M. Prendergast: yes; Dr. Madhuri Reddy: yes; Patrick Stapleton: yes; Pavel Terpelets: yes; Roxanne Webster: yes. Absent: Sr. Jacquelyn McCarthy. Abstained: None. Recused: None.

Mr. Graves stated that he would like to dismiss the complaint with an advisory letter. He wanted to post guidance that reminds NHAs about the closure process on the Board's website and request that Massachusetts Senior Care do the same. Ms. Lordan expressed her agreement and felt that the Licensee got caught in a tough position. Mr. Davis expressed his agreement.

Motion to dismiss with an advisory letter by Mr. Graves, seconded by Ms. Lordan and approved by roll-call vote as follows: Stephen Davis: yes; Carolyn Fenn: no; William Graves: yes; Nancy Lordan: yes; Tarah Loy: yes; Mary K. Moscato: no; Naomi M. Prendergast: yes; Dr. Madhuri Reddy: yes; Patrick Stapleton: yes; Pavel Terpelets: no; Roxanne Webster: yes. Opposed: Carolyn Fenn, Mary Moscato, Pavel Terpelets. Absent: Sr. Jacquelyn McCarthy. Abstained: None. Recused: None.

V. Request for Credit

A. Sarah Motta, App. No. 1048997

Ms. Moscato presented a summary of the request to the Board. Ms. Motta is an experienced nurse and works at a 135-bed facility. She is asking for credit due to her experience as a staff nurse, unit manager, assistant Director of Nursing, and Director of Nursing. Ms. Moscato recommended one month's credit for her experience.

ACTION:

Motion to grant Ms. Sarah Motta one-month credit towards her AIT by Mr. Graves,

seconded by Ms. Webster and approved by roll-call vote as follows: Stephen Davis: yes; Carolyn Fenn: yes; William Graves: yes; Nancy Lordan: yes; Tarah Loy: yes; Mary K. Moscato: yes; Naomi M. Prendergast: yes; Dr. Madhuri Reddy: yes; Patrick Stapleton: yes; Pavel Terpelets: yes, Roxanne Webster: yes. Absent: Sr. Jacquelyn McCarthy. Abstained: None. Recused: None.

B. Brian McNeaney, App. No. 1051129

Ms. Moscato presented a summary of the request to the Board. Mr. McNeaney has a doctorate in physical therapy and works for a contract therapy company and has been dedicated to this role. Ms. Moscato explained that she would not recommend work-related credit as he was not employed by a long-term care facility, he only worked as a contract physical therapist.

ACTION:

Motion to deny Mr. Brian McNeaney's request for credit by Mr. Graves, seconded by Ms. Webster and approved by roll-call vote as follows: Stephen Davis: yes; Carolyn Fenn: yes; William Graves: yes; Nancy Lordan: yes; Tarah Loy: yes; Mary K. Moscato: yes; Naomi M. Prendergast: yes; Dr. Madhuri Reddy: yes; Patrick Stapleton: yes; Pavel Terpelets: yes, Roxanne Webster: yes. Absent: Sr. Jacquelyn McCarthy. Abstained: None. Recused: None.

VI. Flex Session

A. Announcements:

None.

B. Topics for Next Session:

None.

VII. M. G. L. c. 30A, §21 Executive Session:

Motion by Ms. Lordan to move into Executive Session at 10:53 A.M., seconded by Ms. Prendergast and unanimously approved by roll call vote as follows: Stephen Davis: yes; Carolyn Fenn: yes; William Graves: yes; Nancy Lordan: yes; Tarah Loy: yes; Sr. Jacquelyn McCarthy: yes; Mary K. Moscato: yes; Naomi M. Prendergast: yes; Madhuri Reddy: yes; Patrick J. Stapleton: yes; Pavel Terpelets: yes. Absent: Roxanne Webster. Abstained: None. Recused: None.

VIII. Adjournment:

The Board did not reconvene in Open Session following Executive Session.

The next meeting of the Board of Registration of Nursing Home Administrators is scheduled for Friday, January 21, 2022 at 10:00 A.M. via WebEx.

Respectfully submitted:

The Board of Registration of Nursing Home Administrators