

**COMMONWEALTH OF MASSACHUSETTS
BOARD OF REGISTRATION OF NURSING HOME ADMINISTRATORS
BOARD MEETING
250 Washington Street
Boston, MA 02108**

**Friday, June 16, 2023
VIA WebEx**

**REGULAR SESSION MINUTES
(OPEN SESSION)**

Board Members

Present:

Patrick J. Stapleton, N.H.A | Board Chair
Stephen Davis | Department of Public Health
Tarah Loy, PHD Educator
Sister Jacquelyn McCarthy, N.H.A. | Nursing Home Administrator 2
Mary K. Moscato, N.H.A., Secretary | Hospital Administrator
Naomi M. Prendergast | N.H.A | Nursing Home Administrator 4
Pavel Terpelets | Office of Long-Term Services and Supports
Roxanne Webster, R.N. | Registered Nurse

Board Members

Not Present:

Carolyn Fenn | Executive Office of Elder Affairs
Nancy Lordan, N.H.A. | Nursing Home Administrator 3
Dr. Madhuri Reddy, M.D. | Physician

Staff Present:

Catherine Goldrick | Assistant Executive Director – Multi-Boards, BHPL
Sarah Constantino | Office Support Specialist, Multi-Boards
Kayla Mikalauski | Office Support Specialist, Multi-Boards
Tracy Tam | Office Support Specialist, Multi-Boards
Heather Engman | Chief Board Counsel
Jessica Uhing-Luedde | Chief Prosecutor
Judith Bromley | Board Counsel
Lynne Morely | Board Counsel

Staff Not Present:

I. Call to Order | Determination of Quorum:

At 10:06 AM Ms. Catherine Goldrick welcomed the Board members to the meeting. Mr. Patrick Stapleton asked Ms. Goldrick. Ms. Goldrick called the meeting to order, reminded

the Board members the meeting is being recorded, and asked for a roll call vote to determine quorum.

Roll Call as follows: Steven Davis: present; Tarah Loy: present; Sister Jacquelyn McCarthy: present; Mary Moscato: present; Naomi Prendergast: present; Patrick Stapleton: present. Pavel Terpelets, Present; Roxanne Webster: Present
Absent: Carolyn Fenn, Nancy Lordan, Madhuri Reddy

II. Conflict of Interest | Approval of Regular Session Agenda

The Board reviewed the June 16, 2023, Regular Session Agenda.

DISCUSSION:

Ms. Goldrick asked if anyone had a conflict of interest with the agenda as written. No conflicts of interest were noted.

ACTION:

Motion by Ms. Mary Moscato to approve the general session agenda, seconded by Ms. Naomi Prendergast, and a unanimous decision by roll call as follows: Steven Davis: yes; Tarah Loy: yes; Sister Jacquelyn McCarthy: yes; Mary Moscato: yes; Naomi Prendergast, yes; Patrick Stapleton: yes; Pavel Terpelets: yes; Roxanne Webster: yes

Absent: Carolyn Fenn, Nancy Lordan, Madhuri Reddy

Document: June 16, 2023, Regular Session Agenda

III. Approval of Regular Session Minutes

The Board reviewed the May 19, 2023, Regular Session Minutes.

DISCUSSION:

Mr. Joubert asked for a motion to approve the May General Session Minutes when ready.

ACTION:

Motion by Sr. Jacquelyn McCarthy to approve the May 19, 2023 General Session Minutes seconded by Ms. Naomi Prendergast, and a unanimous decision by Roll Call as follows: Steven Davis: yes; Tarah Loy: yes; Sister Jacquelyn McCarthy: yes; Mary Moscato: yes; Naomi Prendergast, yes; Patrick Stapleton: yes; Pavel Terpelets: yes; Roxanne Webster: yes

Absent: Carolyn Fenn, Nancy Lordan, Madhuri Reddy

Document: May 19, 2023, Regular Session Minutes

IV. Policies

A. Standard Consent Agreement Terms

DISCUSSION:

Ms. Goldrick introduced Chief Prosecutor, Ms. Jessica Uhing-Luedde. Ms. Uhing-Luedde stated that we are discussing these policies to reduce the amount of times a prosecutor needs to come before the Board for reconsidering of settlement terms, which would expedite agendas and make things run more efficiently. Ms. Uhing-Luedde stated that the language in place now when a standard consent agreement is sent to a nursing home after the Board has decided on it says that “the licensee admits...” followed by the allegations. The “Alfred Plea” presented today would change the language to something along the lines of, “the licensee and the Board agree to resolve this complaint without making any admissions or findings and without proceeding to an adjudicatory hearing...” followed by the allegations. Ms. Uhing-Luedde stated that the purpose of this language change is to facilitate settlements. It does not prohibit other states from using these agreements for out-of-state discipline. By admitting something outright in these agreements, sometimes administrators open themselves up to civil disputes making some people reluctant to enter into the agreement. Ms. Uhing-Luedde stated that the language of “admitting” versus the policy proposed does not benefit the Board in any way and discipline is still required by the licensee if agreed upon.

ACTION:

Motion by Ms. Roxanne Webster to approve the Standard Consent Agreement Terms policy, seconded by Ms. Mary Moscato, and a unanimous decision by Roll Call as follows: Steven Davis: yes; Tarah Loy: yes; Sister Jacquelyn McCarthy: yes; Mary Moscato: yes; Naomi Prendergast, yes; Patrick Stapleton: yes; Pavel Terpelets: yes; Roxanne Webster: yes

Absent: Carolyn Fenn, Nancy Lordan, Madhuri Reddy

B. Prosecutorial Discretion

DISCUSSION:

Ms. Uhing-Luedde stated that we are discussing these policies to reduce the amount of times a prosecutor needs to come before the Board for reconsidering of settlement terms, which would expedite agendas and make things run more efficiently. Ms. Uhing-Luedde stated that they are looking to expand a bit the discretion afforded to the Office of Prosecution when drafting legal documents, such as the Consent Agreement and Order to Show Cause. Currently, when the Board refers a case for discipline, they indicate the consent terms that are agreed upon. If the Board Counsel wants to enter into terms other than that, the counsel will still need to come back to the Board. They are looking to change their ability to craft the language. They are looking for the ability to negotiate with the other parties involved regarding what they would like to explicitly admit to. They would make these decisions with the executive Director and Board Council. Instead of offering a specific settlement, they want the Board to offer a range of disciplines.

Ms. Roxanne Webster clarified that this policy is giving the Office of Prosecution some flexibility to make negotiations so that the licensee is more likely to enter into the Consent Agreement. Ms. Uhing-Luedde confirms that yes, none of the discipline can be

dropped without appearing before the Board, but the language in the “accusation” portion of the Consent Agreement could be altered in negotiations.

Ms. Uhing-Luedde stated that currently there is no ability for Office of Prosecution has no ability to deviate from the factual allegations or regulatory violations that the Board puts in the Order to Show Cause. The Office would like the discretion to add a ground of discipline that wasn’t originally included in the Order, whether it is technical or an additional violation of a regulation that they feel was there that the Board did not note. The Office would also like the ability to delete violations that they do not feel that they have sufficient evidence for. All of this would be done under the supervision of the Executive Director and Board Counsel, who can always state that these changes need to be made before the Board.

Mr. Pavel Terpelets clarified that the Office is looking for the ability to add and delete things from the Order to Show Cause to make the case stronger. Ms. Uhing-Luedde stated that yes, adding things would have the ability to make certain cases stronger and then the ability to delete would make negotiations easier. Ms. Naomi Prendergast asked if there was something that the Board discussed and they decided that they didn’t want to pursue that route, would the prosecution try to pursue it? Ms. Uhing-Luedde stated that since the Office of Prosecution would be working with the Executive Director and Board counsel, they would be able to clarify that the Board had already discussed that and did not want to proceed in that way. Ms. Naomi Prendergast asked if the Board would be made aware of what changes are made or which terms are used? Ms. Heather Engman stated that it is just the legal language having the ability to be changed as opposed to if actual substance needed to be changed, the matter would have to be brought back to the Board. Ms. Roxanne Webster expressed concern regarding the substance of the discipline being changed but stated that she has no issue with legal language change for the sake of strengthening their case. Ms. Uhing-luedde stated that they cannot change any disciplinary terms.

ACTION:

Motion by Ms. Roxanne Webster to approve the Prosecutorial Discretion policy, seconded by Mr. Pavel Terpelets, and a unanimous decision by Roll Call as follows: Steven Davis: yes; Tarah Loy: yes; Sister Jacquelyn McCarthy: yes; Mary Moscato: yes; Naomi Prendergast, yes; Patrick Stapleton: yes; Pavel Terpelets: yes; Roxanne Webster: yes.

Absent: Carolyn Fenn, Nancy Lordan, Madhuri Reddy

V. Flex Session:

DISCUSSION:

Ms. Goldrick asked Board members who would be present for our July 21, 2023, Board meeting. Ms. Mary Moscato will not be present next month.

VI. Adjournment:

ACTION:

Motion to adjourn the General Session and move to Executive Session, passed by Roll Call as follows: Steven Davis: yes; Tarah Loy: yes; Sister Jacquelyn McCarthy: yes; Mary Moscato: yes; Naomi Prendergast, yes; Patrick Stapleton: yes; Pavel Terpelets: yes; Roxanne Webster: yes.

Absent: Carolyn Fenn, Nancy Lordan, Madhuri Reddy

Let the records show the meeting adjourned at 10:53 AM

The next meeting of the Board of Registration of Nursing Home Administrators is scheduled for Friday, July 21, 2023, at 10:00 AM via WebEx.

Respectfully submitted by:

The Board of Registration of Nursing Home Administrators