

COMMONWEALTH OF MASSACHUSETTS

BOARD OF RESPIRATORY CARE

**THIS AGENDA CONSTITUTES NOTICE OF THE REGULARLY SCHEDULED MEETING OF THE
BOARD OF RESPIRATORY CARE
IN COMPLIANCE WITH THE OPEN MEETING LAW, M.G.L. c. 30A, § 20**

**Tuesday, July 19, 2016
1:00 p.m.**

**239 Causeway Street ~ Floor ~ Room 417
Boston, Massachusetts 02114**

Agenda

Time	Item #	Item	Exhibits	Staff Contact
1:00 p.m.	I.	Call to Order Determination of Quorum Notice of electronic recording		
	II.	Approval of Agenda	Draft Agenda	
	III.	Approval of Minutes A. May 26, 2016 Board Meeting	Draft Minutes	
	IV.	Full License Applications None	None	
	V.	Review Renewal Applications None	None	
	VI.	Staff Assignments A. SA-INV-6630 Wendy Hicks B. SA-INV-5741 Bonnie Robert	Investigation Reports	CP CP CP
	VII.	Complaints A. REP-2014-004 Charlene Levine	Investigation Reports and Memo	CP
	VIII.	Inquiries A. How many CEUs an individual can obtain in a one college credit and if one can complete all 15 CEUs for a 2 years online college credit?	Email Inquiries	PB

	IX.	Probation Monitor Report None	None	
	X.	Policies A. Staff Action Policy -GMC licensure B. Routine Responses Policy C. SSN Affidavit – No SSN Policy	Draft Policies	MS
	XI.	Other Business/Announcements A. Audit Advisory B. RC Regulatory Review	Verbal and Supporting Documentations Revise Regulations	PB/MS MS
	XII.	Flex Session A. Topics for next agenda	Verbal	
2:00 p.m.	XIII.	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, individuals, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. <ol style="list-style-type: none"> Specifically, the Board will discuss and evaluate the <u>Good Moral Character</u> provisions of certain applications as required for registration for pending applicants. In addition, the Board will discuss and evaluate the reputation, character, physical condition or mental health, rather than professional competence, of licensee(s) relevant to their petitions for license status change. In addition, the Board will consider approval of prior executive session minutes in accordance with M.G.L. ch.30A, § 22(f) for sessions held during for previous executive sessions of the Board. The Board will not reconvene in open session subsequent to the executive session.	Closed Session	
2:30 p.m.	XIV.	G.L. c. 112, § 65C Session	Closed Session	
3:00 p.m.	XV.	Adjournment-next Board meeting scheduled for [August 16, 2016]		

COMMONWEALTH OF MASSACHUSETTS
BOARD OF RESPIRATORY CARE
BOARD MEETING

Tuesday, July 19, 2016

239 Causeway Street
Room 417
Boston, MA 02114

MINUTES

Board Members Present: David Polanik, Respiratory Therapist 2, Board Chair
Phillip Bort, Consumer 2
Paul Nuccio, RT, Respiratory Therapist 1
Jordan Sage Rettig, M.D., Physician 1

Staff Present: Philip Beattie, Acting Director, Multi-Boards, DHPL
Anson Chu, Office Support Specialist, Multi-Boards, DHPL
Mary Strachan, Board Counsel, Office of the General Counsel, DPH
Marjorie Campbell, Nursing Investigator Supervisor, Office of Public Protection, DHPL
Clifford V. Pascarella II, Investigator, Office of Public Protection, DHPL
Maryanne Sheckman, Investigator, Office of Public Protection, DHPL

Guest: None

I. Call to Order - Determination of Quorum

A quorum of the Board was present. Mr. Polanik, Board Chair, called the meeting to order at 1:12 p.m.

II. Review of the Agenda

The Meeting Agenda was reviewed.

DISCUSSION: None

ACTION: Mr. Bort made a motion to approve the agenda as presented; Mr. Nuccio seconded the motion. Motion passed with Board members present and voting in favor unanimously.

Document: July 19, 2016 Board Meeting Agenda

III. Approval of Minutes

A. May 26, 2016 Regularly Scheduled Board Meeting

The minutes of the May 26, 2016 regularly scheduled board meeting were reviewed.

DISCUSSION: Ms. Strachan mentioned there are a few grammatical errors and Mr. Bort

mentioned there is a “Dr.” in front of his name.

ACTION: Mr. Nuccio made a motion to approve minutes as amended; Dr. Rettig seconded the motion. Motion passed with Board members present and voting in favor unanimously.

Documents: May 26, 2016 Regularly Scheduled Board Meeting Minutes

IV. Full License Applications

None

V. Review Renewal Applications

None

VI. Staff Assignments

A. SA-INV-6630 Wendy Hicks

DISCUSSION: Mr. Pascarella explained the case to the Board. The Licensee was working in a new job where she felt overwhelmed and unsupported by her co-workers. She quit in the middle of her shift without advising her employer or other responsible party. Board members noted that she had an obligation to care for her patients and that her conduct was “reckless” .Ms. Strachan explained the different types of disciplinary actions available to the Board. . The Board discussed among each other if what the Licensee did was a violation of the standard of care as she abandoned her patients.

ACTION: Mr. Polanik made a motion to open a complaint and offer a Consent Agreement for Reprimand; Dr. Rettig seconded the motion. Motion passed with Board members present and voting in favor: Mr. Polanik-yes; Mr. Bort-yes; Mr. Nuccio-yes; Dr. Rettig-yes; Abstained: None; Opposed: None; Recused: None

Documents: Investigation Reports

B. SA-INV-5741 Bonnie Robert

DISCUSSION: Mr. Pascarella explained the case to the Board. The Board reviewed the memo and supporting documentation. Specifically, the Licensee is employed in a home health agency. Her colleague is the complainant in this matter and she alleges that the Licensee holds herself out to be a nurse as well as a licensed RT when she interacts with patients and agency staff. The Licensee denies the allegations and states that her role is describes as “Private Care Director”. Her duties include drafting home care plans and supervising staff who implement those plans. She practices within the scope of her license, even though her position does not require a licensed respiratory therapist.

ACTION: Mr. Nuccio made a motion to close/dismiss the Staff Assignment; Dr. Rettig seconded the motion. Motion passed with Board members present and voting in favor: Mr. Polanik-yes; Mr. Bort-yes; Mr. Nuccio-yes; Dr. Rettig-yes; Abstained: None; Opposed: None; Recused: None

Documents: Investigation Reports

VII. Complaints

B. REP-2014-004 Charlene Levine

DISCUSSION: Mr. Pascarella explained the case to the Board. The Board reviewed all the memo and supporting documentations. Ms. Levine disclosed on her license renewal application that her employer disciplined her in her capacity as a licensed respiratory therapist. The basis for discipline was her accessing patient medical records without authorization. The patient in this case was also a co-worker. The Licensee does not deny the allegation but she does not recall the incident in any detail. She states that she accessed a lab report and then stepped away from her computer without closing out of the page. The hospital terminated her employment, but she filed and won a grievance for wrongful termination. Until this incident, she had worked without incident for 28 years for the employer.

ACTION: Mr. Bort made a motion to close/dismiss the Complaint and send a cautionary/advisory letter to the Licensee; Dr. Rettig seconded the motion. Motion passed with Board members present and voting in favor: Mr. Polanik-yes; Mr. Bort-yes; Mr. Nuccio-yes; Dr. Rettig-yes; Abstained: None; Opposed: None; Recused: None

Documents: Investigation Reports and Memo

VIII. Inquiries

A. How many CEUs an individual can obtain in a one college credit and if one can complete all 15 CEUs for a 2 years online college credit?

DISCUSSION: The Board reviewed the email inquiry and agreed that the Licensee is able to obtain CEUs for being in a college course. The Licensee obtained her RT license in June of 2015 after she completed an associate's degree program. She has returned to school in pursuit of a bachelor's degree in respiratory care. Mr. Nuccio explained that if the Licensee takes 1 college level 3 credit course she will meet the license renewal requirement. One 3 credit college course is equal to 15 Continuing Education Units (CEUs).

ACTION: Mr. Nuccio made a motion to respond to the Licensee in writing that her college course will satisfy her CEU requirement as above.; Dr. Rettig seconded the motion. Motion passed with Board members present and voting in favor: Mr. Polanik-yes; Mr. Bort-yes; Mr. Nuccio-yes; Dr. Rettig-yes; Abstained: None; Opposed: None; Recused: None

Documents: Email Inquiries

IX. Probation Monitor Report

None

X. Policy

A. Staff Action Policy -GMC licensure

DISCUSSION: Ms. Strachan gave a brief overview of the draft policy to the Board. Specifically, M.G.L.c. 112 § 23S requires that each applicant for licensure be of “good moral character” (GMC). Consequently, the Board adopted a policy in 2009 explaining how it will determine if a particular applicant or licensee meets the requirement. Board Counsel recommends that the Board delegate to Board staff the authority to determine the GMC of a small subset of applicants who meet specified criteria without bringing such cases to the Board members for review.

ACTION: Mr. Bort made a motion to adopt the policy; Mr. Nuccio seconded the motion; Motion passed with Board members present and voting in favor unanimously.

Documents: Draft Policies

B. Routine Responses Policy

DISCUSSION: Ms. Strachan gave a brief overview of the draft policy to the Board. This policy codifies and clarifies the Board’s delegation of authority to Board staff to conduct business day to day by being able to respond to routine matters.

ACTION: Mr. Nuccio made a motion to adopt the policy; Mr. Bort seconded the motion; Motion passed with Board members present and voting in favor unanimously.

Documents: Draft Policies

C. SSN Affidavit – No SSN Policy

DISCUSSION: Ms. Strachan gave a brief overview of the draft SSN Affidavit policy to the Board. This policy would apply to a very small number of license applicants. Pursuant to M.G.L.c. 30A § 13A requires MA state agencies to obtain a Social Security Number (SSN) from each applicant before issuing a license to such applicant. The purpose of this law is to support both the federal and state interest in assuring that individual who are obligated to pay child support continue to do so as a condition of licensure. In some cases, an individual may have the education, experience and GMC required for licensure, but may not be eligible for a SSN at the time of application. This policy allows for the issuance of a license for 1 license renewal period, provided that the applicant sign an affidavit that he or she will notify the Board when she or he obtains a SSN. The Dental Board Counsel researched the issue and advised the Dental Board in writing of a process by which an individual without a SSN can be licensed. Ms. Strachan attached a copy to her memo.

ACTION: Mr. Bort made a motion to adopt the policy; Mr. Nuccio seconded the motion; Motion passed with Board members present and voting in favor: Mr. Bort-yes; Mr. Nuccio-yes; Dr. Rettig-yes; Abstained: None; Opposed: Mr. Polanik; Recused: None

Documents: Draft Policies

XI. Other Business/Announcements

A. Audit Advisory

DISCUSSION: Mr. Beattie explained to the Board that the letter before them is the one that addressed the audit. After review of letter, the Board made some revisions. The Board requested the revised letter to be presented on the next schedule Board meeting.

ACTION: None

Documents: Supporting Documentations

B. RC Regulatory Review

DISCUSSION: Ms. Strachan reviewed the drafted regulation with the Board. The Board Chair asked why the issue if RT inserting PICC lines was not included in the amended RT scope of practice regulations. Board Counsel explained that when the Board members discussed the issue in the past, there was insufficient information available to them to make an informed decision as to what other jurisdiction do and do not allow what the national trend is and the reasoning behind it, etc. Board members agreed at that time that they would defer the matter until more information was presented and therefore, the regulations and the proposed amendments to the regulations are silent on the issue. Board members had a lengthy discussion regarding the edits to the proposed regulations and ultimately decided to review the existing regulations and the proposed amendments with edits in a “clean format” and discuss at the next scheduled meeting.

ACTION: Mr. Bort made a motion to deferred action on approving the revised regulations; Mr. Nuccio seconded the motion; Motion passed with Board members present and voting in favor unanimously.

Documents: Revise Regulations

XII. Flex Session None

[Break Time: 3:54 p.m. – 4:00 p.m.]

XIII. Executive Session (Roll call vote)

At 4:04 p.m., Mr. Polanik announced that 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 the 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. Specifically, the Board will discuss and evaluate the Good Moral Character provisions of certain applications as required for registration for pending applicants. In addition, the Board will discuss and evaluate the reputation, character, physical condition or mental health, rather than professional competence, of licensee(s) relevant to their petitions for license status change.

Mr. Polanik made a motion to enter into Executive session at 4:04 p.m.; Dr. Rettig seconded the motion. Motion passed with Board members present and voting in favor: Mr. Polanik-yes; Mr. Bort-yes; Mr. Nuccio-yes; Dr. Rettig-yes; Abstained: None; Opposed: None; Recused: None

The Board adjourned the Executive Session at 4:34 p.m. and resumed its Regularly Scheduled Board Meeting.

XIV. G.L. c. 112, § 65C Session

At 4:35 p.m., the Board made a motion to enter the 65C Session

XV. Adjournment

There being no other business before the Board, Mr. Bort made a motion to adjourn the meeting; Mr. Nuccio seconded the motion. Motion passed with Board members present and voting in favor unanimously. The meeting adjourned at 4:51 p.m.

The next meeting of the Board of Respiratory Care is scheduled for Tuesday, August 16, 2016, at 1:00 p.m. in Boston, MA.

Respectfully submitted:

Name

Position

Date