

BOARD OF REGISTRATION IN MEDICINE

**178 Albion Street, Suite 330
Wakefield, Massachusetts 01880**

(Teleconference)

February 3, 2022

10:33 a.m.

Public Session I

Members Participating Remotely:

Julian N. Robinson, M.D., Physician Member, Chair
Woody Giessmann, LADC-I, CADC, CIP, CAI, Public Member, Vice Chair
Holly Oh, M.D., Physician Member
Booker T. Bush, M.D., Physician Member
Deborah Levine, M.D., Physician Member
Nawal Nour, M.D., M.P.H., Physician Member

Staff Present and Participating:

George Zachos, Executive Director
Vita P. Berg, General Counsel
Steven Hoffman, Division of Law and Policy Manager
Eileen A. Prebensen, Senior Policy Counsel
Michael Sinacola, Licensing Director

Minutes taken by: Jennifer Sadowski, Paralegal, Division of Law and Policy

Marsha Johnson, Stenographer, present to record the Board meeting.

Dr. Robinson called the meeting to order at 10:33 a.m.

Dr. Robinson called the Roll to confirm that there was a quorum of the Board.

Mr. Giessmann – Aye

Dr. Levine -Aye

Dr. Oh- Aye

Dr. Nour -Aye

Dr. Bush – Aye

The Chair voted Aye.

Motion carried 6-0-0 (unanimous).

Dr. Robinson informed those individuals in attendance that the Board meeting was being conducted via teleconference. Additionally, the Board meeting was being recorded by a stenographer.

Licensing:

Dr. Robinson is recused from license applications from Newton Wellesley Hospital, Mr. Giessmann is recused from applications involving Right Turn, Dr. Levine is recused from licensing applications from Beth Israel Lahey, Dr. Nour is recused from licensing applications from Brigham and Women's Hospital and Dana Farber, Dr. Oh is recused from applications involving The Dimock Center and City Block Health, and Dr. Bush is recused from licensing applications from Baystate Medical Center Springfield.

Michael Sinacola, Licensing Director presented the licensing data as of February 3, 2022.

Licensing Applications:

Applications for **full licensure** (Alboushi - Zia)

Dr. Levine moved to approve the full licenses.

Dr. Oh seconded the motion.

Dr. Robinson called the Roll:

Mr. Giessmann – Aye

Dr. Levine-Aye

Dr. Oh – Aye

Dr. Nour -Aye

Dr. Bush – Aye

The Chair voted Aye.

Motion carried 6-0 (unanimous).

Applications for **limited licensure** (Abbassi - Leon)

Dr. Levine moved to approve the limited licenses.

Dr. Oh seconded the motion.

Dr. Robinson called the Roll:

Mr. Giessmann – Aye

Dr. Levine-Aye

Dr. Oh – Aye

Dr. Nour -Aye

Dr. Bush – Aye

The Chair voted Aye.

Motion carried 6-0 (unanimous).

Applications for **administrative applications reviewed by the Board** (Ortuzar)

Dr. Levine moved to approve the limited licenses.

Dr. Oh seconded the motion.

Dr. Robinson called the Roll:

Mr. Giessmann – Aye

Dr. Levine-Aye

Dr. Oh – Aye

Dr. Nour -Aye

Dr. Bush – Aye

The Chair voted Aye.

Motion carried 6-0 (unanimous).

Applications for **full licensure with waiver reviewed by the Licensing Committee** (Baier–Duffy)

Dr. Levine moved to approve the full licenses with waiver reviewed by the Licensing Committee.

Dr. Oh seconded the motion.

Dr. Robinson called the Roll:

Mr. Giessmann – Aye

Dr. Levine-Aye

Dr. Oh – Aye

Dr. Nour -Aye

Dr. Bush – Aye

The Chair voted Aye.

Motion carried 6-0 (unanimous).

Application for **full licensure reviewed by the Licensing Committee** (Gausling-Savage).

Dr. Levine moved to approve the full license reviewed by the Licensing Committee.

Dr. Oh seconded the motion.

Dr. Robinson called the Roll:

Mr. Giessmann – Aye

Dr. Levine-Aye

Dr. Oh – Aye

Dr. Nour -Aye
Dr. Bush – Aye
The Chair voted Aye.
Motion carried 6-0 (unanimous).

Application for **changes to existing limited licenses reviewed by the Board** (Abass-Park)
Dr. Levine moved to approve the changes to existing limited licenses reviewed by the Board.
Dr. Oh seconded the motion.

Dr. Robinson called the Roll:

Mr. Giessmann – Aye
Dr. Levine-Aye
Dr. Oh – Aye
Dr. Nour -Aye
Dr. Bush – Aye

The Chair voted Aye.
Motion carried 6-0 (unanimous).

Temporary License Application Amendments

Michael Sinacola, Director of Licensing reviewed the proposed changes to the Temporary License Application as he detailed in his memorandum to the Board.

Steven Hoffman, Division of Law and Policy Manager, proposed the following language to question number 45 on the application:

“Has any medical malpractice claim ever been made against you, or have you received notice of a claim against the United States or any state, municipality or public employer which is based on care provided or supervised by you, whether or not a lawsuit was filed in relation to the claim?

NOTE: You must report any medical malpractice claims that have been made against you, even if the claim against you was dropped, dismissed, settled, adjudicated or otherwise resolved.”

Mr. Sinacola pointed out that if the Board should adopt the Save Haven policy later in the meeting that information will be included into the application as well.

Dr. Oh moved to approve the Temporary License Application Amendments.
Dr. Bush seconded the motion.

Dr. Robinson called the Roll:
Mr. Giessmann – Aye
Dr. Levine -Aye
Dr. Oh – Aye

Dr. Nour -Aye
Dr. Bush – Aye

The Chair voted Aye.
Motion carried 6-0 (unanimous).

PHS Overview of Toxicology Testing for Participants enrolled in a Substance Use Contract

Bara Litman-Pike, Psy.D., Executive Director, Physician Health Services, Inc. (PHS), Debra Grossbaum, General Counsel at Physician Health Services, Inc., and Dr. Mark Albanese, Medical Director, Physician Health Services, Inc. joined the meeting and addressed the Board.

Mark Albanese, MD presented the Board with an overview of toxicology testing for participants enrolled in a substance use contract.

How Testing Works

- Participants are required to check in daily.
- Monday- Friday lab testing occurs and the participants must go to the collection site.
- PHS has policies to address late or missed tests, vacation and creatinine levels
- Positive test results shared with client, workplace, treatment providers, and BORIM.
- PHS also has an option for a breathalyzer that the physician can use 2-3 times a day for seven days a week.

Monitoring has evolved over the years: PHS has expanded its services to include Behavioral Health and Occupational Health /Professionalism issues, and increased support and monitoring options. PHS has updated testing protocols – for example, PHS uses EtG, EtS and Peth tests, and PHS can now test for an additional range of substances.

PHS hopes to strike the optimal balance between supporting abstinence & accommodating physicians within the work place.

PHS

- Stays abreast of best practices and testing technologies,
- Conducts literature reviews,
- collaborates with the Federation of State Physician Health Programs (FSPHP) and other state physician health programs,
- maximizes its- resources and
- increases physicians' discretion, e.g. timing of testing or choice of testing.

Dr. Bush stated he was very pleased with how PHS has developed and pleased that the Board is an ally in the process.

Safe Haven Non-Reporting Continued Discussion George Zachos, Executive Director shared with the Board members the proposed language of page 17 of the Full License Application. If the Board approves the following language, it would be included on all the applications:

“You may answer “NO” if the behavior or condition is known to the Massachusetts Medical Society’s Physician Health Services (PHS) and you are complying with all PHS requirements for evaluation, treatment and/or monitoring as recommended.”

The Board by general consensus indicated approval.

COVID-19 Public Health Emergency Order No. 2022-09 and letter of Commissioner of Public Health to physicians with retired or lapsed licenses

Vita P. Berg, General Counsel alerted board members to the January 27, 2022 Order of the Acting Commissioner of Public Health.

The order provides that physicians who are licensed in another State who present to the Massachusetts Board of Registration in Medicine (Board of Medicine) verification that such license is in good standing in that other State where it was issued shall forthwith be issued an emergency Massachusetts license that shall remain valid until June 30, 2022. All physicians licensed under this provision may provide services in Massachusetts within a facility licensed or operated by the Department or another state agency, or in another location if approved by the Commissioner.

It further provides that individuals who have within the last five years held a license to practice as a physician granted by the Board of Medicine, and whose license has expired, lapsed or been retired but is not revoked, suspended, surrendered, or subject to any non-disciplinary restriction and is not subject to any outstanding complaints or investigations, shall have their licenses immediately renewed or reactivated upon request subject to the limitation of practice in Massachusetts within a facility or operated by the Department or another state agency, or in another location if approved by the Commissioner, without a requirement that the applicant has completed continuing education, or other reactivation requirements, and shall remain valid until June 30, 2022. Any applicable renewal fee set pursuant to section 3B of chapter 7, or late renewal fee shall be waived.

Lastly, the order provides that if the Board of Registration in Medicine becomes aware of any individual instance where, due to special concerns, application of the order may be contrary to public interest, the Board may exercise discretion to determine whether to apply or suspend the terms of the order in any such individual instance.

Attorney Berg stated that the Acting Commissioner also sent out a letter encouraging physicians with retired or lapsed licenses who are eligible under this order and Board policy 21-01 to help out with COVID measures.

George Zachos, Executive Director stated that over the weekend we added the application to implement this order to the website and have already received and issued licenses under this order.

Revision of Policies

Vita P. Berg, General Counsel, presented the revisions to Policy 2020-01, as follows:

POLICY 2020-01

POLICY ON TELEMEDICINE IN THE COMMONWEALTH

Amended ~~June 25, 2020~~February 3, 2020

The Board of Registration in Medicine (Board) adopts this policy for the purpose of clarifying the practice of medicine by physicians via telemedicine.

1. A physician licensed by the Board may engage in the practice of medicine in Massachusetts. As set forth in the Board's regulations at 243 CMR 2.01, the practice of medicine includes telemedicine, which is defined as the provision of services to a patient by a physician from a distance by electronic communication in order to improve patient care, treatment or services. The Board's interpretation of the definition of telemedicine in its regulation encompasses the activities set forth in the definition of telehealth at M.G. L. c. 112, § 50¹.
2. The Board deems a physician to be practicing medicine in Massachusetts when the patient is physically located in Massachusetts. A physician licensed by the Board whose license *does not* restrict practice to a particular location may engage in the practice of medicine with respect to patients in Massachusetts irrespective of whether the physician is physically located in Massachusetts. A physician licensed by the board whose license *does* restrict practice to a particular location may engage in the practice of medicine with respect to patients in Massachusetts only from the location identified on his or her license.
3. The practice of medicine shall not require a face-to-face encounter between the physician and the patient prior to health care delivery via telemedicine. The standard of care applicable to the physician is the same whether the patient is seen in-person or through telemedicine.

¹ G.L. c. 112, § 50(a) For purposes of this section "telehealth" shall mean the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient's physical health, oral health, mental health or substance use disorder condition.

4. Physicians licensed by the board may obtain proxy credentialing and privileging for telehealth services with other health care providers, as defined in section 1 of chapter 111, or facilities that comply with the federal Centers for Medicare and Medicaid Services' conditions of participation for telehealth services.

Vita P. Berg, General Counsel, also presented the revisions to Policy 2020-05 that read as follows:

POLICY 2020-05

INTERIM POLICY ON EMERGENCY TEMPORARY LICENSES

June 25, 2020

Amended ~~October 21, 2021~~February 3, 2022

On March 10, 2020, Governor Baker declared a State of Emergency in Massachusetts in Executive Order No. 591, Declaration of a State of Emergency to Respond to COVID-19. On March 17, 2020, the Governor issued an “Order Expanding Access to Physician Services,” to assure access to treatment by physicians during the COVID-19 State of Emergency. On May 28, 2021, pursuant to Section 2A of Chapter 17 of the General Laws, Governor Charles D. Baker declared that an emergency exists that is detrimental to the public health in the Commonwealth due to the continuing threat of COVID-19. Accordingly, the Board of Registration in Medicine issues this Policy in order to ensure there is a seamless transition of healthcare in the Commonwealth.

The Board has previously established an Emergency Temporary License Application for out-of-state physicians to assist in meeting the increased demand for physician services in Massachusetts.

<https://www.mass.gov/service-details/important-information-regarding-physician-licensure-during-the-state-of-emergency>

The Emergency Temporary Licenses issued pursuant to the Order Expanding Access to Physician Services will remain valid until ~~March 31~~June 30, 2022.

To ensure there is no interruption in patient care, physicians who have been issued an Emergency Temporary License and who have submitted a full license application with the Board on or before ~~March 31~~June 30, 2022, will have their Emergency Temporary License remain active until the Full License application is adjudicated.

Vita P. Berg, General Counsel, presented the revisions to Policy 2020-09 that read as follows:

POLICY 2020-09

INTERIM POLICY ON EMERGENCY TEMPORARY LICENSES

FOR FULL LICENSE APPLICANTS

December 17, 2020

Amended February 3, 2022

On March 10, 2020, Governor Baker declared a State of Emergency in Massachusetts in Executive Order No. 591, Declaration of a State of Emergency to Respond to COVID-19. Thereafter, on May 28, 2021, Governor Charles D. Baker terminated the March 10, 2020 declaration. Separately on May 28, 2021, pursuant to Section 2A of Chapter 17 of the General Laws, Governor Baker declared that an emergency exists that is detrimental to the public health in the Commonwealth due to the continuing threat of COVID-19. In order to ensure an adequate supply of physicians to staff hospitals, and to eliminate any administrative delays for physicians who qualify for licensure, the Board of Registration in Medicine issues this policy.

The Board hereby establishes an Emergency Temporary License that shall be valid until the applicant's Full License Application is adjudicated or this policy is rescinded by the Board. The Emergency Temporary License is a full, unlimited and unrestricted medical license.

A request for an Emergency Temporary License must be made by a Massachusetts healthcare facility (as defined by M.G.L. c. 111, § 1) to either the Executive Director of the Board or the Director of Licensing.

In order to qualify for an Emergency Temporary License a physician must:

Meet all statutory requirements for licensure in M.G.L. c. 112;

- Submit the Full License Application and application fee;
- Not have any Board actions, limitations or special requirements imposed upon the applicant due to questions of competency, disciplinary matters, qualifications or good moral character;
- Not have any medical or physical condition(s) that impairs the applicant's ability to practice medicine safely; and
- Provide the FCVS Physician Profile, which will include:

- Official examination scores (USMLE, FLEX, COMLEX, LMCC, etc.);
 - Verification of all medical education;
 - Verification of all U.S. and Canadian postgraduate training, including any non-accredited postgraduate training;
 - National Practitioner Data Bank Report; and
 - ECFMG Certificate, if an international medical graduate.
- The application must not contain any affirmative responses to application questions 21-52 (Application Rev 8/19). If an applicant has an affirmative response to question 21-52 in the application the Chair of the Board or his designee is authorized to approve the emergency license.

The above list describes the minimum requirements and supporting materials required to obtain an Emergency Temporary License in Massachusetts. The Board may, at any time, request additional documentation.

Staff may present any request for an Emergency Temporary License to the Chair of the Board or his designee should staff believe that review of the application is warranted.

The Board will continue to issue Emergency Temporary Licenses pursuant to this policy until ~~March 31~~June 30, 2022. To ensure there is no interruption in patient care, physicians who have been issued an Emergency Temporary License pursuant to this policy on or before ~~March 31~~June 30, 2022, will have their Emergency Temporary License remain active until the Full License application is adjudicated.

Vita P. Berg, General Counsel, presented the revisions to Policy 2021-01 that read as follows:

POLICY 2021-01

INTERIM POLICY ON EMERGENCY TEMPORARY LICENSES TO WORK AT VACCINATION SITES FOR RECENTLY RETIRED PHYSICIANS AND LAPSED LICENSES

January 17, 2021

Amended ~~September 9, 2021~~February 3, 2022

On March 10, 2020, Governor Baker declared a State of Emergency in Massachusetts in Executive Order No. 591, Declaration of a State of Emergency to Respond to COVID-19. Thereafter, on May 28, 2021, Governor Charles D. Baker terminated the March 10, 2020

declaration. Separately on May 28, 2021, pursuant to Section 2A of Chapter 17 of the General Laws, Governor Baker declared that an emergency exists that is detrimental to the public health in the Commonwealth due to the continuing threat of COVID-19. In order to ensure an adequate supply of physicians to staff vaccinations sites and vaccination clinics, the Board of Registration in Medicine (“Board”) issues this policy which shall remain in effect until the public health emergency declared on May 28, 2021 is terminated or the Board rescinds this policy, whichever occurs sooner.

The Board hereby establishes an Emergency Temporary License that allows a physician to work only at a vaccination site or clinic being utilized for the purposes of the statewide vaccination effort and shall be valid until the end of the ~~State of Emergency~~public health emergency declared on May 28, 2021. In order to qualify for this Emergency Temporary License, the physician’s Full Massachusetts license must have lapsed within six years of this policy or the physician must have retired within six years of the policy, the license was in good standing (no prior Board action that resulted in a suspension or revocation) and there are no open Board complaints that call into question the physician’s ability to practice medicine safely. The Board may, at any time, request additional documentation.

Staff may present any request for an Emergency Temporary License to the Chair of the Board or his designee should staff believe that review of the application is warranted.

Dr. Robinson asked if there was a motion to approve the revisions to the policies.

Mr. Giessmann moved to approve the revisions to all 4 policies.
Dr. Nour seconded the motion.

Dr. Robinson called the Roll:

Mr. Giessmann – Aye
Dr. Levine -Aye
Dr. Oh – Aye
Dr. Nour -Aye
Dr. Bush – Aye

The Chair voted Aye.
Motion carried 6-0 (unanimous).

Minutes:

The Board considered the Public Session Minutes of the January 20, 2022 Board meetings.

Dr. Oh moved to approve the Public Session Minutes of the January 20, 2022 Board meeting.
Mr. Giessmann seconded the motion.

Mr. Giessmann – Aye
Dr. Levine -Abstained
Dr. Oh – Aye
Dr. Nour -Aye
Dr. Bush – Aye

The Chair voted Aye.

Motion carried 5-0-1 (Dr. Levine abstained due to absence).

Dr. Robinson stated that the Board will meet under G.L. c. 30A, § 21(a)(7) to comply with, or act under the authority of, G.L. c. 112, § 5, concerning physician profile disputes. Additionally, 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 individuals relevant to their petitions for modification of their probation agreement. The Board will also be reviewing Executive Session Minutes.

Following Executive Session, the Board will meet in closed Adjudicatory Session, and then in closed Mass. General Law, chapter 112, section 65C session. The Board will reconvene in Public Session following the conclusion of the 65C Session.

Dr. Robinson asked for a motion to go into Executive Session.

Mr. Giessmann moved to go into Executive Session.

Dr. Nour seconded the motion.

Dr. Robinson called the Roll:

Mr. Giessmann – Aye
Dr. Levine -Aye
Dr. Oh – Aye
Dr. Nour- Aye
Dr. Bush – Aye

The Chair voted Aye.

Motion carried 6-0 (unanimous).

Dr. Robinson stated that the Board would go into Executive Session.

Public Session I ended at 11:32 a.m.

BOARD OF REGISTRATION IN MEDICINE

**178 Albion Street, Suite 330
Wakefield, Massachusetts 01880**

(Teleconference)

February 3, 2022

12:23 p.m.

Public Session II

Members Participating Remotely:

Julian N. Robinson, M.D., Physician Member, Chair
Woody Giessmann, LADC-I, CADC, CIP, CAI, Public Member, Vice Chair
Holly Oh, M.D., Physician Member
Booker T. Bush, M.D., Physician Member
Deborah Levine, M.D., Physician Member
Nawal Nour, M.D., M.P.H., Physician Member

Staff Present and Participating:

George Zachos, Executive Director
Vita P. Berg, General Counsel
Steven Hoffman, Division of Law and Policy Manager
Eileen A. Prebensen, Senior Policy Counsel

Minutes taken by: Jennifer Sadowski, Paralegal, Division of Law and Policy.

Marsha Johnson, Stenographer, present to record the Board meeting.

Motions and Votes

In the **Holick** matter, Dr. Robinson moved to include the reported information on the physician's public profile.

Dr. Levine seconded the motion.

Dr. Robinson called the Roll:

Mr. Giessmann – Aye

Dr. Levine -Aye

Dr. Oh – Aye

Dr. Nour -Aye

Dr. Bush – Aye

The Chair voted Aye.

Motion carried 6-0 (unanimous).

In the **Byler** matter, Dr. Robinson moved to allow the Petition to Amend the Probation Agreement.

Dr. Levine seconded the motions.

Dr. Robinson called the Roll:

Mr. Giessmann – Aye

Dr. Levine -Aye

Dr. Oh – Aye

Dr. Nour -Aye

Dr. Bush – Aye

The Chair voted Aye.

Motion carried 6-0 (unanimous).

In the **Ionescu** matter, Dr. Robinson moved to approve the Consent Order.

Dr. Levine seconded the motion.

Dr. Robinson called the Roll:

Mr. Giessmann – Aye

Dr. Levine -Aye

Dr. Oh – Aye

Dr. Nour -Aye

Dr. Bush – Aye

The Chair voted Aye.

Motion carried 6-0 (unanimous).

In the **Ameri** matter, Dr. Robinson moved to issue the Statement of Allegations, Order to Use Pseudonyms and Impound Identities and Medical Records, and Order of Reference to the Division of Administrative Law Appeals.

Dr. Oh seconded the motion.

Dr. Robinson called the Roll:

Mr. Giessmann – Aye

Dr. Levine -Abstains due to recusal.

Dr. Oh – Aye

Dr. Nour -Aye

Dr. Bush – Aye

The Chair voted Aye.

Motion carried 5-0-1 (Dr. Levine recused).

Board Member Availability

The Board members discussed their anticipated availability to attend the February 17, 2022, March 10, 2022 and March 31, 2022 Board meetings.

Dr. Nour indicated that she will not be available for the February 17th meeting. Dr. Bush indicated that he may not be available for the March 31st meeting. The rest of the Board members indicated that they anticipated attending the February 17, 2022, March 20, 2022 and March 31, 2022 meetings.

Dr. Robinson asked for a motion to adjourn the Board meeting.

Mr. Giessmann moved to adjourn the Board meeting.

Dr. Oh seconded the motion.

Dr. Robinson called the Roll:

Mr. Giessmann – Aye

Dr. Levine -Aye

Dr. Oh – Aye

Dr. Nour- Aye

Dr. Bush – Aye

The Chair voted Aye.

Motions carried 6-0 (unanimous).

Meeting adjourned at 12:29 a.m.

Documents Considered in Public Sessions I and II:

- Licensing Applications List
- Temporary License Application Amendments
- COVID-19 Public Health Emergency Order and Letter to Retired physicians
- Proposed Policy 2020-01: Policy on Telemedicine in the Commonwealth
- Proposed Policy 2020-05: Interim Policy on Emergency Temporary Licenses
- Proposed Policy 2020-09: Interim Policy on Emergency Temporary License for Full License Applicants
- Policy 2021-01: Interim Policy on Emergency Temporary Licenses to Work at Vaccination Sites for Recently Retired Physicians and Lapsed Licenses
- Public Session Minutes of the January 20, 2022 Board meetings
- Motions and Votes