

**OHIO RESPIRATORY CARE BOARD**

77 S. HIGH STREET, 16TH FLOOR

COLUMBUS, OHIO 43215-6108

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**OFFICIAL BOARD MEETING MINUTES OF FEBRAURY 11, 2015**

**REGULAR BUSINESS MEETING**

**MEMBERS IN ATTENDANCE (Exhibit A):**

Marc Mays, M.S., R.R.T., R.C.P., President

Andrea Yagodich, R.R.T., R.C.P., Acting Secretary

Carol Gilligan, HME Member

Joel Marx, HME Member

Steven Pavlak, M.S., R.R.T., R.C.P.

Verna Riffe Biemel, Public Member

Robert Slabodnick, M.Ed., R.R.T., R.C.P.

Kenneth Walz, J.D., R.R.T., R.C.P.

**Staff in attendance:**

Corey C. Schaal, J.D./M.P.A., Executive Director

Marcia L. Tatum, HME Manager

Traci L. McDonald, Administrative Professional I

**Others in Attendance:**

Sue Ciarlariello, OSRC Legislative Committee Chari

F. Herbert Douce, Consultant

Riana Sim, Senior Respiratory Care Student from OSU

Steven R. Kochheiser, Assistant Attorney General – Office of the Ohio Attorney General

Bobby Robbins, Contract Investigator

### CALL REGULAR MEETING TO ORDER

Mr. Mays called the meeting order at 11:30 am. Mr. Pavlak took roll call and eight members were present (see exhibit A – Maninder Kalra, Ph.D., M.D., Physician Member was absent). Mr. Mays noted there was a quorum of the Board and business could be considered.

Agenda item 1. Approval of Previous Meeting Minutes (Exhibit B)

Mr. Mays asked if members received and read the previous meeting minutes. Mr. Mays then asked if there were any changes, deletions or corrections. Hearing none, Mr. Mays asked if there was a motion to approve the Board's previous meeting minutes from December 17, 2014.

**Motion #1:** Mr. Pavlak moved to approve the December 17, 2014 meeting minutes. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 8 – 0.

Agenda item 2. Adoption of Proposed Meeting Agenda (Exhibit C)

Mr. Mays asked if there were any changes or additions to the proposed agenda. Hearing none, he asked if there was a motion to approve the agenda.

**Motion #2:** Mr. Slabodnick moved to approve the proposed agenda. Mrs. Riffe Biemel seconded the motion. Discussion: None. Motion carried: 8 – 0.

### OHIO SOCIETY FOR RESPIRATORY CARE UPDATE

Ms. Ciarlariello from the Ohio Society for Respiratory Care provided an update on behalf of the society. She indicated that the Society had just changed leadership with Sarah Varekojis being replaced by Chris Schwanenberger of the Cleveland Clinic Foundation as president.

Ms. Ciarlariello explained that one of the roles of the Society is to make recommendations to the Governor with regards to the Professional RCP members on the Board. The Society had received information from Ken Walz and planned on writing a letter of recommendation for his reappointment. Ms. Ciarlariello indicated that she had not received a response from an email to Mr. Pavlak with regards to a recommendation for his reappointment. Mr. Pavlak indicated that he had not received an email, but that the email domain for his hospital recently changed and he would be glad to follow-up and to receive support from the Society. Ms. Ciarlariello also indicated that she understood that Mr. Slabodnick planned to retire and leave the Board in the near future. As such, the Society, which would be meeting next on February 20th, would seek out suitable individuals interested in serving. Ms. Ciarlariello asked if there was any particular subfield or location which should be considered when choosing a recommendation. Mr. Mays indicated another educator would be helpful. It was discussed that the Board does already have members who provide clinical experience. Another balance issue raised was the lack of an RCP member from the southern half of the state.

Ms. Ciarlariello provided an update with regards to legislation proposed by the Society that had been introduced at the end of the last legislative session – H.B. 667. The bill was only introduced and did not have any hearings before the end of the session. After talking with David Corey, Ms. Ciarlariello explained that Rep. Schuring expected the bill to be introduced in the next couple of weeks. She also provided an update with regards to the proposed Physician’s Assistance bill. The Society’s Legislative Committee would be meeting on February 25th to set their future agenda. Advanced practice would be one item for discussion. Mr. Schaal raised with the group a couple of minor issues that had been identified with the bill that may need to be corrected. First, the language related to the limited permit may need to be clarified to indicate that the permit does not expire upon graduation, but upon leaving a program aside from graduation. Second, a reference to dangerous “drub” needs to be changed to “drug.” Finally, Mr. Schaal indicated that the Board may wish to make clear that “in good standing” for purposes of qualifying for a limited permit may be different from the use of that term with regards for students to be “in good standing” either in their program or at their university.

At 11:50 a.m. – Mr. Mays indicated the Board would break for lunch and the meeting would resume at 1:00 p.m.

## OFFICER AND STAFF REPORTS

### Agenda item 3.a: President’s Report

Mr. Mays called the meeting back to order at 1:00 p.m. As Ms. Ciarlariello had earlier indicated that Mr. Slabodnick planned on retiring and resigning from the Board, Mr. Mays had no other items to raise with the Board at this time.

### Agenda item 3.b: Executive Director’s Report (Exhibit D)

Mr. Schaal reported that an outline of his report appeared in the packets, but that he would highlight the following issues:

1. Hyperbaric Technologist Certification Rule – The Hyperbaric Technologist Certification Rule that was presented at the Public Hearing at our last Board meeting was supposed to be before JCARR – the Joint Committee on Agency Rule Review on January 12th. However, the new General Assembly did not establish the make-up of the committee in enough time and the first meeting date for 2015 was pushed back by two weeks. However, the statutory window of review (JCARR Jurisdiction) lapsed on January 19th. As such, our Rule can be final filed at any time with an effective date no sooner than 10 days after the final filing. Mr. Schaal will be working with LSC to make the spelling corrections which were approved at our prior meeting in order to final file the rule. Additionally, Mr. Schaal will work with the eLicensing staff and ours to prepare for the creation of the new limited non-renewal credential which will appear in our system.
2. eLicense 2.0 – The implementation of the next generation of eLicense has been delayed. A pause in development is occurring while DAS works with a few other boards to explore taking the system into the cloud. As opposed to the initial plan to test the next generation with 3 or 4 Boards being entirely converted, 2 or 3 Boards will transfer over an individual license for testing in the new system. While the next generation of eLicense is being developed, there are no problems with the existing system which would cause any delay in our ability to handle our licenses.

3. Ethics Filings – Per Executive Order 2011-03K, Mr. Schaal notified the Chief Legal Counsel in the Governor’s Office regarding the status of ethics training undertaken by the members of the Board in 2014. On the prior day, Mr. Schaal received a response recognizing our submission. From the Ohio Ethics Commission, Mr. Schaal received a revised list of filers required to file the annual Financial Disclosure Statement. He corrected the mistaken addition of Chris Logsdon on our listing. As a transfer to the State Board of Cosmetology before the end of the year, the \$60 annual filing fee is a cost borne entirely by that Board. It is not a pro-rated amount. Additionally, Mr. Schaal filed his initial 90-day Financial Disclosure Statement with the Commission.
4. Limited Permit Renewals – The process has begun to initiate renewals for Limited Permits. Both the renewal form and the letter acknowledging the renewal have been revised. The form will be sent to State Printing for updating. Copying and mailing of the form will occur within the office. Both the mailing and return envelopes have been ordered. Once a proof of the renewal form has been developed, the office will work with the eLicense staff to update the system to allow for the printing of the individualized renewal application forms. As an aside, we are currently down to only 20 or 21 L2 Limited Permit holders
5. State Plans & Compliance – As referenced in the prior Executive Director’s report, we have successfully become compliant with PCI (Payment Card Industry Data Security Standard) through a company called Trustwave – this is related to credit card processing. We also submitted our Strike Plan to the state on January 15th via a new online tool, RPX. Subsequently, we were notified that our revised Workforce Plan has been approved after review by the Governor’s Office. And, we filed our end of the year Certificate of Compliance for Agency Records Retention Schedules with DAS
6. Biennial Audit – In preparation for our new budget, Mr. Schaal has been in contact with the Auditor of State’s Office to begin preparation for our biennial audit which will begin later this spring. The billing for this audit is typically spread between two fiscal years at the transition from one biennium to the next. Our current budget proposal allots for \$4,000 in FY 2017 to pay for a portion of the next biennial audit.
7. JLEC (Joint Legislative Ethics Commission) – At the beginning of the year, Mr. Schaal was able to file with JLEC as a Registered Legislative Agent. Since that time, he filed our tri-annual Activity and Expenditure Report covering the last four months of 2014. While he wasn’t registered as a Legislative Agent until 2015, employers are required to file the reports and Chris Logsdon had been registered on behalf of the Board during the first half of this last reporting period.

Agenda item 3.c: HME Manager’s Report (Exhibit E)

Ms. Tatum reported that since the last meeting staff had approved 1 HME License application, 11 HME Certificates of Registration applications and there are currently 5 new applications pending. Since the Board’s last meeting, inspections were scheduled for February, March and April – some inspection dates are still open. The Licensing Division has collected \$65,015 in revenue so far for FY 2015. Staff is happy to report that all the HME license files have been prepped and scanned and scanning of registration files has commenced.

**Motion #3:** Mr. Pavlak moved to approve the President’s report, the Executive Director’s report and the HME Manager’s report. Mr. Slabodnick seconded the motion. Discussion: None. Motion carried: 8 – 0.

## COMMITTEE REPORTS

### Agenda item 4.a: Rules Committee Report

Mr. Pavlak indicated that a quorum of the committee was present. The group discussed the five year review of OAC rules. There are 41 RCP and 45 HME rules in need of review. Mr. Schaal will divide the rules into 4 parts for the committee to review. The committee discussed the issue of proving military/veterans status as it pertains to the RCP License Application. Mr. Schaal is going to look into reframing the wording used on the application. The committee also discussed the process involved in the reinstatement of limited permits. It was decided that an existing limited permit can be renewed, but not reinstated. If an individual were to lose a limited permit, for example – due to no longer being in good standing in a program, then the individual would receive a new limited permit if another were to be issued. The committee discussed the use of various NBRC exams in lieu of obtaining CE credit. It was decided that the CRT credential should no longer suffice for this purpose. Lastly, the committee discussed H.B. 667 and the potential changes that would be made before the measure would be reintroduced in the new General Assembly session.

**Motion #4:** Mrs. Riffe Biemel moved to approve the Rules Committee Report. Ms. Yagodich seconded the motion. Discussion: None. Motion carried: 8 – 0.

### Agenda item 4.b: Home Medical Equipment Committee Report

Mr. Marx reported that the Committee recommends to the Board the approval of the list of Licenses and Certificates of Registration for ratification. Mr. Marx asked that the staff of the Board research to see whether the Willow Curve device is FDA-approved, but stated that it does not appear to meet current criteria established by the Board. Lastly, Mr. Schaal provided information to the committee that the Orthotics, Padiorthotics and Prosthetics Board had inquired about possibly amending an HME rule to require one of their licensees with regards to the fitting of drop foot simulators. The committee does not feel that it is appropriate for us to amend our rule to require that a licensee is necessary. Mr. Marx indicated that any such rule requirement should be in the rules of the Orthotics, Padiorthotics and Prosthetics Board. Ms. Gilligan indicated that HME businesses operate under numerous rules and these rules do not need to be duplicated in our code sections. Mr. Mays asked if any response was necessary at this time and Mr. Marx indicated that an informal response from Mr. Schaal would probably be sufficient.

**Motion #5:** Mr. Slabodnick moved to approve the HME Committee Report. Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 8 – 0.

### Agenda item 4.c: Scope of Practice Committee Report

Ms. Yagodich reported that the committee had met that morning with Mr. Douce in attendance and reviewed four scope of practice inquiries. Three of the inquiries were standard with only one inquiry appearing with a new facet. Ms. Yagodich indicated that Mr. Douce is starting to compile a list of common questions which could be useful in the future. Ms. Gilligan inquired as to whether it was prior practice for all Board members to receive information. Mr. Mays and Mr. Schaal indicated that future committee materials would be provided to all Board members. Ms. Yagodich then provided details on the four inquiries which were reviewed by the Committee.

**Motion #6:** Ms. Gilligan moved to approve the Scope of Practice Committee Report. Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 8 – 0.

**PROBABLE REVIEW COMMITTEE REPORT (Exhibit L)**

**Motion #7:** Mr. Walz moved to enter Executive Session for the purpose of considering the investigation of charges or complaints against licensees under R.C. 121.22(G)(1) and which involves matters that are required to be kept confidential under R.C. 149.43(A)(2) and R.C. 4761.03(E) and 4752.08 (B). Ms. Yagodich seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Kenneth Walz -	Yes
Joel Marx -	Yes	Carol Gilligan -	Yes
Andrea Yagodich -	Yes	Steven Pavlak -	Yes
Verna Riffe Biemel -	Yes	Robert Slabodnick -	Yes

Motion carried.

The Board entered executive session at 1:42 p.m. and returned to regular, public session at 2:17 p.m. As members of the Probable Review Committee, Carol Gilligan and Robert Slabodnick excused themselves from participating in this portion of the meeting. Aside from the six remaining Board members, also present during executive session were Mr. Schaal, Ms. Tatum, Ms. McDonald, Mr. Robbins and Mr. Kochheiser.

*\*Names and identifying information were redacted from discussion and from proposed consent agreements during the course of executive session deliberation and the public meeting. Matters were referred to only by case number in documentation and referenced by case number verbally. Identifying information based upon the correlating case number was added during the writing of the minutes after approval of the proposed consent agreements through a motion on the record during public session*

Back in public session, the Board took the following actions:

Agenda item 5.b: Probation Compliance Report

**Motion #8:** Mr. Walz moved to approve the Probation Compliance Report. Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 8 – 0.

Agenda item 5.c: Approval of Consent Agreements

**Motion #9:** Mr. Marx moved to approve the following consent agreements.

**RCB Agreements**

<u>Exh. #</u>	<u>Case no. /Respondent</u>	<u>Violation</u>
	2014 ORCB 043 (Robert Sillitoe, RCP.1339)	O.R.C. 4761.09(A)(1) violation
	2014 ORCB 050 (Donald Mook, RCP.5387)	O.R.C. 4761.09(A)(2) violation

2015 ORCB 006 (Brandi Conaway, RCP.13017)	Rule 4761-8-01(F) violation
2015 ORCB 009 (Angela Barrett, RCP.4288)	Rule 4761-9-02(B) violation
2015 ORCB 012 (Lori King, RCP.11829)	Rule 4761-9-02(B) violation
2015 ORCB 016 (Norma Starks, RCP.13009)	Rule 4761-9-02(B) violation
2015 ORCB 019 (Criste Phillips, RCP.11028)	Rule 4761-9-02(B) violation
2015 ORCB 020 (Anna Schumick, RCP.2829)	Rule 4761-9-02(B) violation

### **HME Agreements**

#### **Exh. # Case no. /Respondent**

#### **Violation**

2014 HME 016 (Buckeye Physical Medicine & Rehab – Gahanna, HMEL.11545)	O.R.C. 4752.09(A)(1) violation
2014 HME 017 (Kenwood Family Chiropractic, LLC, HMEL.11544)	O.R.C. 4752.09(A)(1) violation
2014 HME 018 (Buckeye Physical Medicine & Rehab – Heath, HMEL.11569)	O.R.C. 4752.09(A)(1) violation

Ms. Yagodich seconded the motion. Discussion: None. Motion carried: 6 – 0 with Ms. Gilligan and Mr. Slabodnick abstaining.

Agenda item 5d: Closed Case Review

**Motion #10:** Mr. Walz moved to approve the closure of the following cases:

2015 ORCB 001  
2015 ORCB 029

Mrs. Riffe Biemel seconded the motion. Discussion: None. Motion carried: 8 – 0.

### **NEW BUSINESS**

Agenda item 6.a: Application ratification for RCP Licenses and Limited Permits issued since the last meeting (Exhibit O)

**Motion #11:** Mr. Walz moved to ratify respiratory care professional licenses and limited permits issued on the following dates:

Respiratory Care Professional Licenses and Limited Permits issued on: December 18, 19 and 26 – 2014; January 2, 8, 15, 22, 26, 28 and 30 – 2015; and February 5 – 2015.

Ms. Yagodich seconded the motion. Discussion: None. Motion carried 8 - 0.

Agenda item 6.b: Application ratification for Home Medical Equipment Licenses and Certificates of Registration (Exhibit P)

**Motion #12:** Mr. Marx moved to ratify HME licenses and certificates of registration issued on the following dates:

Home Medical Equipment Licenses and Certificates of Registration issued on: December 10 & 30 – 2014 and January 9, 20, 22 and 27 – 2015.

Mr. Marx seconded the motion. Discussion: Mr. Marx inquired if Mr. Schaal reviewed each application. Mr. Schaal affirmed he had. Motion carried: 8 – 0.

Agenda item 6.c: New Budget Update (Exhibit Q)

Mr. Schaal provided the Board members with copies of the following budget materials: the 2 pages of the As Introduced version of the Budget Bill (H.B. 64), the OBM Fund Activity Summary, and the LSC Redbook on the Executive recommendation for the Ohio Respiratory Care Board. Mr. Schaal indicated that he would be testifying on the proposed recommendation before a House Finance Subcommittee in two weeks. Overall, Mr. Schaal indicated that the Governor had recommended 99.39% of what had originally been requested and that the Board should be able to sufficiently function on that amount for the upcoming new biennium.

Agenda item 6.d: Financial Disclosure Statements (Exhibit R)

Mr. Schaal provided the Board members with copies of both the recent reminder from the Ohio Ethics Commission informing public officials and employees that the 2014 Financial Disclosure Statements were now available online and a copy of the new Disclosure Statement. Mr. Schaal indicated that the deadline for filing the 2014 statements would be April 15, 2015.

Agenda item 6.e: CRT Credential for December 2014 graduates (Exhibit S)

Mr. Schaal provided members with copies of recent examination results provided by the National Board for Respiratory Care. The examination sheets provided information for students who took the CRT examination in November and students who took the new TMC examination in January. These results were just provided to illustrate the information being provided to the staff now that the new examination had been implemented. In addition, Mr. Schaal provided the Board with a revised version of the Frequently Asked Questions on Ohio's Examination Recognition Rule: OAC 4761-5-01. The new version contained a new scenario #4 to assist the Board in discussing whether a recent graduate with a CRT credential obtained prior to January 1, 2015 could still apply for an RCP license after January 1, 2015. Several members of the Board expressed the belief that individuals applying for licensure after January 1, 2015 would need to have received the RRT credential for licensure from that point forward. A student receiving a CRT credential in December of 2014 would not be able to successfully obtain licensure after December 31, 2014 unless the RRT credential was subsequently received.

Agenda item 6.f: PRC Committee Membership (Exhibit T)

Mr. Mays announced that with the announced resignation of Mr. Slabodnick another Board member would need to be added to the Probable Review Committee. As Mr. Slabodnick served to review RCP cases, Mr. Mays had indicated that he had asked Ms. Yagodich to consider serving on PRC and that she had agreed to do so.

**OLD BUSINESS**

Agenda item 7.a: Education Update (Exhibit U)

Mr. Schaal provided the members with copies of a letter and a resolution passed by the California Society for Respiratory Care petitioning CoARC – the Committee on Accreditation for Respiratory Care – to increase the accreditation requirements for institutions that support respiratory care programs to include a minimum RRT pass rate on the NBRC exam. Mr. Schaal indicated that he would inquire as to whether any response to the petition had been made by CoARC as a possible prelude to the Board passing its own resolution.

Agenda item 7.b: Ethics Training

Mr. Schaal informed that Board as part of the next meeting, the session would include a one-hour webinar being offered by the Ohio Ethics Commission. The topic of the webinar would be Conflict of Interest and this session would count towards the annual ethics training required of Board and Commission members under the Governor’s Executive Order.

**EXECUTIVE SESSION – EMPLOYMENT OF PUBLIC EMPLOYEE**

**Motion #13:** Ms. Gilligan moved to enter Executive Session under R.C. 121.22(G)(1) for the purpose of considering the employment of a public employee. Mr. Pavlak seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Kenneth Walz -	Yes
Joel Marx -	Yes	Carol Gilligan -	Yes
Andrea Yagodich -	Yes	Steven Pavlak -	Yes
Vern Riffe Biemel -	Yes	Robert Slabodnick -	Yes

Motion carried.

The Board entered executive session at 3:04 p.m., and returned to regular, public session at 3:17 p.m.

**FOR THE GOOD OF THE BOARD**

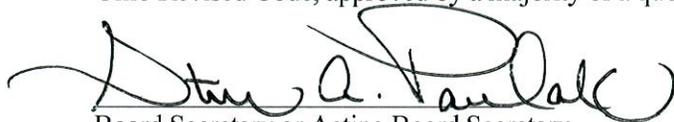
Mr. Mays asked if anyone had any other matters for the good of the Board. Discussion: None.

**ADJOURNMENT**

Mr. Mays asked if there was any other business to bring before the Board.

Hearing none, Mr. Mays adjourned the meeting at 3:20 p.m.

Board Secretary's Certification: These are a true account of the proceedings in accordance with Section 121.11 of the Ohio Revised Code, approved by a majority of a quorum of the membership of the Board on April 22, 2015.

  
Board Secretary or Acting Board Secretary

  
Witness