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OHIO RESPIRATORY CARE BOARD

77 SOUTH HIGH STREET, 16TH FLOOR

COLUMBUS, OHIO 43215-6108

OFFICIAL BOARD MEETING MINUTES OF April 17 & 18, 2007

Committee Meetings

The board's HME and Education Committees met between 10:00 a.m. and 12:15 p.m. Minutes for each committee were taken (**Exhibit A**).

Regular Business Meeting

Agenda items #1: CALL MEETING TO ORDER

Presiding: Robert Cohn, M.D., Vice President, called the meeting to order on April 17, 2007 at 1:07 p.m. in room South A, 31st Floor of the Vern Riffe Building for Government and the Arts, 77 South High Street, Columbus, OH, 43215 for the purpose of holding a regular board meeting. Present were Robert Cohn, M.D., Vice President and Acting Chairperson, Anita Adams, R.R.T., R.C.P., Susan Ciarlariello, R.R.T., R.C.P., Dana Rinehart, Public Member, Joel Marx, Margaret Traband, M.Ed., RRT, and Eugene Andrews, R.R.T., R.C.P. Carol Gilligan was present, but not in the room at roll call. Mr. Mays was excused from the meeting due to out-of-state business. Dr. Cohn noted for the record that a quorum of the members of the board was present and that business could be conducted.

Members in attendance (Exhibit A):

Robert Cohn, M.D., Vice President

Susan Ciarlariello, R.R.T., R.C.P.

Anita Adams R.R.T., R.C.P.

Dana Rinehart, Public Member

Eugene Andrews, R.R.T., R.C.P.

Margaret Traband, M.Ed., RRT, RCP

Joel Marx, HME Provider Member

Carol Gilligan, HME Provider Member (arrived at 1:10 p.m.)

Staff in attendance:

Christopher H. Logsdon, Executive Director

Jason McLean, Investigator

Others in Attendance:

Melinda Snyder Osgood, Assistant Attorney General

Agenda item #1: CALL MEETING TO ORDER

Agenda item 1.1: Approval of Board Meeting Agenda (Exhibit B)

The proposed meeting agenda was mailed in advance of the meeting.

Motion #1: Ms. Traband moved to adopt the meeting agenda. Mr. Andrews seconded the motion. Discussion: None. Motion carried: 7-0.

Ms. Carol Gilligan arrived at 1:10 p.m.

Agenda item 1.2: Approval of previous Board Meeting Minutes

Draft meeting minutes from the previous Board meeting on March 8, 2007, were provided to members in advance of the meeting for review.

Motion #2: Mr. Rinehart moved to approve the meeting minutes from March 8, 2007. Mr. Andrews seconded the motion. Discussion: None. Motion carried: 8-0.

Agenda item #2: OFFICER AND STAFF REPORTS

Agenda item 2.1: President's Report

Dr. Cohn gave a verbal report, announcing that he and Mr. Mays had been appointed to another term on the Board. He expressed his thanks to the Board members and friends that provided letters of support.

Agenda item 2.2: Executive Director's Report (Exhibit C)

Mr. Logsdon filed a written report. A verbal review of his report was provided.

FY 2007, Financial Report

Mr. Logsdon filed a written report. He reviewed the following:

1. Third quarter financial report. A list of all expenses and revenues were reviewed. The budget status was characterized as tight, but within the allocation plan filed by the agency at the beginning of the year.
2. A review of testimony given before the Ohio House of Representatives on the Board's 2008/2009 budget recommendations.
3. Program update on the respiratory care and home medical equipment licensing and registration. Limited permit renewal statistics were reviewed. A review of the home medical equipment strategic planning meeting held on March 16, 2007 was given. A full strategic plan will be written based upon the outcome of those discussions.

4. A spreadsheet detailing current licensing and revenue statistics was provided and discussed.
5. A review of current legislation affecting the Board was reviewed. A summary of H.B. 119, H.B. 130, and H.B. 104 was given.
6. Mr. Logsdon reviewed his meeting and travel since the last Board meeting on March 8, 2007.

Mr. Logsdon gave a brief verbal report on HME licensing. He reported on the current licensing statistics and program changes affecting the program. He also reviewed two certificate of registration matters requiring a reissuance of a license.

Motion #3: Mr. Rinehart moved to enter executive session pursuant to ORC 121.22 to consider the confer with the Board's attorney concerning disputes involving the agency that are subject to pending or imminent court action. Ms. Ciarlariello seconded the motion. Discussion: None. Roll call vote:

Susan M. Ciarlariello -	Yes	Anita Adams -	Yes
Dana Rinehart -	Yes	Joel Marx -	Yes
Robert Cohn -	Yes	Eugene Andrews-	Yes
Carol Gilligan -	Yes	Margaret Traband -	Yes

Motion carried.

The Board entered executive session at 1:33 p.m. All members were present in executive session. Mr. Logsdon and Ms. Snyder-Osgood were asked to stay. Visitors and other staff were dismissed. The Board returned to public session at 1:45 p.m. No action taken after executive session.

Agenda item 2.3: Assistant Attorney General's Report

No report

Agenda item #3: BOARD COMMITTEE REPORT

Agenda item 3.1: HME Committee Report

Mr. Marx reported that the HME Committee met prior to the business meeting to consider a number of issues. The Committee interviewed an HME applicant for licensure in Ohio (Dan Parker, OptiBill, Inc.) to determine the candidates qualifications. The Committee is recommending that the Baord support the issuance of a license upon completion of documentation of specific qualifications. The Committee also considered an application filed by Dr. Soni Renu, but moved to request the applicants appearance at the next committee meeting. The committee also considered draft rule changes to draft changes to rules 4761:1-5-02, 4761:1-6-01, 4761:1-6-02, 4761:1-9-02, 4761:1-9-03, 4761:1-9-04, and 4761:1-9-05. The rules drafts will be forwarded to the Board's Rules Committee for consideration. Last, the committee reviewed two inspection reports and findings and the facility's response. The Committee recommends re-inspection of the facilities.

Agenda item 3.2: Education Committee Report – Margaret Traband

Ms. Traband reported that the Education Committee reviewed the draft 2006 Ohio Education Report prepared by F. Herbert Douce. It was the Committee's recommendation to hold approval of the report until final CoARC response letters to program annual reports could be compared to data. The Committee also considered the matter of a fall Educator's Conference. A number of agenda items for the conference were considered, but the staff needs to recommend a proposed time for the conference.

Motion #4: Ms. Adams moved to approve the Officer and Staff Reports and the Board Committee reports. Mr. Andrews seconded the motion. Discussion: None. Motion carried: 8-0.

Motion #5: Mr. Andrews moved to approve an HME license for OptiBill, Inc. upon completion of all requirements. Mr. Rinehart seconded the motion. Discussion: None. Motion carried: 8-0.

Motion #6: Mr. Andrews moved to reinspect Long Life Health Care (HMEL-11057) and Kelley Medical Care (HMEL-11014). Ms. Adams seconded the motion. Discussion: Ms. Gilligan confirmed that the facilities would be charged for a second inspection. No further discussion. Motion carried: 8-0.

Agenda item #4: PROBABLE REVIEW COMMITTEE REPORT

Motion #7: Mr. Andrews moved to enter executive session pursuant to Revised Code Section 121.22, for the purpose of considering the investigation of charges or complaints against licensees or regulated individuals under the board's jurisdiction. Ms. Gilligan seconded the motion. Discussion: None. Roll Call vote:

Susan M. Ciarlariello -	Yes	Anita Adams -	Yes
Dana Rinehart -	Yes	Joel Marx -	Yes
Robert Cohn -	Yes	Eugene Andrews-	Yes
Carol Gilligan -	Yes	Margaret Traband -	Yes

Motion carried.

The board entered executive session at 2:00 p.m. and returned to regular, public session at 2:10 p.m. All voting members of the board, Ms. Snyder Osgood, Mr. Logsdon, Ms. Turner and Mr. McLean were present during executive session.

**Names and identifying information was redacted from discussion and proposed notices during the course of executive session deliberation. Matters were referred to only by case number. Identifying information was added during the writing of the minutes based upon the correlating case number.*

Motion #8: Mr. Andrews moved to issue an opportunity for hearing notice as presented to the Board in the matters of :

- a. Case # 2007HME019 (Diabetic Solutions) for allegedly violating Section 4752.02 (A) of the Revised Code.
- b. Case # 2007ORCB073(Shannon Short) for allegedly violating Section 4761.09 (A)(2) of the Revised Code.
- c. Case # 2007ORCB075 (Robert Colon) for allegedly violating Section 4761.09 (A)(4) and (A)(1) of the Revised Code.

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

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

<u>Case:</u>	<u>Respondent:</u>
2007ORCB028	Tommie Weaver
2007ORCB038	Brandi He'bert
2007ORCB024	Richard Hovey
2007HME013	Progressive Medical

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

Motion #10: Ms. Gilligan moved to approve the active investigative case report. Ms. Traband seconded the motion. Discussion: None. Motion carried: 8-0.

Motion #11: Ms. Ciarlariello moved to approve the following hearing notice withdrawals:

	<u>Case #</u>	<u>Respondent</u>
a.	2007 ORCB 061	Richard Eschette
b.	2007ORCB064	Keisha Nance
c.	2007ORCB066	Jeffery Pahel
d.	2007ORCB070	Robert Schlatt

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

Agenda item 4.5: Probation compliance report

Mr. McLean gave a verbal report reviewing the compliance status of persons on probation.

Two persons appeared to petition the Board to consider activating their license.

Ignatius Frataioli

Mr. Frataioli discussed his current state of employment and health issues relating to his current employment. He requested reactivation of his license that has been on suspension for approximately 3.5 years. Ms. Ciarlariello noted that Mr. Frataioli signed a consent agreement that stipulated specific conditions. Mr. Rinehart questioned Mr. Frataioli on his record of compliance with the terms and conditions of the Board's Order, which he summarized as poor compliance. Ms. Gilligan moved to go into executive session.

Motion #12: Ms. Gilligan moved to enter executive session pursuant to Revised Code Section 121.22, for the purpose of considering the investigation of charges or complaints against licensees or regulated individuals under the board's jurisdiction. Mr. Andrews seconded the motion. Discussion: None. Roll Call vote:

Susan M. Ciarlariello -	Yes	Anita Adams -	Yes
Dana Rinehart -	Yes	Joel Marx -	Yes
Robert Cohn -	Yes	Eugene Andrews-	Yes
Carol Gilligan -	Yes	Margaret Traband -	Yes

Motion carried.

The board entered executive session at 2:35 p.m. and returned to regular, public session at 2:53 p.m. All voting members of the board, Ms. Snyder Osgood, Mr. Logsdon, Ms. Turner and Mr. McLean were present during executive session.

Following executive session, the Board directed Mr. Frataioli to take and pass the entry level certification examination offered by the National Board for Respiratory Care, Inc., agree to enter in an agreement authorizing random drug screens for a period of two years, and medical certification for his reported condition. Upon completion of these, the Board agreed to consider reinstatement of his license.

Randall Curtner

Mr. Curtner appeared to petition the Board for the reinstatement of his license. Mr. Curtner reported that he met all of the conditions of his suspension Order and believed he was now eligible for reinstatement. The Board had the opportunity to question Mr. Curtner.

Motion #13: Ms. Ciarlariello moved to enter executive session pursuant to Revised Code Section 121.22, for the purpose of considering the investigation of charges or complaints against licensees or regulated individuals under the board's jurisdiction. Mr. Rinehart seconded the motion. Discussion: None. Roll Call vote:

Susan M. Ciarlariello -	Yes	Anita Adams -	Yes
Dana Rinehart -	Yes	Joel Marx -	Yes
Robert Cohn -	Yes	Eugene Andrews-	Yes
Carol Gilligan -	Yes	Margaret Traband -	Yes

Motion carried.

The board entered executive session at 3:15 p.m. and returned to regular, public session at 3:27 p.m. All voting members of the board, Ms. Snyder Osgood, Mr. Logsdon, Ms. Turner and Mr. McLean were present during executive session.

Motion #14: Ms. Ciarlariello moved to support the reinstatement of Mr. Curtner's license to practice respiratory care. Ms. Adams seconded the motion. Discussion: None. Motion carried: 8-0.

Agenda item #5: NEW BUSINESS

Agenda item 5.1: Application ratification for licenses and limited permits (Exhibit D collective)

Lists of licenses and limited permits issued since the Board's December 5, 2006, meeting pursuant to Rule 4761-2-02 of the Ohio Administrative Code were mailed to members in advance of the meeting.

Motion #15: Mr. Andrews moved place upon the minutes of the April 17, 2007 meeting, the names of respiratory therapists and limited permit applicants who met the qualifications for their respective authorization, pursuant to Sections 4761.04 and 4761.05 of the Revised Code and associated rules there under, and who were issued a license or limited permit by the Executive Director of the Board on the following dates: March 15, 2007, March 29, 2007, and April 12, 2007. Ms. Adams seconded the motion. Discussion: None. Motion carried: 8-0.

Agenda item 5.2: Application ratification for HME licenses and Certificates of Registration (Exhibit E collective)

Motion #16: Mr. Andrews moved to place upon the minutes of the April 17, 2007 meeting, the names of Home Medical Equipment facility applicants who met the qualifications for their respective authorization, pursuant to Sections 4752.05 and 4752.12 of the Revised Code and associated rules there under, and who were issued a license or Certificate of Registration by the Home Medical Equipment Committee of the Board on the following dates: March 26, 2007, March 29, 2007, and April 12, 2007. Dr. Cohn seconded the motion. Discussion: None. Motion carried: 8-0.

Agenda item 5.3: Board Officer Elections

President

Motion #17: Mr. Andrews moved to nominate Marc Mays as Board President. Mr. Rinehart seconded the motion. Discussion: None. Hearing no other nominations, the Board voted on the motion. Motion carried: 8-0.

Secretary

Motion #18: Mr. Rinehart moved to nominate Eugene Andrews as Board Secretary. Mr. Marx seconded the motion. Discussion: None. Hearing no other nominations, the Board voted on the motion. Motion carried: 7- 1 abstained (Andrews).

Appointed Hearing Officer

Motion #19: Dr. Cohn moved to nominate Dana Rinehart as the Board's Appointed Hearing Officer. Mr. Andrews seconded the motion. Discussion: None. Hearing no other nominations, the Board voted on the motion. Motion carried: 7- 1 abstained (Rinehart)

Dr. Cohn directed that committee assignments for each member would remain unchanged.

Agenda item 5.4: Discussion on the term "Gross Misconduct"

The Board membership discussed the term Gross Misconduct to determine if the Board should consider clarification of the term through rule or by guidelines. After generous discussion, the Board determined that the definition is better left alone and applied on a case-by-case basis.

Agenda item #6: OPEN FORUM

No one appeared.

Agenda item #7: FOR THE GOOD OF THE BOARD

No business.

Mr. Rinehart departed at 3:55 p.m.

Agenda item #8: ADJOURNMENT

Ms. Ciarlariello moved to adjourn. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 7-0.

The meeting adjourned at 4:00 p.m.

Day 2, April 18, 2007

Presiding: Marc Mays, R.R.T., R.C.P., and President, called the meeting to order on April 18, 2007 at 9:15 a.m. in room South A, 31st Floor of the Vern Riffe Building for Government and the Arts, 77 South High Street, Columbus, OH, 43215 for the

purpose of holding a regular board meeting. Present were Marc Mays, R.R.T., R.C.P., and President, Robert Cohn, M.D., Vice President, Anita Adams, R.R.T., R.C.P., Carol Gilligan, Susan Ciarlariello, R.R.T., R.C.P., Dana Rinehart, Public Member, and Margaret Traband, E,Ed., RRT. Mr. Andrews and Joel Marx were excused from the meeting. Mr. Mays noted for the record that a quorum of the members of the board was present and that business could be conducted.

Agenda item #1: ADMINISTRATIVE HEARINGS

Agenda item 1.1: Hearing in the Matter of Julia Browning

The matter of Julia Browning came before the following members of the Ohio Respiratory Care Board on April 18, 2007: Dana Rinehart, J.D., Public Member, Robert Cohn, M.D., Margaret Traband R.R.T., R.C.P., Marc Mays, R.R.T., R.C.P., President, Carol Gilligan, HME Member, Susan Ciarlariello, R.R.T., R.C.P., and Anita Adams, R.R.T., R.C.P. at 9:15 a.m., in room South B & C, 31st Floor, Vern Riffe Building, 77 South High Street, Columbus, Ohio. Marc Mays, R.R.T., R.C.P. recused himself from the proceedings based upon their role as the Board liaisons to the Investigatory Probable Review Committee. Mr. Marx and Mr. Andrews were excused from participation. Melinda Snyder Osgood, Assistant Attorney General, represented the state of Ohio. Ms. Browning did not request a hearing before the Ohio Respiratory Care Board and was not present. This hearing was held pursuant to Goldman vs. State Medical Board of Ohio, (March 29, 1996), 10th District Court of Appeals, 95APE 10-1358 (unreported). Cassidy Haddox was the Court Reporter, Runfolia Reporters, 3948 Townsfair Way, Suite 220, Columbus, Ohio 43219.

Ms. Snyder Osgood introduced an affidavit from the Board's Executive Director certifying the records being introduced as exhibits in the matter. Ms. Snyder Osgood moved to admit state's exhibits. Mr. Rinehart admitted the state's exhibits.

State's Exhibits admitted:

- A Copy of Julia Browning's 2006 License Renewal Application filed on or about March 17, 2006.
- B. Notice of Opportunity for Hearing dated October 16, 2006, sent to Julia Browning by Certified Mail/Return Receipt #7003050000243391935 and a sign return receipt.
- C - Goldman Hearing Scheduling letter dated November 28, 2006, mailed to Julia Browning by certified mail return receipt #7003050000243392215 and a signed return receipt.
- D - Letter from the Ohio Respiratory Care Board to Julia Browning, dated August 17, 2004.
- E - Notification of Returned Check, the Office of the Treasurer, State of Ohio, dated August 16, 2004 and copy of the returned check, #1136, dated July 29, 2004.
- F - Letter from the Ohio Respiratory Care Board to Julia Browning, dated January 26, 2004 and copy of a proposed Consent Agreement.
- G - Letter from the Ohio Respiratory Care Board to Attorney General's Office, dated October 19, 2004, certifying the delinquent claim for collection.

The Board members called Mr. Logsdon, Executive Director of the Ohio Respiratory Care Board, to testify.

The hearing concluded at 9:27 a.m.

Motion #1: Ms. Gilligan moved to enter executive session pursuant to Revised Code Section 121.22, for the purpose of considering the investigation of charges or complaints against licensees or regulated individuals under the board's jurisdiction. Ms. Adams seconded the motion. Discussion: None. Roll Call vote:

Susan M. Ciarlariello -	Yes	Anita Adams -	Yes
Dana Rinehart -	Yes	Robert Cohn -	Yes
Marc Mays-	Yes	Margaret Traband -	Yes
Carol Gilligan -	Yes		

Motion carried.

The board entered executive session at 9:28 a.m. and returned to regular, public session at 9:38 a.m. All voting members of the board were present during executive session.

- Findings, Conclusions and Order

Motion #2: Ms. Ciarlariello moved that the Board finds that the allegation contained in Count 1 of the Opportunity for hearing in the matter of Julia Browning is TRUE. Based upon the findings of the Board, which shall be listed in the Board's final Order, the Board concludes:

A. Ms. Browning was issued an Opportunity for Hearing Notice in compliance with Chapter 119. of the Revised Code.

B. Ms. Browning failed to pay the fee for her 2006 license renewal, a requirement for license renewal under Section 4761.06 of the Revised Code.

C. Section 4761.09 (A)(2) of the Revised Code permits the Board to consider imposing disciplinary action for violating a rule or Order of the agency.

In consideration of these findings and conclusions, it is hereby Ordered that the Board hereby refuses approve INACTICE license status for Ms. Browning, until all fees are paid and that Ms. Browning licensing record be noted as "Do Not Issue License" until all fees have been paid. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 6 – 1 abstained (Mays).

Agenda item #2: ADMINISTRATIVE RULES HEARINGS

A public hearing on proposed rules began at 9:50 a.m. Mr. Mays explained the hearing process and had each member of the board introduce themselves. He then asked Mr. Logsdon to list the rules under consideration:

New rules:

4761:1-5-03: Failure to file a complete application for a license.
4761:1-6-04: Failure to file a complete application for a certificate of registration.

Amended rules:

4761-5-04: License application procedures
4761-6-01: Limited permit application procedures
4761-7-04: Supervision
4761-8-01: Renewal of license or permits.
4761-9-02: General RCCE requirements and reporting mechanism.

4761-9-04: Ohio respiratory care law and professional ethics course criteria.
4761-9-05: Approved sources of RCCE
4761:1-6-03: License and certificate of registration issuance and display
4761:1-8-01: Fees
4761:1-8-03: Inspection Fees

Mr. Rinehart moved to waive the reading of the rules. Motion was seconded by Ms. Traband. Motion carried.

Ms. Snyder-Osgood, Assistant Attorney General introduced three exhibits:

1 – Letter of original electronic rules filing with the Office of the Secretary of State, Joint Committee on Agency Rule Review, Department of Development, and Legislative Service Commission on March 13, 2007 and revised filing on April 5, 2007 for each rule under consideration.

2 – Copy of Public Hearing Notice filed on March 13, 2007 and again on April 5, 2007.

3 – Full copy of the proposed new and amended rules and rules summary and fiscal analyses filed with the Office of the Secretary of State, Joint Committee on Agency Rule Review, Department of Development, and Legislative Service Commission.

There were no witnesses or verbal testimony provided

Exhibits 1 – 3 were admitted. The hearing concluded at 10:00 a.m.

Motion #3: Mr. Rinehart moved the following resolution:

WHEREAS, the Ohio Respiratory Care Board may issue an order adopting proposed rules in accordance with Chapter 119 of the Revised Code;

BE IT RESOLVED that:

(1) The Ohio Respiratory Care Board hereby authorized the Executive Director to final file the following rules after Joint Committee on Agency Rule Review (JCARR) jurisdiction ends:

(2) To adopt new rules:

New rules:

4761:1-5-03: Failure to file a complete application for a license.
4761:1-6-04: Failure to file a complete application for a certificate of registration.

Amended rules:

4761-5-04: License application procedures
4761-6-01: Limited permit application procedures
4761-7-04: Supervision
4761-8-01: Renewal of license or permits.
4761-9-02: General RCCE requirements and reporting mechanism.
4761-9-04: Ohio respiratory care law and professional ethics course criteria.
4761-9-05: Approved sources of RCCE
4761:1-6-03: License and certificate of registration issuance and display
4761:1-8-01: Fees
4761:1-8-03: Inspection Fees

Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 7-0.

The Court Reporter was Cassidy Haddox, Runfola Reporters, 3948 Townsfair Way, Suite 220, Columbus, Ohio 43219.

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Ohio Respiratory Care Board
Meeting Minutes
April 17 and 18, 2007

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 17, 2007.

Secretary

Witness