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## **OHIO RESPIRATORY CARE BOARD**

77 SOUTH HIGH STREET, 16<sup>TH</sup> FLOOR

COLUMBUS, OHIO 43215-6108

## **OFFICIAL BOARD MEETING MINUTES OF June 5 & 6, 2007**

### **Committee Meetings**

The board's Scope of Practice Committee, Education Committee, and HME Committee met between 9:00 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: Marc Mays, President, called the meeting to order on June 5, 2007 at 1:10 p.m. in room West B & C, 31<sup>st</sup> 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, President Robert Cohn, M.D., Vice President, 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 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.

#### **Members in attendance (Exhibit A):**

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

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

#### **Staff in attendance:**

Christopher H. Logsdon, Executive Director

Jason McLean, Investigator

#### **Others in Attendance:**

Melinda Snyder Osgood, Assistant Attorney General

Jake Cohn

Mahjabeen F. Qadir, Assistant Attorney General

Megan H. Boiarsky, Assistant Attorney General

Nicole Moss, 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. Ms. Adams seconded the motion. Discussion: discussed hearing schedule. Noted all, but Colon would be discontinued due to settlements. Motion carried: 8-0.

Agenda item 1.2: Approval of previous Board Meeting Minutes

Draft meeting minutes from the previous Board meeting on April 17 & 18, 2007, were provided to members in advance of the meeting for review.

Motion #2: Dr. Cohn moved to approve the meeting minutes from April 17 & 18, 2007. Mr. Andrews seconded the motion. Discussion: None. Motion carried: 7- 1 abstained (Mays).

**Agenda item #2: OFFICER AND STAFF REPORTS**

Agenda item 2.1: President's Report

Mr. Mays did not present a report.

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**

1. A review of the 4<sup>th</sup> quarter budget status of the agency. Agency is expected to complete the fiscal year under budget. New rules in FY 2008 will restrict refunds for HME applications filed. A table including all fund disbursements, encumbrances and fund balances was reviewed. A brief review of budget testimony before the Ohio Senate was provided.

2. Program update on the respiratory care and home medical equipment licensing and registration. Limited permit renewal statistics were reviewed. The Executive Director predicts limited permit renewals will rise by the end of the fiscal year as students choose to become licensed or retain their permit post graduation. The Executive Director reported that the record scanning project for license applications was complete and has entered a maintenance period. The next project on the horizon is administrative actions taken by the Board. The records will be linked to the elicense online look up allowing individuals to see and print prior administrative actions.

Home Medical Equipment licensing was reviewed. The Executive Director reported that a strategic plan is being drafted and should be filed at the Board's August meeting. An HME inspector quality review meeting was held. The inspectors and Board staff considered each inspection standard. Improvements in form and process were identified.

Last, the Executive Director reported that a candidate has accepted the position as HME Manager. The new person should start on June 13, 2007. Additionally, the Executive Director reported that the state will be converting to a new computer system on July 1, 2007. The Executive Director warned of some delays in financial processes as staff learn the new system.

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 April 17, 2007.

Discussion:

Ms. Traband commented on the Inspector Quality Review meeting. She stated that the process of inter-rater reliability is important for maintaining consistency of established standards. The process will lead to normalizing of standards, which will allow the agency to defend the process. Ms. Traband recommended sending periodic questionnaire to inspectors seeking reacting to situational exercises.

H.B. 130 – Members discussed the impact of this bill on the regulatory efforts of the Board. In general, the discussion was not supportive of the proposal since it appeared to limit the Board’s discretion to act in the best interest of the public.

Motion #3: Mr. Rinehart moved to oppose H.B. 130 in its current form and to communicate such opposition to the committee leadership. Mr. Andrews seconded the motion. Discussion: None. Motion carried: 8-0.

Motion #4: Mr. Rinehart moved to send a letter of support to the Senate President and House Committee leadership supporting H.B. 104. Ms. Ciarlariello seconded the motion. Discussion: Mr. Mays stated the background check information would be very helpful to the probable review committee process. Motion carried: 8-0.

Motion #5: 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. Traband 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
Marc Mays -	Yes	Margaret Traband -	Yes

Motion carried.

The Board entered executive session at 1:45 p.m. All members were present in executive session. Mr. Logsdon , Ms. Snyder-Osgood, Ms. Qadir, and Ms. Moss were asked to stay. Visitors and other staff were dismissed. The Board returned to public session at 2:05 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: Scope of Practice Committee Report – Dr. Robert Cohn

Dr. Cohn reported that the Scope of Practice Committee met and considered two scope of practice inquiries:

A. Laura Evans – Columbus, Children’s Hospital

Ms. Evans inquired about the expansion of the role of the respiratory therapist to include the administration of ibuprofen, acetaminophen, antibiotics, and steroids for patients treated in the hospital’s emergency room for respiratory diagnoses. An example was provided.

Recommended response:

The committee recommended advising Ms. Evans that the law restricts the administration of medications to testing and treatment of cardiopulmonary impairment. Within this structure, there is no limitation on route of administration or medication as long as the therapist is legally able to deliver the medication and can demonstrate competency in the delivery of the medication. The committee stressed that the recommendation is not intended for general application, but only for the circumstances and questions asked by Ms. Evans.

B. Craig Gordon – Riverside Methodist Hospital, Columbus

Mr. Gordon filed an inquiry asking if respiratory therapists could administer topical aerosolized lidocaine prior to the insertion of a nasogastric tube.

Recommendation:

The committee recommended advising Mr. Gordon that the law restricts the administration of medications to testing and treatment of cardiopulmonary impairment. Additionally, Section 4761.11 (D) of the Revised Code permits the administration of topical medications to produce localized decreased sensation. The committee stressed that the recommendation is not intended for general application, but only for the circumstances and questions asked by Mr. Gordon.

Agenda item 3.2: Education Committee Report – Margaret Traband

Ms. Traband reported that Mr. Herb Douce presented the 3<sup>rd</sup> version of the draft 2006 Ohio Education Report. Mr. Douce was asked to investigate inconsistencies in the data he reported in the 2<sup>nd</sup> version and findings reported by CoARC in the annual report response letters. Mr. Douce reviewed all of the findings. The data appears to conclude that some programs are not meeting the minimum pass rates. The committee moved to recommend publication of the results, but with program specificity removed. Additionally, the committee considered the date, time, and place for the FY 2008 Educators Conference. After some discussion, the OSRC offered to hold a breakout session for Educators at the August 20 or 21, 2007 OSRC State Meeting. An agenda was prepared.

Agenda item 3.3: HME Committee Report – Joel Marx

Mr. Marx reported that the HME Committee met prior to the business meeting to consider a number of issues. The following summarizes the committee’s activities and recommendations:

I. Policy decision on facilities that have closed.

Recommendation: License statuses should be cancelled upon notification of facility closure. Facilities must be required to file for a new license or certificate of registration if the business reopens after notification of closure.

## II. Policy and Procedures recommendations forwarded by the Inspection Quality Review meeting

The staff held a quality review meeting with the agency's contract independent inspectors. The group recommended several changes:

1. Re-write the facility inspection handbook for licensed facilities and develop an inspector guidance manual.
2. Re-draft the inspector report form. The report form needs better delineation of infractions, clarification of some standards and the elimination of redundant or unnecessary standards.
3. Draft a continuing education reminder. Identify available sources for CE.

Recommendation: The committee recommends approving a new inspector survey form that considers the recommendations of the inspectors and adds a section addressing patient incidents and patient complaint reporting policies. The committee chair, Mr. Marx, will provide a list of acceptable HME continuing education sources to staff.

## III. Policy decisions on licensing and registration issuance practices

1. Unlicensed practice and current enforcement guidelines.
2. Consideration of rule changes to require inspection as a prerequisite to licensing a facility.
3. Developing a procedure to effectively inspect and review facility standards for out-of-state licensees.
4. Accreditation lapses for registered facilities

Recommendation:

1. The committee recommended sending investigation acknowledgement letters to facilities alleged to have practiced without a license or certificate of registration as a requisite requirement before issuance of authorization to practice. Unlicensed practice matters and accreditation lapses will be investigated and forwarded to the probable review committee. The committee will be considering the Board's prior enforcement guidance approved in October 2006. A report will be filed in August.
2. The committee recommends further discussion on inspections as a prerequisite for licensing.
3. The committee has directed staff to begin developing a model for inspecting a self-evaluation packet based upon the current inspection process for out-of-state facilities.
4. The committee recommends that all HME facilities that lapse accreditation be investigated and forwarded to the probable review committee.

## IV. Inspection report review

The committee considered three inspection reports filed by staff for consideration of additional action.

Recommendation: The committee recommends issuing an opportunity for hearing notice to facilities identified as 5a and 5b.

Motion #6: Mr. Marx moved to approve a policy requiring a status change from active to cancelled for all license and certificate of registration holders advising the Board of facility closure. Ms. Adams seconded the motion. Discussion: Mr. Marx recommended that staff provide appropriate notification to the facility. No further discussion. Motion carried: 8-0.

Motion #7: Mr. Marx moved to issue an opportunity for hearing notice to facility 5a (E&R Medical, Inc) case # 2007HME024, and facility 5b (Barberton Home Medical Supply) case #2007HME025 for violating ORC 4752.08(C) and to issue

an opportunity for hearing notice to case #2007HME020 (Cornerstone Medical Service) for unlicensed practice in violation of ORC 4752.02 (A). Mr. Andrews seconded the motion. Discussion: None. Motion carried: 7 – Yes, 1- Abstained (Marx).

*Names and identifying information inserted during writing of minutes*

**Agenda item #4: PROBABLE REVIEW COMMITTEE REPORT**

Motion #8: 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. Dr. Cohn 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
Marc Mays -	Yes	Margaret Traband -	Yes

Motion carried.

The board entered executive session at 2:27 p.m. and returned to regular, public session at 2:42 p.m. All voting members of the board, Ms. Snyder Osgood, Mr. Logsdon, 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 #9: Mr. Rinehart moved to issue an opportunity for hearing notice as presented to the Board in the matters of :

- a. Case # 2007ORCB077 (Tammy Cooper) for allegedly violating Section 4761.09 (A)(1) of the Revised Code.
- b. Case # 2007ORCB078 (Shelly Shadowen) for allegedly violating Section 4761.09 (A)(2) of the Revised Code.
- c. Case # 2007HME021(Monitor Medical, Inc.) for allegedly violating rule 4761:1-5-01 (B) of the Ohio Administrative Code and Section 4752.09 (A)(1) of the Revised Code.
- d. Case # 2007HME022 (Pharmacy Support Services) for allegedly violating rule 4761:1-5-01 (B) of the Ohio Administrative Code and Section 4752.09 (A)(1) of the Revised Code.

Ms. Adams seconded the motion. Discussion: None. Motion carried: 6 –Yes, 2 Abstained (Mays) and (Marx)

Motion #10: Mr. Rinehart moved to approve the following consent agreements:

<u>Case:</u>	<u>Respondent:</u>
2006ORCB035	Sheryl Spaulding Jones
2007 ORCB 043	Sandra Richmond
2007 ORCB 049	Jeffery Jones
2007 ORCB 050	Jason Deem
2007 ORCB 071	Dana Watts
2007 ORCB 074	Teresa Green
2007 ORCB 055	Teresa Petit
2007HME03	APS Acquisitions

Mr. Andrews seconded the motion. Discussion: None. Motion carried: 6 –Yes, 2 Abstained (Mays) and (Marx)

Motion #11: Mr. Rinehart moved to close the following cases:

- a. 2006ORCB037
- b. 2007ORCB002
- c. 2007HME01

Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 7 – Yes, 1 Abstained (Mays).

Motion #12: Mr. Andrews moved to approve the Probable Review Committee report. Mr. Rinehart seconded the motion. Discussion: None. Motion carried: 8-0.

Motion #13: Ms. Ciarlariello moved to approve the Officer and Staff Reports and the Board Committee reports. Mr. Rinehart 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 April 17, 2007, meeting pursuant to Rule 4761-2-02 of the Ohio Administrative Code were mailed to members in advance of the meeting.

Motion #14: Ms. Traband moved to place upon the minutes of the June 5, 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: April 26, 2007, May 10, 2007, May 18, 2007, and May 24, 2007. Mr. Rinehart 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 #15: Mr. Marx moved to place upon the minutes of the June 5, 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: April 26, 2007 and May 24, 2007. Mr. Andrews seconded the motion. Discussion: None. Motion carried: 8-0.

Agenda item 5.3: Petition for Extension

The Board considered a petition for extension of the active term of a limited permit for Shelley Condos. Ms. Condos filed a written petition stated unusual hardship circumstances.

Motion #16: Mr. Andrews moved to extend the active term of Shelley Condos' limited permit for one year from the effective date of the motion. Ms. Adams seconded the motion. Discussion: None. Motion carried: 8-0.

**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**

Hearing no further matters, Mr. Mays adjourned the meeting at 3:05 p.m.

Day 2, June 6, 2007

Presiding: Marc Mays, President, called the meeting to order on June 6, 2007 at 9:00 a.m. in room West B & C, 31<sup>st</sup> Floor of the Vern Riffe Building for Government and the Arts, 77 South High Street, Columbus, OH, 43215 for holding a regular board meeting. Present were Marc Mays, President Robert Cohn, M.D., Vice President, 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 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.

Before beginning the business for the day, Mr. Mays asked if the Board had any remaining regular business from the prior day. Mr. Mays inquired about the status of the HME Committee's review of enforcement guidance. Mr. Marx stated that the committee took the matter under advisement. He has obtained a copy of the guidance from the Executive Director and will review the issue with other committee members. Mr. Marx believes a final decision will be available by the next meeting.

**Rule Committee – Susan Ciarlariello (Exhibit E)**

The Board's Rules Committee deferred business until today. The committee reviewed a number of draft rules forwarded by the HME committee.

Rule drafts reviewed : 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

Motion #1: Mr. Andrews moved to approve the Rules Committee minutes from October 16, 2006. Mr. Rinehart seconded the motion. Discussion: None. Motion carried: 4-0.

Motion #2: Ms. Ciarlariello moved to approve the draft 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. Mr. Andrews seconded the motion. Discussion: Ms. Ciarlariello recommended waiting to file the rules until a larger rules filing could be accomplished. No further discussion. Motion carried: 4-0.

**Day2, Regular Business**

Motion #1: Mr. Marx moved to approve the report of the Rules Committee. Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 8-0.

Agenda item 1.1: Hearing in the Matter of Robert Colon

The matter of Robert Colon came before the following members of the Ohio Respiratory Care Board June 6, 2007 at 9:15 a.m. in room West B & C, 31<sup>st</sup> Floor of the Vern Riffe Building for Government and the Arts, 77 South High Street, Columbus, OH, 43215. Present were Marc Mays, President, Robert Cohn, M.D., Vice President, 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 excused. Mr. Mays noted for the record that a quorum of the members of the board was present and that business could be conducted. Marc Mays, R.R.T., R.C.P. recused himself from the proceedings based upon his role as the Board liaison to the Investigatory Probable Review Committee. Melinda Snyder Osgood, Assistant Attorney General, represented the state of Ohio. Mr. Colon appeared Pro Se. Patricia White was the Court Reporter, Runfola Reporters, 3948 Townsfair Way, Suite 220, Columbus, Ohio 43219.

Preliminary matters: Mr. Rinehart inquired if Mr. Colon was aware of his rights to be represented by legal counsel. Mr. Colon affirmed that he received an Opportunity for Hearing Notice and was aware of his rights to have an attorney. Mr. Rinehart asked Mr. Colon if he was prepared to continue without legal representation. Mr. Colon answered affirmatively.

Ms. Snyder Osgood moved to strike Count III contained in the State's Opportunity for Hearing Notice. Hearing no objections, Mr. Rinehart ordered that the Count be struck and that State's Exhibit E be removed from the record. Mr. Rinehart directed members of the Board to not consider Count III contained in the State's Opportunity for Hearing Notice.

Both parties gave a brief opening statement. Ms. Snyder Osgood then proceeded with the State's case in chief.

Witnesses called:

1. Robert Colon, as on cross examination.
2. Jason McLean, Investigator for the Ohio Respiratory Care Board

Ms. Snyder Osgood moved for the admission of State's Exhibits A through D, and F through K. Hearing no objection, Mr. Rinehart admitted the exhibits into evidence.

State's Exhibits admitted:

- A Notice of Opportunity for Hearing dated April 17, 2007, sent to Robert Colon by Certified Mail/Return Receipt #70042510000173525714 and a sign return receipt.
- B. Electronic letter dated April 26, 2007, from Robert Colon requesting a hearing.
- C - Hearing Scheduling letter dated May 1, 2007, mailed to Robert Colon by certified mail return receipt #70042510000173525776.
- D - Records Certification Request, Pima County, Consolidated Justice Courts, Tucson, Arizona, dated April 4, 2007.
- F - Certified Tucson JP Criminal Docket, Case #CR99-908472A-MI, Pima County Consolidated Justice Court, County of Pima, Arizona.
- G - Certified Tucson JP Criminal Docket, Case #CR99-923115A-MI, Pima County Consolidated Justice Court, County of Pima, Arizona.
- H - Certified Tucson JP Criminal Docket, Case #CR98-804194A-MI, Pima County Consolidated Justice Court, County of Pima, Arizona.

- I - Letter from Robert Colon to the Ohio Respiratory Care Board, dated March 26, 2007.
- J - Order of the Board in the Matter of Robert Colon, RCP, before the Arizona State Board of Respiratory Care Examiners.
- K - Application for Initial License/Limited Permit in the State of Ohio filed by Robert Colon on March 12, 2007.

Mr. Colon then was asked to present his case in chief. Mr. Colon waived. Both parties then gave a brief closing statement.

The hearing concluded at 10:07 a.m.

Motion #2: Ms. Adams 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. Traband seconded the motion. Discussion: None. Roll Call vote:

Susan M. Ciarlariello -	Yes	Anita Adams -	Yes
Dana Rinehart -	Yes	Robert Cohn -	Yes
Joel Marx-	Yes	Margaret Traband -	Yes
Eugene Andrews -	Yes	Marc Mays -	Abstained

Motion carried.

The board entered executive session at 10:08 a.m. and returned to regular, public session at 10:30 a.m. All voting members of the board were present during executive session.

#### - Findings, Conclusions and Journal Entry

Motion #2: Ms. Traband moved that the Board finds that the allegations contained in Counts 1 and 2 of the Opportunity for hearing in the matter of Robert Colon are TRUE. Based upon the findings of the Board, which shall be listed in the Board's final Order, the Board concludes:

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

B. Mr. Colon violated the laws and rules governing the practice of respiratory care in the state of Arizona and was issued an Order, placing him on probation. Based upon a preponderance of the evidence, the Board concludes Mr. Colon had reasonable notice that he had violated the laws and rules governing the practice of respiratory care in the State of Arizona.

C. Mr. Colon answered "NO" to question #5 on his initial application for respiratory care licensure in the State of Ohio, dated March 12, 2007. Only after the Board's investigator contacted Mr. Colon did he provide written notice of his licensure status in the State of Arizona and the circumstances of his prior convictions. Based upon preponderance of the evidence, the Board concludes Mr. Colon did not provide a truthful response on question #5 on his initial license application.

D. Mr. Colon was licensed in the State of Arizona as a respiratory care professional.

E. Mr. Colon answered "NO" to question #9 on his initial application for respiratory care licensure in the State of Ohio, dated March 12, 2007. Only after the Board's investigator contacted Mr. Colon did he provide written notice of his licensure in the State of Arizona. Based upon a preponderance of the evidence, the Board concludes Mr. Colon did not provide a truthful response on question #9 on his initial license application.

F. Mr. Colon answered "YES" to question #3 on his initial application for respiratory care licensure in the State of Ohio, dated March 12, 2007. In response, Mr. Colon reported two prior misdemeanor convictions for two misdemeanor convictions: assault and domestic violence with criminal damaging. An investigation determined the following convictions: An investigation into your criminal record uncovered the following:

- a. On or about May 18, 1999, Mr. Colon was convicted in the Pima County Consolidated Justice Courts, State of Arizona, County of Pima, case #CR99-908472A-MI, of ASSAULT – KNOWINGLY CAUSING INJURY, in violation of section 13-1203.1 of the Arizona Revised Code.
- b. On or about May 10, 2000, Mr. Colon was convicted in the Pima County Consolidated Justice Courts, State of Arizona, County of Pima, case #CR99-923115A-MI, of ASSAULT – RECKLESSLY CAUSE INJURY, in violation of section 13-1203.2 of the Arizona Revised Code.
- c. On or about September 9, 1998, Mr. Colon was given a judicial finding in lieu of conviction (ARS 13-3601) in the Pima County Consolidated Justice Courts, State of Arizona, County of Pima, case #CR98-804194A-MI, for ASSAULT – KNOWINGLY CAUSING INJURY, a violation of section 13-1203.1 of the Arizona Revised Code.

G. Based upon a preponderance of the evidence, the Board concludes Mr. Colon did not provide a truthful response on question #3 on his initial license application.

H. Section 4761.09 (A)(4) of the Revised Code permits the Board to consider imposing disciplinary action for obtaining a license by means of fraud, false or misleading representation, or concealment of material facts or making other material misrepresentation.

In consideration of these findings and conclusions, it is hereby Ordered that the Board hereby issues Mr. Colon's license to provide respiratory care in the State of Ohio and upon issuance immediately INDEFINELY SUSPEND Mr. Colon's license. The SUSPENSION shall remain in effect until the following conditions are met:

1. Mr. Colon provides proof of an unencumbered license from the State of Arizona.
2. Mr. Colon provides satisfactory evidence of competency from prior employment in the practice of respiratory care that addresses his work performance and clinical skills. Verification of these qualifications shall be sent in writing from a manager or prior supervisor of Mr. Colon's. The Board's Executive Director shall have discretion to accept or reject the evidence provided.

Mr. Andrews seconded the motion. Discussion: Mr. Rinehart instructed Mr. Colon on the provisions of the order and directed Mr. Colon to be truthful on applications filed with the Board or any public agency. Motion carried: 7- Yes, 1 abstained (Mays).

Motion #3: Mr. Marx moved to adjourn. Ms. Adams seconded the motion. Discussion: None. Motion carried: 8-0.

Meeting adjourned at 10:45 a.m.

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 August 14, 2007.

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Witness