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OHIO RESPIRATORY CARE BOARD

77 SOUTH HIGH STREET, 16TH FLOOR

COLUMBUS, OHIO 43215-6108

OFFICIAL BOARD MEETING MINUTES OF OCTOBER 13, 2010

NOTE ON COMMITTEE MEETINGS

The Board's Rules Committee and Home Medical Equipment Committee met prior to regular business in room West B&C, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. Official minutes of the Board's Rules Committee and Home Medical Equipment Committee meetings are maintained separate of this journal.

October 13, 2010

Agenda items #1: CALL MEETING TO ORDER, ADOPTION OF MEETING AGENDA, AND PRIOR MEETING MINUTES

Presiding: Marc Mays, President, called the meeting to order on October 13, 2010 at 11:05 a.m. in room West B&C, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. Mr. Joel Marx took the roll. Present were Marc Mays, R.R.T., R.C.P., President, Kenneth Walz, J.D., R.R.T., R.C.P., Robert Cohn, M.D., Anita Adams, M.B.A, R.C.P., Joel Marx and Esther L. Kester, R.R.T., R.C.P. 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

E. Lucille Kester, R.R.T., R.C.P.

Robert Cohn, M.D.

Joel Marx, HME Member

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

Anita Adams, M.B.A, R.C.P.

Staff in attendance:

Christopher H. Logsdon, Executive Director

Anthony Isom, Investigator

Marcia Tatum, HME Manager

Others in Attendance:

Michelle T. Sutter, Assistant Attorney General

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

The proposed meeting agenda was mailed in advance of the meeting. Mr. Mays inquired if there were any amendments to the business agenda. There were no changes

Motion #1: Ms. Adams moved to approve the meeting agenda for October 13, 2010. Mr. Walz seconded the motion.
Discussion: None. Motion carried: 6 - 0.

Agenda item 1.2: Approval of Prior Meeting Minutes (Exhibit C)

The prior meeting minutes were mailed in advance of the meeting. Mr. Mays inquired if there were any changes or corrections to the minutes. Mr. Walz addressed two non-substantive corrections on pages 5 & 8. Mr. Logsdon recorded the changes.

Motion #2: Mr. Walz moved to approve the August 13, 2010 meeting minutes as corrected. Ms. Kester seconded the motion.
Discussion: None. Motion carried: 6 - 0.

Agenda item #2: BOARD OFFICER AND STAFF REPORT

Agenda item 2.1: President's Report

Mr. Mays gave a verbal report. He reminded members that the Executive Director's annual performance review would soon be due. Mr. Mays stated that he would draft the report and then email it to members for comments, additions, or deletions. Mr. Mays asked member to adhere closely to timelines.

Mr. Mays also reported that the Board received an official letter of resignation from Darrell Heckman and that the Governor's office has been made aware of it.

Last, Mr. Mays reported that the Board has been assigned a "new" Assistant Attorney General, noting that the new appointment was actually the reappointment of Ms. Michelle Sutter, the Board's Assistant Attorney General from a few years prior. Mr. Mays welcomed her. No further report was provided.

Discussion: Mr. Logsdon stated that he was pleased to hear that Ms. Sutter had agreed to being assigned with the Board. Mr. Logsdon stated that she was an excellent attorney and that he was very pleased with the appointment.

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

Mr. Logsdon gave a verbal overview of his written report. The following was covered:

1. FY 2011 financial activity report. Mr. Logsdon reported that the year had just begun and expenditures were well within budget and the Board's allocation plan. Mr. Logsdon characterized the current financial condition of the Board as very good with unremarkable expenses.
2. FY 2012/2013 budgeting. Mr. Logsdon reported that FY 2012/2013 budgets were due on November 1, 2010. He stated that all budget planning had been completed and that he is now preparing the budget for filing. Mr. Logsdon stated that the Board's budget request would seek funding beyond the FY 2011 cap of \$520,124. Mr. Logsdon pointed to new fees for audit services and payroll changes in FY 2012 as being the primary reason for supplemental funding. Mr. Logsdon reported that no funding is assured and that he expects a very difficult budget process, regardless of upcoming election results.
3. Mr. Logsdon reviewed the financial disbursement activities for FY 2011 as of 9/22/2010. He also reported on the Board's revenue collection for FY 2011.
4. Last, Mr. Logsdon reported on the licensing statistics for the current fiscal year.

Agenda item 2.3: Assistant Attorney General's Report

None provided.

The Board took a break at 11:32 a.m. and returned to public session at 11:37 a.m.

HME Manager's Report (Exhibit E collective)

Ms. Tatum issued a written report. Ms. Tatum reviewed the following information:

1. That the HME program issued 4 new HME licenses and 26 new HME Certificates of Registration.
2. The HME Manager reports having 7 pending applications.
3. The FY 2011 inspection schedule has been sent to each of the Board's five contract inspectors and inspections for the first quarter of FY 2011 have been assigned.
4. That the staff is working on updating the inspection handbook for the Board's inspection team to improve the consistency of rating terminology employed during the course of conducting an inspection. Ms. Tatum stated that the project is a result of the Inspector's training day held in July 2010. She stated that the inspectors desired better definition of terms to improve the overall scoring. Ms. Tatum stated that she has sent the proposed ratings definitions to the Board's contract staff to solicit input on the proposed changes. Ms. Tatum stated that she hopes to have a final draft before the Committee on December 1st.
5. FY 2011 revenue

Discussion: Mr. Logsdon stated that the staff is also working on an additional project based upon a recommendation of the Board at the last business meeting. Mr. Logsdon stated that he would be working with the HME Manager on a teleconference with a Board recognized HME accrediting organization to improve the cooperative agreement compliance and gain a better understanding of the Ohio Revised Code. Mr. Marx offered to assist.

The Board broke for lunch at 11:45 a.m. and returned to public session at 12:47 p.m.

Motion #3: Ms. Kester moved to approve the President's and Staff reports given prior to the break. Mr. Marx seconded the motion. Discussion: None. Motion carried: 6 - 0.

Agenda item #3: APPOINTED HEARING OFFICER REPORTS AND RECOMMENDATIONS

Agenda item 3.1: Adoption of Report and Recommendations (Exhibit F)

In the Matter of Dominic J. Tiberio (RCP.6589)

Mr. Mays asked if the members had received the hearing officer's report and recommendations. Members were forwarded a copy of the Hearing Officer's Report and Recommendation, and a copy of the hearing transcript. Mr. Mays noted that Mr. Tiberio did not file any objections to the Report and Recommendations of the Hearing Officer and did not file a request to appear before the Board at today's meeting. Mr. Mays opened the floor to discussion.

Dr. Cohn noted that Mr. Heckman found the count contained in the Opportunity for Hearing to be true. Dr. Cohn requested clarification on the issue of false charting verses sleeping on the job. Dr. Cohn asked if sleeping on the job, in the hypothetical, was a Board violation.

Ms. Adams responded that if charting was performed and documented at the correct times, the count would not have merit.

Mr. Walz asked to characterize Dr. Cohn's question as "if someone is asleep, wakes up whenever, performs health care on whomever and charts correctly, is that a problem?" Dr. Cohn affirmed the characterization of his question.

The state's Attorney General, Ms. Sutter stated that in the hypothetical, depending upon facts, the Board could find sleeping on the job to be negligence. Dr. Cohn stated that he was just trying to get a sense of the complete issue.

Dr. Cohn expressed concern over some of the facts of the case specifically regarding other therapists observing the incident in this case, but not taking steps to resolve the matter.

Mr. Mays directed the Board to move into executive session to deliberate on the facts of the case.

Motion #4: Dr. Cohn moved to enter Executive Session for the purpose of discussing proposed disciplinary action against licensees, which is pending or imminent court action under R.C. 121.22(G)(3) and involves matters that are required to be kept confidential under R.C. 149.43(A)(2) and R.C. 4761.031 and 4752.08 (B). Ms. Kester seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Esther Lucile Kester -	Yes
Anita Adams -	Yes	Kenneth Walz -	Yes
Robert Cohn, M.D. -	Yes	Joel Marx -	Yes

Motion carried.

The Board entered executive session at 12:56 p.m. and returned to regular, public session at 1:30 p.m. All six attending Board Members, Mr. Isom, Ms. Sutter and Mr. Logsdon were present during Executive Session.

Motion #5: Dr. Cohn moved to approve the Hearing Officer's findings of fact. Ms. Adams seconded the motion. Discussion: None. Motion carried: 5 – yes, 1 – abstained (Mr. Mays).

Motion #6: Dr. Cohn moved to approve the Hearing Officer's conclusions of law. Ms. Kester seconded the motion. Discussion: None. Motion carried: 5 – yes, 1 – abstained (Mr. Mays).

Agenda item 3.2: Journal Entry (Exhibit G)

Motion #7: Dr. Cohn moved to modify the Hearing Officer's Report and Recommendations to include a specific requirement to complete three (3) contact hours of continuing education of professional ethics, because the violation is of the code of ethics. Dr. Cohn moved to adopt the amended recommendation of the Hearing Officer as the Order of the Board to be entered upon the journal of the Board's proceedings. Ms. Adams seconded the motion. Discussion: Mr. Walz requested to add a friendly amendment, requiring the ethics course to be offered by an approved provider of the Board and that the continuing education should not count toward the licensees biennial ethics requirement under OAC 4761-9-02. Dr. Cohn approved the friendly amendment. Hearing no other discussion, Mr. Mays called the question. Motion carried: 5 – yes, 1 – abstained (Mr. Mays).

Mr. Mays stated that the Board's minutes would serve as the official journal of proceedings in this matter. He directed the Executive Director to prepare a final Original Order that shall be signed by the Board President. The final Original Order shall be attached to the minutes of these proceedings as an exhibit to the record in the matter of Dominic J. Tiberio, Jr. (RCP.6589).

Agenda item #4: COMMITTEE REPORTS

Rules Committee - Mr. Mays noted that the Rules Committee met prior to the start of the regular business meeting. He asked for the Board's indulgence before moving forward with the committee report to have the prior committee meeting minutes considered.

Committee motion:

Mr. Walz moved to approve the Rules Committee meeting minutes from June 8, 2010. Dr. Cohn seconded the minutes. Discussion: Mr. Walz stated motion #1 in the minutes, notes the approval of the prior "rule." Mr. Walz stated that it should say "minutes," not "rule." Mr. Logsdon stated that he would make the change. June 2010 committee minutes were approved.

Next, Mr. Mays asked Mr. Logsdon if members had a copy of draft rule 4761-5-01. Mr. Logsdon stated that only the Rules Committee was provided a copy. Mr. Mays reported that the Committee had reviewed a draft rule that would require completion of both the written and simulation portions of the registered respiratory therapist examination to qualify for licensure in Ohio. The rule would not have any impact on existing licensees, provided the licensee maintains the license. Mr. Mays read the draft rule to the membership.

Discussion:

Mr. Mays asked if the following:

1. Would the draft require non-residents to take the RRT or would the rule recognize the licensure of another state, if their standards were equivalent? Mr. Logsdon stated that the draft attempts to address the licensure or examination waivers under ORC 4761.04. The Board, he stated does not have to exert either of the waivers, but has traditionally done so. Mr. Logsdon stated that the draft also attempts to address the potential that the state of origin requires no continuing education requirements. Mr. Logsdon stated the draft would set a new standard from a future point forward. Mr. Walz stated that he was concerned that the rule may allow a person to go to another state, get a license with a lesser credential and then come back to Ohio for licensure. Mr. Logsdon stated that the issue was discussed during committee and he agrees that the language may need tightening.

2. Mr. Mays asked why the Board would want to license anyone from another state with less than an RRT credential. Mr. Logsdon stated that the draft rule attempts to balance the grandfathering of licensees in Ohio with persons provided licenses with equal

qualifications in another state. Mr. Logsdon reminded the Board that the document before the committee is a first draft and there may be many versions to come. Mr. Walz stated that the Board wants to move to the standard higher and we acknowledge that other states will have a lesser requirement. Mr. Walz stated that the rule should allow persons to come to Ohio, but like Ohio licensees, they would need to take and pass both portions of the RRT examination.

Mr. Logsdon addressed the rules amendment process. Mr. Logsdon stated that the Board could allow interested parties to have input into the rule drafting or file the rule and consider public input during the rule-filing period. Mr. Logsdon stated that he believes many groups would have interest in the proposed rule. Mr. Mays suggested that many individuals might also have interest in the proposal. Mr. Mays, after much discussion, stated that the challenge for Rules Committee is to draft a rule that is easy to understand, address all aspects of the issue and effectively meets the needs of Ohioans. Mr. Mays stated that he would be discussing the matter with Ms. Ciarlariello, the Rule Committee Chairperson.

Home Medical Equipment Committee -

Mr. Marx reported that the HME Committee met today prior to regular business. Mr. Marx reported on the following:

1. The Committee approved the prior meeting minutes.
2. The Committee approved recommendation to ratify HME licenses and Certificates of Registration being filed with the Board under new business.
3. The Committee reviewed an inquiry from one of the Board's contract inspectors. The inspector asked about the use of contracted respiratory therapist. The Committee moved to inform the inspectors through a position statement that contract employees should meet the facility personnel standards under OAC 4761:1-9-05, including training and competency reviews. The Committee believes that contracts should minimally cover these requirements so that temporary staffing agencies know what standard must be met before sending a person to the HME provider.
4. The Committee reviewed an inquiry concerning revised Medicare DMEPOS provider standard 1, CFR Sec. 424.57(c) (1) (ii) (C) (eff. August 27, 2010). Mr. Marx stated that the new standard permits DMEPOS participants, which includes HME companies, to use contract professional staff (non-W-2 personnel) if the state law permits. The Committee reviewed ORC 4761 and ORC 4752 and found no prohibitions to contracting staff in either chapter. The Committee recommended developing a combined position statement addressing both the new Medical DMEPOS standard and the use of contract staff under Ohio's licensure standards.
5. The Committee reviewed an inquiry filed by Home Reach, Inc. that asked if a license was required if a company rents space in another office. The Committee considered the inquiry and recommended that the Executive Director inform the company that based on their specific facts that a license would not be required if the space was not rented, but in this instance it appears a license would be required.
6. The Committee reviewed an inquiry from an attorney representing Americare Health Services, a subsidiary of Sun Healthcare Group concerning corporate restructuring. Based upon the reported change in the corporate structure, the Committee found no effect on the actual certificate of registration(s) held by the corporation.
7. The Committee reviewed an inquiry from an attorney group requesting confirmation of their understanding that a "call center" only would not require a license or certificate of registration. Based upon a review of the specific information provided, the Committee affirmed the conclusions of the originator.
8. The Committee reviewed an inquiry asking if "insulin pumps" were Home Medical Equipment. Based upon a review of OAC 4761:1-3-02, the Committee determined that an "insulin pump" is an infusion pump. The Committee concluded that the sale, delivery, installation, maintenance, replacement, or demonstration of an insulin pump by an HME service provider would require a license or certificate of registration.

Last, Mr. Marx stated that the Committee received a request by Med Group to be considered a recognized HME continuing education provider. The Committee is forwarding the matter for full Board consideration under new business. Mr. Marx advised the membership that he would recuse himself from participation on the matter, because he uses MED Group services in his business.

Mr. Mays asked if there was a motion to approve the Committee reports.

Motion #8: Ms. Adams moved to approve the HME Committee and the Rule Committee reports. Mr. Mays seconded the motion. Discussion: None. Motion approved: 6 - 0.

Agenda item #5: PROBABLE REVIEW COMMITTEE REPORT

Motion #9: Ms. Adams moved to enter Executive Session for the purpose of discussing proposed disciplinary action against licensees, which is pending or imminent court action under R.C. 121.22(G)(3) and involves matters that are required to be kept confidential under R.C. 149.43(A)(2) and R.C. 4761.031 and 4752.08 (B). Mr. Marx seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Esther Lucile Kester -	Yes
Anita Adams -	Yes	Kenneth Walz -	Yes
Robert Cohn, M.D. -	Yes	Joel Marx -	Yes

Motion carried.

The Board entered executive session at 2:32 p.m. and returned to regular, public session at 3:02 p.m. All six Board Members, Mr. Isom, Ms. Sutter and Mr. Logsdon were present during Executive Session.

The Board took a break at 3:02 p.m. Upon return, Ms. Kester moved to go back into executive session.

Motion #10: Ms. Kester moved to enter Executive Session for the purpose of discussing proposed disciplinary action against licensees, which is pending or imminent court action under R.C. 121.22(G)(3) and involves matters that are required to be kept confidential under R.C. 149.43(A)(2) and R.C. 4761.031 and 4752.08 (B). Mr. Adams seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Esther Lucile Kester -	Yes
Anita Adams -	Yes	Kenneth Walz -	Yes
Robert Cohn, M.D. -	Yes	Joel Marx -	Yes

Motion carried.

The Board re-entered executive session at 3:11 p.m. and returned to regular, public session at 3:13 p.m. All six Board Members, Mr. Isom, Ms. Sutter and Mr. Logsdon were present during Executive Session.

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

Agenda item 5.1: Approval of Opportunity for Hearing Notices (Exhibit H1 - H24)

Motion #11: Mr. Marx moved to issue an opportunity for hearing notice as presented to the Board in the matters of:

RCB Opportunity for Hearing Notices

<u>Exh. #</u>	<u>Case no./Respondent</u>	<u>Allegation</u>	<u>ORC Code</u>
1.	2011ORCB002 (James D. Coe, RCP.1408)	Continuing Education	ORC 4761.09 (A)(2)
2.	2011ORCB004 (Melissa R. Devoe, RCP.11879)	Continuing Education	ORC 4761.09 (A)(2)
3.	2011ORCB005 (Kenneth J. Turner, RCP.6558)	Continuing Education	ORC 4761.09 (A)(2)
4.	2011ORCB007 (Terry A. Kovacs, RCP.5421)	Continuing Education	ORC 4761.09 (A)(2)
5.	2011ORCB008 (Alicia R. McElhaney, RCP.5613)	Continuing Education	ORC 4761.09 (A)(2)
6.	2011ORCB014 (Timothy D. Eidel, RCP.9419)	Continuing Education	ORC 4761.09 (A)(2)
7.	2011ORCB020 (John F. Blust, RCP.3813)	Continuing Education	ORC 4761.09 (A)(2)
8.	2011ORCB022 (Roger E. Gosselin, RCP.5510)	Continuing Education	ORC 4761.09 (A)(2)
9.	2011ORCB023 (Antonio R. Escamilla, RCP.4166)	Continuing Education	ORC 4761.09 (A)(2)
10.	2011ORCB024 (William C. Fox, RCP.10574)	Continuing Education	ORC 4761.09 (A)(2)
11.	2011ORCB028 (Rachel E. Beakes, RCP.11367)	Continuing Education	ORC 4761.09 (A)(2)
12.	2011ORCB029 (Rebecca L. Miller, RCP.11824)	Continuing Education	ORC 4761.09 (A)(2)
13.	2011ORCB030 (Chad A. Crowthers, RCP.5121)	Continuing Education	ORC 4761.09 (A)(2)
14.	2011ORCB032 (Maribel Cancel, RCP.9266)	Cont. Education Audit Failure	ORC 4761.09 (A)(2)
15.	2011ORCB033 (Taria G. Emerson, RCP.9828)	Cont. Education Audit Failure	ORC 4761.09 (A)(2)
16.	2011ORCB034 (Stacey J. Stevens, RCP.10301)	Cont. Education Audit Failure	ORC 4761.09 (A)(2)
17.	2011ORCB035 (Wanda M. Vergallito, RCP.2414)	Cont. Education Audit Failure	ORC 4761.09 (A)(2)
18.	2011ORCB036 (Alvin C. Poweleit, RCP.5773)	Cont. Education Audit Failure	ORC 4761.09 (A)(2)
19.	2011ORCB037 (Sarah E. Graupman, RCP.10739)	Cont. Education Audit Failure	ORC 4761.09 (A)(2)
20.	2008ORCB005 (Rebecca M. D'Amico, RCP.8806)	Violation of Consent Order	ORC 4761.09 (A)(2)
21.	2009ORCB051 (Angela M. Rider, RCP.9298)	Violation of Consent Order	ORC 4761.09 (A)(2)

HME Opportunity for Hearing Notices

<u>Exh. #</u>	<u>Case no./Respondent</u>	<u>Allegation</u>	<u>ORC Code</u>
22.	2011HME006 (Gemini Equipment Services, HMEL.11399)	Failure to comply with inspection findings	ORC 4752.09 (A)(1)
23.	2011HME007 (Gemini Equipment Services, HMEL.11400)	Failure to comply with inspection findings	ORC 4752.09 (A)(1)

Ms. Kester seconded the motion. Discussion: None. Motion carried: 5 – yes, 1 – abstained (Dr. Cohn).

Motion #12: Mr. Marx moved to issue an opportunity for hearing notice as presented to the Board in the matters of:

<u>Exh. #</u>	<u>Case no./Respondent</u>	<u>Allegation</u>	<u>ORC Code</u>
24.	2011ORCB039 (Thomas M. Peyton, No Lic. #)	Misdemeanor conviction	ORC 4761.09 (A)(1)

Ms. Kester seconded the motion. Discussion: Mr. Walz stated that he would like to be on record with his belief that a misdemeanor conviction of domestic violence does not meet the definition of an offense of moral turpitude. Mr. Marx stated that maybe the Board needed a better definition of moral turpitude. The Board Assistant Attorney General stated that case law exists that does support domestic violence as a crime of moral turpitude. No further discussion. Motion carried: 4 - yes, 1 - no (Mr. Walz), and 1 - abstained (Dr. Cohn).

Agenda item 5.3: Consent Agreement Approval (Exhibits I1 - I10)

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

Motion #13: Mr. Walz moved to approve the consent agreement between the Board and the following cases:

RCB Agreements

1. Case #2011ORCB0003 (Kevin D. Hiner, RCP.6818)
2. Case #2011ORCB0006 (Roland T. Hall, RCP.4184)
3. Case #2011ORCB0009 (Sandra S. VonSeggern, RCP.8995)
4. Case #2011ORCB0010 (Jody L. Black, RCP.5650)
5. Case #2011ORCB0011 (Andrew P. Ginnis, RCP.6623)
6. Case #2011ORCB0012 (Andrea J. Snell, RCP.10867)
7. Case #2011ORCB0015 (Denise L. Simms, RCP.8672)
8. Case #2011ORCB0021 (Georgianna G. Sergakis, RCP.7687)
9. Case #2010ORCB0041 (Shana L. Slaughter, RCP.7387)
10. Case #2010ORCB0042 (John E. Lease, No Lic. #)
11. Case #2011ORCB0043 (Earlie R. Reeves, No Lic. #)

Mr. Marx seconded the motion. Discussion: None. Motion carried: 5 - yes, 1 - Abstained (Dr. Cohn).

Agenda item 5.4: Closed Case Approval

Motion #14: Mr. Walz moved to close the following probation cases as compliance met:

2008ORCB039, 2009ORCB063, 2010ORCB001, 2010ORCB035, 2010ORCB050, 2011ORCB001, 2011ORCB013, 2011ORCB016, 2011ORCB017, 2011ORCB018, 2011ORCB019, 2011ORCB026, 2011ORCB031, 2011ORCB038, 2010HME023, and 2011HME003.

Ms. Adams seconded the motion. Discussion: None. Motion carried: 5 – yes, 1 – abstained (Dr. Cohn).

Agenda item #6: NEW BUSINESS

Agenda item 6.1: Application ratification for Respiratory Care Licenses and Limited Permits (Exhibit J)

Motion #15: Mr. Walz moved to ratify respiratory care professional licenses and limited permits issued on the following dates:

Limited Permits issued on August 12, 2010, August 20, 2010, August 26, 2010, September 2, 2010, September 9, 2010, September 16, 2010, September 23, 2010, and September 29, 2010.

Respiratory Care Professional Licenses issued on August 12, 2010, August 19, 2010, August 20, 2010, August 26, 2010, September 2, 2010, September 9, 2010, September 16, 2010, September 23, 2010, and September 29, 2010

Ms. Kester seconded the motion. Discussion: None. Motion carried: 6 - 0.

Agenda item 6.2: Application ratification for Home Medical Equipment Licenses and Certificates of Registration (Exhibit K)

Motion #16: Mr. Marx moved to ratify HME licenses and certificates of registration issued on the following dates:

HMEL

August 11, 2010, August 24, 2010, and September 14, 2010.

HMER

July 22, 2010, August 03, 2010, August 11, 2010, August 20, 2010, August 26, 2010, September 9, 2010, September 14, 2010, September 16, 2010, September 23, 2010, September 24, 2010, September 29, 2010.

Mr. Walz seconded the motion. Discussion: None. Motion carried: 6 – 0.

Agenda item 6.3: Policy Amendments (Exhibit L)

Mr. Mays asked the Board Executive Director to introduce the Board's policy changes for office policies 2.95 (b) and 9.2. Additionally, Mr. Logsdon presented the revised investigation policy manual.

Mr. Logsdon explained that policy 2.95 (b) is the Board's policy on accessing personal confidential information. Mr. Logsdon stated that the policy was essentially unchanged, except for the final paragraph on disciplinary action, which now requires staff to report to the Board President if a manager is suspected of inappropriate access. Otherwise, Mr. Logsdon explained the changes were format only. Regarding policy 9.2 on Family Medical Leave Act, Mr. Logsdon explained that recent changes in the Federal law made updating necessary. The new office policy will reference the Ohio Department of Administrative Service's policy.

Mr. Logsdon stated that the investigation policy manual had not been updated for many years. The amended policies, he stated, reflect current practice. Mr. Walz noted several grammatical errors and recommended that the policy on witness fees (#6.9) reference the Ohio Revised Code so that the policy will not require continual updating. Mr. Logsdon accepted the change if the membership was in agreement. The membership voiced consensus approval for the recommendation.

Discussion: Mr. Walz reviewed each policy and noted grammatical errors. Corrections were noted.

Motion #17: Mr. Walz moved to approve office policies 2.95(b) amended and 9.2. Ms. Kester seconded the motion. No further discussion. Motion carried: 6 - 0.

Motion #18: Mr. Walz moved to approve the amended policy and procedure manual. Ms. Kester seconded the motion. No further discussion. Motion carried: 6 - 0.

Agenda item 6.4: Amended Application Forms (Exhibit M collective)

Mr. Mays asked Mr. Logsdon to review the new form changes. Mr. Logsdon stated that he was recommending approval of five amended forms:

1. **Application for Initial License/Limited Permit (form #RCB-0002)**: changes included reformatting form design, adding new language authorizing Board staff to access personal confidential information contained on the form, revised federal register citation for HIPDB reporting, and revised questions on page 6 of the application.

Discussion: Mr. Walz noted numerous format and typographical errors. Mr. Logsdon recorded the corrections and confirmed changes upon adoption. Members discussed verbiage changes for the term "mailing address" and chose the term "residential address" as a better alternative. Finally, members discussed the changes on page 6, concerning the question contained in Part F. After discussion, members recommended the deletion of subsections (a) and (b) under question #3 and the deletion of question #6.

Motion #19: Ms. Kester moved to approve amended form #RCB-0002. Mr. Marx seconded the motion. No further discussion. Motion carried: 6 - 0.

2. Application for Home Medical Equipment Provider License (Form #RCB-034) and Application for Home Medical Equipment Provider Certificate of Registration (Form #RCB-035): Mr. Logsdon stated that the form was amended by adding language to the form acknowledgement addressing the access of personal confidential information under rule 4761:1-16-05 (D)(2)(d)(ii).

Discussion: Mr. Walz noted several non-substantive format and typographical errors. Mr. Logsdon recorded the corrections and confirmed changes upon adoption.

Motion #20: Dr. Cohn moved to approve amended forms #RCB-0034 and #RCB-0035. Mr. Marx seconded the motion. No further discussion. Motion carried: 6 - 0.

3. Verification of Education Form (Form #RCB-0022): Mr. Logsdon introduced the revised form as the final work product of the Board's Education Committee. Mr. Logsdon stated that the committee revised the form to better define the expected didactic and clinical skill requirements for a student permit holder.

Discussion: Mr. Walz noted several non-substantive spelling errors. Mr. Logsdon recorded the corrections and confirmed changes upon adoption.

Motion #21: Dr. Cohn moved to approve amended form #RCB-0022. Mr. Walz seconded the motion. No further discussion. Motion carried: 6 - 0.

Agenda item 6.5: Approval of HME Continuing Education Provider (OAC 4761:1-13-01 (D)) (Exhibit N)

Med Group/Med University

Mr. Mays asked if members had the opportunity to review the letter and class material from MED University. Each member stated that the material had been read. Mr. Marx asked to be recused from further discussion on the application for recognition, because he had an ongoing business relationship with the provider. Mr. Walz asked about the nature of the relationship. Mr. Marx stated that he uses the MED University program for his staff. Mr. Walz stated that his opinion as a user of the program would be worth hearing. Mr. Marx stated that he did not feel comfortable giving any comment on the matter. Dr. Cohn inquired about the contact hour equivalence. It was noted that the company does note the total minutes required for completion of each educational activity. Mr. Logsdon stated that he would follow up with company on the matter.

Motion #22: Dr. Cohn moved to recognize MED University as an accepted provider of continuing education for licensed Home Medical Equipment facilities pursuant to OAC 4761:1-13-01 (D). Ms. Kester seconded the motion. Discussion: None. Motion carried: 5 - Yes, 1 - Abstained (Mr. Marx). Motion carried.

Agenda item 6.6: CoARC Notification of Accreditation Status - Miami-Jacobs Career College (Exhibit O)

Mr. Mays stated that the Board has received notification of the accreditation status of Miami-Jacobs Career College. Mr. Mays stated the respiratory care program is currently listed as "Withhold of Accreditation." The Board, he stated, must determine if Ohio laws and rules have any impact on existing students or graduates of the program. Mr. Mays reviewed the CoARC letter (marked as exhibit O). Mr. Mays stated that the rules of the Board recognize respiratory care programs holding a "letter of review" from the CoARC and/or those programs that are accredited through the CoARC. The questions on the table, Mr. Mays stated, are the recognition of graduates from Miami-Jacobs Career College under the current accreditation status and the eligibility of students for limited permits until matriculation occurs?

Motion #23: Dr. Cohn moved to:

- a. adopt the advice of legal counsel based upon the CoARC's position on examination eligible students and current students of the Miami-Jacobs Career College's Respiratory Care program.
- b. inform the college of the board's intent to continue recognition of the currently enrolled students for the purpose of attending clinical assignments under the exception stated in Section 4761.11 (A)(3) and recognition of the degree awarded to students eligible for graduation in the current class for the purpose of meeting educational requirements for licensure under OAC 4761-4-01.

Mr. Walz seconded the motion. Discussion: None. Motion carried: 6 - 0.

Agenda item 6.7: 2010 Annual Report (Exhibit P)

A copy of the draft annual reported was forwarded to each member in advance of the meeting.

Motion #24: Mr. Walz moved to approve the 2010 Annual Report. Ms. Adams seconded the motion. Discussion: Mr. Walz stated that he provided the Executive Director with a list of changes and asked if they had been incorporated. Mr. Logsdon affirmed that all changes were incorporated. Hearing no other discussion, Mr. Mays called the question. Motion carried: 6 - 0.

Agenda item 6.8: Revised Consent Agreement Terms and Conditions Guidance

Mr. Mays stated that the Executive Director has updated the Board's Consent Agreement drafting guidance for unlicensed practice and continuing education failure issues to comply with the Board's current 20-contact hour requirement. Mr. Logsdon was asked if he had any thing to add to the discussion. Hearing none, Mr. Mays asked members if they would like to approve the guidance. Mr. Walz recommended using the term "contact hours" rather than CEUs to be consistent with Board rules.

The membership did not move to approve the guidance, because they were only guidelines. Staff was directed to follow the guidance when drafting agreements.

Agenda item #7: OPEN FORUM

None.

Agenda item #8: FOR THE GOOD OF THE BOARD

Mr. Logsdon was asked to develop a list of potential meeting dates for calendar year 2011.

Agenda item #9: ADJOURNMENT

Hearing no further matters, Mr. Mays adjourned the business meeting at 5:02 p.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 December 1, 2010.

Secretary

Witness