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OHIO RESPIRATORY CARE BOARD

77 SOUTH HIGH STREET, 16TH FLOOR

COLUMBUS, OHIO 43215-6108

OFFICIAL BOARD MEETING MINUTES OF DECEMBER 1, 2010

CALL MEETING TO ORDER

Presiding: Marc Mays, President, called the meeting to order on December 1, 2010 at 9:25 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., Carol Gilligan, Susan Ciarlariello, 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

Carol Gilligan, HME Member

Susan Ciarlariello, M.B.A., R.C.P.

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

Others in Attendance:

Michelle T. Sutter, Assistant Attorney General

Debbie Tripp

John Payne

Before conducting the administrative hearings scheduled, Mr. Mays stated that the Board's rules require the election of a hearing officer. Mr. Mays indicated that Mr. Walz had expressed a willingness to serve in the position. Mr. Mays asked if there was a nomination for Mr. Walz.

Motion: Ms. Ciarlariello moved to nominate Mr. Kenneth Walz, J.D., R.R.T., R.C.P. to serve as the Board Hearing Officer for hearings heard before the general body. Ms. Adams seconded the motion. Discussion: Mr. Mays inquired if there were any other nominations. Hearing none, he stated that the members would proceed to vote on the nomination and election of Mr. Walz. Motion carried: 7 - 0, 1 - Abstained (Mr. Walz).

ADMINISTRATIVE HEARINGS

Item #1: In the Matter of Daniel K. Sells, Case #2010ORCB032

The matter of Daniel K. Sells was continued pursuant to a motion for continuance filed by respondent's legal counsel. Mr. Walz stated that the continuance was approved.

Item #3: In the Matter of Thomas M. Peyton, Case #2011ORCB039

The matter of Thomas M. Peyton came before the following members of the Ohio Respiratory Care Board on December 1, 2010 at 9:25 a.m. in room West B & C, 31st floor of the Vern Riffe Building for Government and the Arts, 77 S. High Street, Columbus, Ohio. Present were Marc Mays, R.R.T., R.C.P., President, Susan M. Ciarlariello, R.R.T., R.C.P., Joel Marx, HME member, Robert Cohn, M.D., Esther L. Kester, R.R.T., R.C.P., Carol Gilligan, HME Member, Ken Walz, J.D., R.R.T., R.C.P. and Anita Adams, M.B.A., R.C.P. Robert Cohn, M.D. recused himself from the proceedings based upon his role as the Board liaison to the Investigatory Probable Review Committee. Kenneth Walz, J.D., R.R.T., R.C.P. was the appointed hearing officer in this matter. Michelle Sutter, Assistant Attorney General, represented the state of Ohio. Mr. Peyton appeared Pro Se. Teresa L. Mantz, C.P.R., was the hearing reporter from Deposition Specialists, Inc. 35 East Gay Street, Suite 300, Columbus, OH 43215.

Mr. Walz asked Mr. Peyton if he received the Board's Notice of Opportunity for Hearing. Mr. Peyton confirmed receipt. Mr. Walz asked Mr. Peyton if he was prepared to go forward with the hearing without representation by legal counsel. Mr. Peyton stated that he was prepared to represent himself.

Mr. Walz inquired if there were any preliminary matters: None.

Mr. Walz also inquired if there were any preliminary stipulations. Hearing none, he asked each party to give an opening statement. Both sides gave a brief opening statement. Ms. Sutter then presented her case-in-chief.

Witnesses called for the state:

Anthony Isom, Investigator

Thomas M. Peyton was called as on cross-examination

Following witness testimony, Ms. Sutter moved to enter State's Exhibit on the record. Mr. Walz asked Mr. Peyton if he had any objection to the admission of State's exhibit 1 - 6. Hearing no objection, Mr. Walz admitted State's Exhibits 1 -6.

State's Exhibits admitted:

- 1 - Copy of Application for Reinstatement or Reactivation filed by Thomas M. Peyton with the Ohio Respiratory Care Board on September 20, 2010, including a copy of October 28, 2009, Guilty Plea and Sentencing Order for Domestic Battery, Case #09M2341, Magistrate Court of Wood County, West Virginia.
- 2 - Copy of Thomas M. Peyton's written statement to the Board, dated September 28, 2010.
- 3 - Notice to Rescind Notice of Opportunity for Hearing, dated November 5, 2010, Revised Notice of Opportunity for Hearing approved on October 13, 2010 and mailed to Thomas M. Peyton by registered mail/return receipt # 7004 1160 0000 5913 4797 on November 5, 2010, United States Postal Service Track and Confirm receipt for registered mail article # 7004 1160 0000 5913 4797, and copy of rescinded Notice for Opportunity for hearing mailed to Thomas M. Peyton on October 19, 2010.
- 4 - Letter dated November 8, 2010, from Thomas M. Peyton requesting a hearing before the Ohio Respiratory Care Board.
- 5 - Hearing Scheduling Letter dated November 9, 2010 and mailed to Thomas M. Peyton.
- 6 - Certified copy of Judgment Order in the matter of Case #09M-2341, Magistrate Court of Wood County, West Virginia.

Mr. Peyton then gave his case-in-chief. Mr. Peyton testified on his own behalf.

Respondent's Exhibits: None.

Both sides gave a brief closing statement.

The hearing concluded at 10:00 a.m.

Item #2: In the Matter of Antonio R. Escamilla, Case #2011ORCB023

The matter of Antonio R. Escamilla came before the following members of the Ohio Respiratory Care Board on December 1, 2010 at 10:10 a.m. in room West B & C, 31st floor of the Vern Riffe Building for Government and the Arts, 77 S. High Street, Columbus, Ohio. Present were Marc Mays, R.R.T., R.C.P., President, Susan M. Ciarlariello, R.R.T., R.C.P., Joel Marx, HME member, Robert Cohn, M.D., Esther L. Kester, R.R.T., R.C.P., Carol Gilligan, HME Member, Ken Walz, J.D., R.R.T, R.C.P. and Anita Adams, M.B.A, R.C.P. Robert Cohn, M.D. recused himself from the proceedings based upon his role as the Board liaison to the Investigatory Probable Review Committee. Carol Gilligan, HME Member recused herself because she knew the respondent, Mr. Escamilla. Kenneth Walz, J.D., R.R.T., R.C.P. was the appointed hearing officer in this matter. Michelle Sutter, Assistant Attorney General, represented the state of Ohio. Mr. Escamilla appeared Pro Se. Teresa L. Mantz, C.P.R., was the hearing reporter, Deposition Specialists, Inc. 35 East Gay Street, Suite 300, Columbus, OH 43215.

Mr. Walz asked Mr. Escamilla if he received the Board's Notice of Opportunity for Hearing. Mr. Escamilla confirmed receipt. Mr. Walz asked Mr. Escamilla if he was prepared to go forward with the hearing without representation by legal counsel. Mr. Escamilla stated that he was prepared to represent himself.

Mr. Walz inquired if there were any preliminary matters: None.

Mr. Walz also inquired if there were any preliminary stipulations. Hearing none, he asked each party to give an opening statement. Both sides gave a brief opening statement. Ms. Sutter then presented her case-in-chief.

Witnesses called for the state:

Anthony Isom, Investigator

Antonio R. Escamilla was called as on cross-examination

Christopher H. Logsdon, Executive Director

Following witness testimony, Ms. Sutter moved to enter State's Exhibit on the record. Mr. Walz asked Mr. Escamilla if he had any objection to the admission of State's exhibit 1 - 5. Hearing no objection, Mr. Walz admitted State's Exhibits 1 -5. Ms. Sutter stated that she would produce State's exhibit #6 and request that it be admitted. Mr. Walz asked Mr. Escamilla to present his case in chief and then he would rule on State's Exhibit #6.

State's Exhibits admitted:

- 1 - Copy of Application for Reinstatement or Reactivation filed by Antonio R. Escamilla with the Ohio Respiratory Care Board on August 18, 2010 and copies of continuing education certificates.
- 2 - Notice to Rescind Notice of Opportunity for Hearing, dated November 5, 2010, Revised Notice of Opportunity for Hearing approved on October 13, 2010 and mailed to Antonio R. Escamilla by registered mail/return receipt # 7004 1160 0000 5913 4780 on November 5, 2010, copy of rescinded Notice for Opportunity for hearing mailed to Antonio R. Escamilla on October 19, 2010, and United States Postal Service Track and Confirm receipt for registered mail article # 7004 1160 0000 5913 4780.
- 3 - Letter dated November 11, 2010, from Tony (Antonio) Escamilla requesting a hearing before the Ohio Respiratory Care Board.
- 4 - Hearing Scheduling Letter dated November 12, 2010 and mailed to Antonio R. Escamilla.
- 5 - Letter dated November 30, 2010 from Tony (Antonio) Escamilla.

Mr. Escamilla then gave his case-in-chief. Mr. Escamilla testified on his own behalf.

Respondent's Exhibits: None.

Following Mr. Escamilla's case presentation, Mr. Walz inquired if the State had any other exhibits. Ms. Sutter moved to admit state's exhibit #6. Hearing no objection, Mr. Walz admitted state's exhibit #6.

Additional State's Exhibits admitted:

- 6 - Copy of revised second page of Application for Reinstatement or Reactivation and Verification of Indiana license status.

Both sides gave a brief closing statement.

The hearing concluded at 11:00 a.m.

Motion #1: 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. Marx seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Esther Lucille Kester -	Yes
Anita Adams -	Yes	Kenneth Walz -	Yes
Robert Cohn, M.D. -	Abstained	Joel Marx -	Yes
Carol Gilligan -	Yes	Susan Ciarlariello -	Yes

Motion carried.

The Board entered executive session at 11:04 a.m. and returned to regular, public session at 11:33 a.m. Dr. Cohn, Ms. Sutter, and Mr. Isom were excused from the meeting room and did not participate in deliberation. Mr. Logsdon was asked to remain in Executive Session for the matter in which he did not testify as a witness, but was then excused from deliberation at 11:25 a.m. Ms. Gilligan was excused from the meeting room and did not participate in deliberation regarding Mr. Escamilla.

JOURNAL ENTRIES (Exhibit B & C)

In the Matter of Thomas M. Peyton

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 Thomas M. Peyton is true. Ms. Adams seconded the motion. Discussion: None. Motion carried: 6 - yes, 1 - no (Mr. Walz), and 1- abstained (Dr. Cohn).

Motion #3: Ms. Ciarlariello moved that based upon the Board's findings of fact and conclusions of law in this matter, the Board hereby renews Thomas M. Peyton's license without restriction. The Order of the Board shall become effective upon the date of mailing. Ms. Gilligan seconded the motion. Discussion: None. Question called. Motion carried: 7 - yes, 1 abstained (Dr. Cohn).

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 in the matter of Thomas M. Peyton shall be attached to the minutes of these proceedings as an exhibit to the record.

In the Matter of Anthony R. Escamilla

Motion #4: Ms. Ciarlariello moved that the Board finds that the allegation contained in Count 1 of the Opportunity for hearing in the matter of Anthony R. Escamilla is true. Ms. Adams seconded the motion. Discussion: None. Motion carried: 6 - yes, 2 abstained (Dr. Cohn and Ms. Gilligan).

Motion #5: Mr. Marx moved that based upon the Board's findings of fact and conclusions of law in this matter, the Board hereby reprimands Mr. Escamilla and issues a fine in the amount of two hundred dollars (\$200.00) payable within 60 days of the effective date of the order. The Order of the Board shall become effective upon the date of mailing. Ms. Kester seconded the motion. Discussion: None. Question called. Motion carried: 6 - yes, 2 abstained (Dr. Cohn and Ms. Gilligan).

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 in the matter of Anthony R. Escamilla shall be attached to the minutes of these proceedings as an exhibit to the record.

The Board took a brief break at 11:37 a.m. for lunch

STANDING COMMITTEE MEETINGS

The Board's Rules Committee met at 1:00 p.m. 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 were prepared and are maintained separate of this journal.

The Board's Home Medical Equipment Committee met at 1:38 p.m. 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 Home Medical Equipment Committee were prepared and are maintained separate of this journal.

The Board's Scope of Practice Committee met prior to regular business at 1:30 P.M. in the office of the Ohio Respiratory Care Board, 16th Floor of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. Official minutes of the Board's Scope of Practice Committee were prepared and are maintained separate of this journal.

Regular Business Meeting

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

Presiding: Marc Mays, President, called the regular business meeting to order on December 1, 2010 at 2:05 p.m. in room West B&C, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. Mr. Mays noted that the roll had been taken during the morning and noted for the record that a quorum of the members of the Board was present and that business could be conducted.

Members in attendance:

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

Carol Gilligan, HME Member

Susan Ciarlariello, M.B.A., R.C.P.

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

Others in Attendance:

Michelle T. Sutter, Assistant Attorney General

Cyndi White

Brandy Seger

Beth Cooper

Ed Orlett

F. Herbert Douce

Debbie Tripp

John Payne

Jim Snyder

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

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 #6: Mr. Walz moved to approve the meeting agenda for December 1, 2010. Ms. Kester seconded the motion. Discussion: None. Motion carried: 8 - 0.

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

The prior meeting minutes were mailed in advance of the meeting. Mr. Mays inquired if there were any changes or corrections to the minutes. Ms. Kester asked to address typographical and grammatical errors. Ms. Kester noted non-substantive corrections on pages 4, 6, 7, 11, 12 and 13. Mr. Walz addressed several non-substantive corrections on pages 4, 5, 6, 7, 9, and 12. Mr. Logsdon recorded the changes.

Motion #7: Ms. Adams moved to approve the October 13, 2010 meeting minutes as corrected. Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 7 - yes, 1 abstained (Ms. Gilligan).

Agenda item #2: BOARD OFFICER AND STAFF REPORT

Agenda item 2.1: President's Report (Exhibit F)

Mr. Mays filed a written report. He reminded members that he was working on the Executive Director's annual performance review. He stated that a graduate student from the Ohio State University was assisting him with the project and would be contacting each Board member. Mr. Mays stated that he would draft the review and have it ready for the next Board meeting.

Mr. Mays also reminded Board members of the provisions of ORC 3.17 regarding attendance at Board meetings. Mr. Mays stated that the staff does review attendance on occasion and provides a report to the President.

Discussion: Mr. Walz asked if there were provisions for excused absences, such as snow emergencies. Mr. Logsdon stated that the law did not have any provisions for emergency absence, but it requires a 3/5 attendance ratio over a two-year rolling period. This length of time usually affords members enough space to correct attendance issues. Mr. Logsdon stated that there are no current concerns. Mr. Logsdon did state that the Governor's office has requested attendance data in the past.

Motion #8: Ms. Gilligan moved to approve the President's report. Ms. Kester seconded the motion. Discussion: None. Motion carried: 8 - 0.

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

Mr. Logsdon gave a verbal overview of his written report. He also stated that he added an insert to the member's packets, which he will review during his presentation. The following was covered:

1. FY 2011 financial activity report. Mr. Logsdon stated that the Board is currently well within its budget allotments and under budget. He stated that the agency has not been billed for many intrastate services, but that he has encumbered funds to pay those obligations. Mr. Logsdon also reported that the agency is absorbing the cost of health benefits for an employee that had not previously elected to receive the benefits. In addition, he reminded the Board that the agency will be audited during the spring of 2011 and the fees are estimated at \$12,000 to \$15,000. Mr. Logsdon stated that the fee assessment from the Auditor's office is new and that he had no firm costs on the audit.
2. Mr. Logsdon reported that the staff will begin preparing for the limited permit renewal period and would be submitting updated forms for approval at the February 2011 meeting. He also reported that he would be submitting an informational flyer for review.
3. Mr. Logsdon reported that the Board has filed its FY 2012/2013 budget request to the Office of Budget and Management. Mr. Logsdon stated that the budget request is not guaranteed and he reminded the Board members that Governor Elect, John Kasich, would come into office with his own budget objectives. Mr. Logsdon stated that the State of Ohio is estimating a serious financial crisis that includes an eight billion dollar deficit. Mr. Logsdon stated that the Board's budget could be impacted by the efforts to balance the budget, which may include budget reductions and/or legislative efforts to consolidate services. In this regard, Mr. Logsdon stated that the budget process is just beginning and that it has a long way to go before any budget certainty can be reported.
4. Mr. Logsdon reported on the licensing and revenue statistics for the current fiscal year. Mr. Logsdon also reported on progress toward completing the 2010 continuing education audits. He reported that some common problems have been noted. Specifically, he reports that some licensees did not complete an hour of ethics /law review as required and some are claiming examination credit that was earned prior to their initial licensure date. Mr. Logsdon suggested that the Board review its rules on requiring ethic/law review continuing education to determine if the Board desires to approve all ethics courses.

5. Last, Mr. Logsdon presented a recommendation to change the website format for license verification. Mr. Logsdon stated that the site currently shows a licensee's prior disciplinary action, but that the system shows action on every credential held. Mr. Logsdon stated that he believes the online verification site can be modified to show the action dates and only one occurrence of the existence of prior action. Mr. Walz stated that the website is confusing and that he would prefer to see the system link to the actual documents. Mr. Logsdon stated that a few Boards do show all documents available. He stated that the Board could offer scanned documents, but it would require a significant resource investment. Mr. Logsdon stated that his recommended changes to the site would reduce the confusion in the near term. Mr. Logsdon stated that he has received reports from licensees that lead him to believe potential employers might be misinterpreting the information and not contacting the Board as the system recommends. Ms. Ciarlariello recommends that the Board accept the Executive Director's recommendation to change the current display of information on the website. The Board supported the recommended changes.

Agenda item 2.3: HME Manager's Report (Exhibit H collective)

Ms. Tatum was absent from the meeting, but filed a written report.

Motion #9: Mr. Walz moved to approve the Executive Director's and the HME Manager's reports. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 8 - 0.

Agenda item #3: COMMITTEE REPORTS

Rules Committee -

Ms. Ciarlariello reported that the Rules Committee met prior to the regular board meeting. The committee meeting, she stated, focused on discussing the Board's proposal to require the written and simulation portions of the RRT examination for licensure at some future date. Ms. Ciarlariello stated that the committee discussed communications with the Ohio educators in August, the notification to Ohio respiratory managers in November, a letter sent to the Board from Tim Myers, President of the American Association for Respiratory Care, a resolution of the Ohio Society for Respiratory Care (OSRC) in support of the Board's proposal, a report from Herbert Douce on the scaled scoring used on the CRT examination, and the Board's education reports and employment needs survey posted on the Board's website. Ms. Ciarlariello stated that there was a recommendation to create a work-study group to collect data and evaluate the proposal's impact.

Ms. Kester asked how large the group would be. Ms. Ciarlariello read a list of stakeholders. Mr. Logsdon stated that the proposed charter for the workgroup lists stakeholders, not necessarily participant in the work group. Ms. Ciarlariello confirmed Mr. Logsdon's interpretation of the charter. Mr. Mays stated that he has no interest in the position of the National Board for Respiratory Care and only slight interest in the position of the American Association for Respiratory Care. Mr. Mays stated that Ohio groups will have some interest and the Board should consider the positions of those groups. Mr. Marx stated that the Board must include all potential stakeholders at this level to avoid the greater potential of issues later.

Entry-Level Examination Requirements Work Group Charter (Exhibit I)

Motion #10: Ms. Adams moved to adopt the Entry-Level Examination Requirements Work Group Charter and to assign Ms. Ciarlariello to lead the Work Group. Ms. Kester seconded the motion. Discussion: Mr. Marx inquired if Ms. Ciarlariello could continue with the group after she left the board. Mr. Logsdon stated the group is an administrative group and she could participate. Mr. Marx stated that he wants the OSRC to understand that the Board is proposing a change to its rules, but the outcome is not predetermined. No further discussion. Motion carried: 8 - 0.

Home Medical Equipment Committee -

Mr. Marx stated that the Home Medical Equipment Committee met prior to the regular business meeting. Mr. Marx reported that the committee reviewed a list of HME licenses and registrations approved by staff and the committee will recommend ratification of these to the Board during new business. Mr. Marx also reported that the committee reviewed the current inspection schedule and inspection completion report. Last, the committee, he reported, reviewed the results of a survey sent to the Board's contract inspectors. Mr. Marx stated that the committee is working toward improving the inspection guidance manual for inspectors and the committee asked them to rank facility standards as substantive or non-substantive. Definitions were provided, he stated, and the committee has looked at the results of the survey and completed their own ratings. The process, Mr. Marx stated, will result in a final document being filed with the Board at the next meeting. There were no questions for Mr. Marx.

Scope of Practice Committee Inquiry Responses (Exhibit J - L)

Scope of Practice Committee -

Dr. Cohn reported that the Scope of Practice Committee met prior to the regular business meeting. Dr. Cohn stated that the committee approved the prior meeting minutes. He reported that the committee reviewed three inquiries. Dr. Cohn reviewed each:

1. Lorelei Heineman, R.N., R.R.T. asked if respiratory therapists could administer oral hygiene care under specified conditions. Dr. Cohn stated that the committee, based on the inquiry, believes the practice is within the scope of respiratory therapy and recommends the approval of the committee's response.

2. Erin Green, R.N. asked if respiratory therapists could perform swallowing screens for high-risk patients. Dr. Cohn stated that the committee disagreed with the Executive Director's prepared draft response. Dr. Cohn stated that the screen is designed to test for potential aspiration problems that could result in pneumonia. Dr. Cohn stated that the committee firmly believes ORC 4761.01 permits therapist to perform the care within their scope. Dr. Cohn recommended changes to the draft response, which he asked to be attached to the minutes of the meeting.

3. Shawna Meredith, R.R.T. asked if administering nitric oxide for vasodilation during cardiac catheterization was within the scope of respiratory care practice. Dr. Cohn stated that the committee, based on the inquiry, believes the practice is within the scope of respiratory therapy and recommends the approval of the committee's response.

Motion #11: Ms. Kester moved to approve the three inquiry responses filed by the Scope of Practice committee. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 7 - Yes, 1 Abstained (Ms. Adams).

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

Motion #12: Ms. Kester moved to approve the Rules Committee, HME Committee and Scope of Practice Committee reports. Ms. Gilligan seconded the motion. Discussion: None. Motion approved: 8 - 0.

Agenda item #4: PROBABLE REVIEW COMMITTEE REPORT

Motion #13: Mr. Walz 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
Susan Ciarlariello -	Yes	Carol Gilligan -	Yes

Motion carried.

The Board entered executive session at 3:10 p.m. and returned to regular, public session at 4:10 p.m. All eight Board Members, Mr. Isom, Ms. Sutter and Mr. Logsdon were present during Executive Session. The Board took a brief break upon going back to public session from 4:10 p.m. to 4:17 p.m.

**Names and identifying information was redacted from discussion and proposed notices of opportunity for hearing 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 notices of opportunity for hearing through a motion on the record during public session.*

Agenda item 4.1: Approval of Opportunity for Hearing Notices (Exhibit M - O)

Motion #14: Ms. Adams 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>
M.	2011ORCB040 (Jill Ellen Tewart, RCP.10078)	Continuing Education	ORC 4761.09 (A)(2)
N.	2011ORCB044 (Fidaa A. Lahoud, RCP.7963)	Negligent Practice	ORC 4761.09 (A)(5)

HME Opportunity for Hearing Notices

<u>Exh. #</u>	<u>Case no./Respondent</u>	<u>Allegation</u>	<u>ORC Code</u>
O.	2011HME008 (Capitol Sleep Medicine, HMEL.11432)	Unlicensed Practice	ORC 4752.09 (A)(1)

Ms. Gilligan seconded the motion. Discussion: Mr. Walz offered a friendly amendment to the Notice of Opportunity for Hearing in the matter of case #2011ORCB044 to correct a spelling error in paragraph A and revise paragraph E. Friendly amendment was accepted. Motion carried: 6 – yes, 2 – abstained (Dr. Cohn and Ms. Gilligan).

Agenda item 4.2: Withdraw of Approval of Opportunity for Hearing Notices

Motion #15: Ms. Adams moved to withdraw the Notices of Opportunity for Hearing issued separately to the following persons:

1. Case #2011ORCB033 (Taria G. Emerson, RCP.9828)
2. Case #2011ORCB037 (Sarah E. Graupman, RCP.10739)

Mr. Walz seconded the motion. Discussion: None. Motion carried: 7 - yes, 1 - abstained (Dr. Cohn).

Agenda item 4.3: Consent Agreement Approval (Exhibits P - X)

**Names and identifying information was redacted from discussion and proposed consent agreements during the course of executive session deliberation and the 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.*

Motion #16: Mr. Walz moved to approve the consent agreement between the Board and the following cases:

RCB Agreements

- P. Case #2011ORCB0002 (James D. Coe, RCP.1408)
- Q. Case #2011ORCB0020 (John F. Blust, RCP.3813)
- R. Case #2011ORCB0022 (Roger E. Gosselin, RCP.5510)
- S. Case #2011ORCB0024 (William C. Fox, RCP.10574)
- T. Case #2011ORCB0028 (Rachel E. Beakes, RCP11367)
- U. Case #2011ORCB0030 (Chad A. Crowthers, RCP.5121)

HME Agreements

- V. Case #2010HME0024 (MSC Group, Inc., HMEL.11422)
- W. Case #2011HME0006 (Gemini Equipment Services, HMEL.11399)
- X. Case #2011 HME0007 (Gemini Equipment Services, HMEL.11400)

Ms. Ciarlariello seconded the motion. Discussion: Mr. Walz noted that case #2011ORCB030 contained an error concerning the fine amount stated. Mr. Walz suggested that the Board recognize the lesser amount listed. No further discussion. Motion carried: 5 - yes, 3 - Abstained (Dr. Cohn, Mr. Marx, and Ms. Gilligan).

Mr. Mays asked if members had any comment on Mr. Walz's recommendation to recognize the lesser fine amount listed in case #2011ORCB030. Hearing none, Mr. Mays directed Mr. Logsdon to inform the licensee that the lesser amount would be recognized.

Agenda item 4.4: Closed Case Approval

Motion #17: Ms. Kester moved to close the following probation cases as compliance met:

2011ORCB06, 2011ORCB010, 2011ORCB011, 2011ORCB012, 2011ORCB015, 2011ORCB021, 2011ORCB027, 2011ORCB041, 2011ORCB045, 2011ORCB046, 2011HME004, and 2011HME005. In addition, to close the matter of Robert G. Plair by terminating his probation with the Ohio Respiratory Care Board as stipulated in the terms of his probation upon notification of release of probation by the Arizona Respiratory Care Board. Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 7 – yes, 1 – abstained (Dr. Cohn).

Agenda item #5: NEW BUSINESS

Agenda item 5.1: Application ratification for Respiratory Care Licenses and Limited Permits (Exhibit Y)

Motion #18: Mr. Walz moved to ratify respiratory care professional licenses and limited permits issued on the following dates:

Limited Permits issued on: September 30, 2010, October 14, 2010, October 28, 2010, November 4, 2010, November 12, 2010, and November 18, 2010.

Respiratory Care Professional Licenses issued on: September 30, 2010, October 7, 2010, October 14, 2010, October 21, 2010, October 28, 2010, November 4, 2010, November 12, 2010, and November 18, 2010.

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

Agenda item 5.2: Application ratification for Home Medical Equipment Licenses and Certificates of Registration (Exhibit Z)

Motion #19: Ms. Gilligan moved to ratify HME licenses and certificates of registration issued on the following dates:

HME Licenses issued on: October 12, 2010, October 27, 2010, and October 28, 2010.

HME Certificates of Registration issued on: September 30, 2010, October 12, 2010, October 15, 2010, October 19, 2010, October 27, 2010, November 3, 2010, November 4, 2010, November 9, 2010, November 12, 2010, and November 17, 2010.

Mr. Walz seconded the motion. Discussion: None. Motion carried: 7 - 0 - 1 abstain (Mr. Marx).

Agenda item 5.3: Educational Program Review (Exhibit AA)

Motion #20: Ms. Ciarlariello moved to recognize Respiratory Care Educational Program located at Kent State University at Ashtabula as meeting the requirements of rule 4761-4-01 of the Ohio Administrative Code for the purposes of issuing licenses and limited permits to the students and graduates of the program. Mr. Walz seconded the motion. Discussion: Mr. Walz asked how CoARC currently lists their status. Mr. Logsdon stated that CoARC currently lists the program as under a "letter of review." There was no further discussion. Motion carried: 8 - 0.

Agenda item 5.4: Approval of online continuing education module for law review

Mr. Mays asked Mr. Logsdon to review the program contained in the Board's packet. Mr. Logsdon stated that he completed development of a new online program to meet the mandatory contact hour requirement for respiratory care laws/rules review.

Mr. Walz asked if the Board recognizes the Ethics program approved the American Association for Respiratory Care (AARC). Mr. Logsdon confirmed that the AARC's three-hour ethics course had been approved. Mr. Walz stated that there was confusion in actual practice. Mr. Walz stated that he has told providers that the Board approves his ethics program, but the sponsor has declined to review the Board's approval stating that the program was already approved by the AARC. Mr. Logsdon stated that the program sponsor is incorrect in assuming that a course is accepted just because the accrediting organization is the AARC. Mr. Logsdon stated that the Board's rules on Ethics courses require the Board to approve the program separately, regardless of who accredits the program. Mr. Walz stated that he similarly interpreted the rules. Mr. Walz stated that the Board might want to look at simplifying the process for

ethics courses. Mr. Walz suggested that courses in ethics from recognized providers should be accepted. Mr. Logsdon advised the membership to open the rule for review and possible amendment.

Motion #21: Ms. Adams moved to approve the online continuing education course titled "Law Review Module 1.2: Professional Code of Ethics. Dr. Cohn seconded the motion. Discussion: Mr. Walz asked for clarification of posttest question #4. Mr. Logsdon stated that he would revise the question to remove the possibility of two correct responses. Mr. Walz also suggested amending the responses to question #7. No further discussion. Motion carried: 7 - Yes, 1 - Abstained (Mr. Walz).

Agenda item #6: OPEN FORUM

Mr. Orlett, representing the Ohio Society for Respiratory Care, advised the Board that the Society contacted the Ohio Lung Association concerning the Board's open public member position. Recommendations for candidates will be forwarded to the Governor's office. Mr. Orlett stated that he could not guarantee that the appointment would be made under the current administration. Mr. Orlett stated that he believes political affiliation may play a greater role in future appointments. Mr. Mays thanked Mr. Orlett for his comments.

Agenda item #7: FOR THE GOOD OF THE BOARD

None.

Agenda item #8: ADJOURNMENT

Motion #22: Ms. Ciarlariello moved to adjourn. Ms. Adams seconded. Motion carried: 8 - 0. Mr. Mays adjourned the business meeting at 4:52 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 February 9, 2011.

Secretary

Witness