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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 FEBRUARY 13 & 14, 2013**

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

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

Joel Marx, HME Member

Robert Slabodnick, MEd, R.R.T., R.C.P.

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

Robert Cohn, M.D.

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

Andrea D. Yagodich, B.S., R.R.T., R.C.P.

Carol Gilligan, HME Member

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

Christopher H. Logsdon, Executive Director

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

Courtney Hagele, Assistant Attorney General

Cheryl Hawkinson, Assistant Attorney General

**Agenda item #1: CALL MEETING TO ORDER**

Mr. Mays called the meeting to order at 10:00 AM. Mr. Mays asked Ms. Gilligan to call the roll. Present were Joel Marx, Marc Mays, Robert Cohn, M.D., Robert Slabodnick, Carol Gilligan, Steven Pavlak, Andrea Yagodich, and Kenneth Walz. Mr. Mays announced there was a quorum of the Board present to conduct business.

**Agenda item #2: ADMINISTRATIVE HEARINGS**

**Agenda item 2.c: In the matter of Bonnie L. Bilko, Case #2007ORCB051**

The matter of Bonnie L. Bilko came before the following members of the Ohio Respiratory Care Board on February 13, 2013 at 10:02 a.m. in the Board Room, 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, Joel Marx, HME Member, Robert Cohn, M.D., Kenneth Walz, J.D., R.R.T., R.C.P., Steven Pavlak, R.R.T., M.S., Carol Gilligan, HME Member, Andrea D. Yagodich, B.S., R.R.T., R.C.P., and Robert Slabodnick, R.R.T, M.Ed. 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. served as the Appointed Hearing Officer in this matter.

Courtney L. Hagele, Assistant Attorney General, represented the State of Ohio.

Bonnie L. Bilko (hereafter referred to as "Ms. Bilko") did not request a hearing before the Board. This hearing was held pursuant to *Goldman Vs. State Medical Board of Ohio*, (March 29, 1996), Franklin County Court of Appeals, 95APE 10-1358 (Unreported).

Teresa L. Mantz was the Court Reporter, Deposition Specialists, Inc. 35 East Gay Street, Suite 300, Columbus, Ohio 43215.

Ms. Hagele gave a brief opening statement.

During the hearing, the State called Christopher H. Logsdon, Executive Director as the only witness. Ms. Hagele brought to the attention of the hearing officer State's Exhibit 1, page 2, paragraph (D). Ms. Hagele stated that the citation contained on page 2, paragraph (D), line two that states ORC 4511.194 (A) (1) (A) should state ORC 4511.19 (A) (1) (A). Mr. Logsdon was called again as a witness for the State of Ohio. Mr. Walz took note of the correction. The State of Ohio moved for the admission of State's Exhibits 1 through 6. Mr. Walz admitted State's Exhibits 1 – 6.

Ms. Hagele gave a closing statement. The hearing concluded at 10:34 a.m.

Following the hearing, Mr. Mays introduced the new Board member Andrea D. Yagodich, B.S., R.R.T., R.C.P.

**Agenda item 2.b: In the matter of Jodi Leigh Evans (Exhibit T)**

The matter of Jodi Leigh Evans came before the following members of the Ohio Respiratory Care Board on February 13, 2013 at 10:37 a.m. in the Board Room, 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, Joel Marx, HME Member, Robert Cohn, M.D., Kenneth Walz, J.D., R.R.T., R.C.P., Steven Pavlak, R.R.T., M.S., Carol Gilligan, HME Member, Andrea D. Yagodich, B.S., R.R.T., R.C.P., and Robert Slabodnick, R.R.T., M.Ed.

Kenneth Walz, J.D., R.R.T., R.C.P. served as the Appointed Hearing Officer in this matter.

Courtney L. Hagele, Assistant Attorney General, represented the State of Ohio.

Teresa L. Mantz was the Court Reporter, Deposition Specialists, Inc. 35 East Gay Street, Suite 300, Columbus, Ohio 43215.

Ms. Courtney L. Hagele, Assistant Attorney General advised the Board that the hearing in the matter of Jodi Leigh Evans was continued. Ms. Hagele brought to the Board's attention recent court order in the matter of Jodi Leigh Evans. Based on the new Court Order, the State recommends that the Board withdraw its Notice of Opportunity for Hearing issued on December 12, 2012 because the recent court order removes the reasons that formed the basis of the Board's Notice of Opportunity for Hearing. Further, Ms. Hagele stated that the State recommends amending the Board's Order issued to Ms. Evans on February 8, 2012 to reflect that Ms. Evans would be eligible for reinstatement if she otherwise complies with the Board's requirements for reinstatement.

The members had an opportunity to ask questions. Ms. Hagele strongly recommended that the members not pursue questioning regarding the underlying reasons for the Board's Notice of Opportunity for Hearing. Members then asked questions concerning the motion to withdraw of the Notice of Opportunity for Hearing. Mr. Mays recommended that the members consider the advice given and proceed to consider applicable action.

Motion #1: Mr. Marx moved the following amendment to the February 8, 2012 Order of the Board in the matter of Jodi Leigh Evans:

THEREFORE, it is ordered, adjudged, and decreed by the Ohio Respiratory Care Board that:

In consideration of the findings of fact and conclusions of law in the February 8, 2012 Order of the Board, the Board hereby modifies the February 8, 2012 Order of the Board (incorporated herein by reference and attached as an exhibit to this Amended Order of the Board) and INDEFINITELY SUSPENDS Jodi Leigh Evans' license to practice respiratory care in the state of Ohio as a licensed respiratory care professional. Upon reapplication for reinstatement of her license and provided Jodi Leigh Evans' application fully complies with requirements for reinstatement of a respiratory care license under rule 4761-8-01 of the Ohio Administrative Code, Ms. Jodi Leigh Evans' license shall be reinstated to practice as a respiratory care professional. All findings of fact and conclusions of law in the February 8, 2012 Order of the Board will remain in effect.

The amended Order of the Board shall become effective upon the date of the motion.

Mr. Slabodnick seconded the motion. Discussion: None. Motion carried: 7 – Yes, 1 Abstained (Cohn)

Motion #2: Mr. Marx moved to withdraw the Board's Notice of Opportunity for Hearing dated December 12, 2012 in the Matter of Jodi Leigh Evans, Case 2013ORCB040. Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 7 – Yes, 1 Abstained (Slabodnick).

Ms. Hagele, on behalf of the State of Ohio requested that any references to the underlying reasons for the Board's December 12, 2012 Notice of Opportunity for Hearing and the underlying facts contained in the Board's February 8, 2012 Order of the Board be

redacted or placed under seal. Mr. Mays noted the recommendation for the record and directed that the record be redacted or sealed as recommended.

The matter concluded at 10:58 a.m.

Based upon a break in the agenda until 2:00 p.m. the Board departed from the agenda and participated in an hour training session on Ohio Ethics Law. All members attended the training, which was proctored by Christopher Logsdon, Executive Director using video and written material provided to the Board by the Ohio Ethics Commission. Training began at 10:58 p.m. and ended at 12:05 p.m. Following ethics training the meeting broke for lunch at 12:06 p.m.

### **Agenda item #3: ADMINISTRATIVE RULES HEARING (Exhibit B)**

The public hearing on proposed rules began at 2:05 p.m. Mr. Mays explained the hearing process and asked members of the board introduce themselves.

The public hearing on proposed rules was held in the Board Room, 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, Joel Marx, HME Member, Robert Cohn, M.D., Kenneth Walz, J.D., R.R.T, R.C.P., Steven Pavlak, R.R.T., M.S., Carol Gilligan, HME member, Andrea D. Yagodich, B.S., R.R.T., R.C.P., and Robert Slabodnick, R.R.T, M.Ed.

Cheryl Hawkinson, Assistant Attorney General, represented the State of Ohio.

Teresa L. Mantz was the Court Reporter, Deposition Specialists, Inc. 35 East Gay Street, Suite 300, Columbus, Ohio 43215.

Preliminary matters: Ms. Hawkinson noted that a member had a discussion with one of the potential witnesses in attendance. Ms. Hawkinson inquired about the nature of the conversation. Dr. Cohn noted that he did have a recent discussion with a representative of the American Association for Respiratory Care (AARC) and during the conversation, the AARC representative brought up the rules under consideration. Dr. Cohn testified that he did not engage the representative on the rules and believes his participation in the hearing today would not be influenced by the conversation he had with the AARC representative.

Mr. Logsdon was called as a witness by the State of Ohio to identify the State's Exhibits.

The following states exhibits were introduced.

- A – Copy of Notice of Public Hearing of Intent to Rescind, Adopt New or Amend Existing Ohio Administrative Rules filed on January 7, 2013.
- B - Screen print copy of the Ohio Respiratory Care Board's website: [www.respiratorycare.ohio.gov](http://www.respiratorycare.ohio.gov) and [www.hme.ohio.gov](http://www.hme.ohio.gov), demonstrating the posting of Notice of Public Hearing of Intent to Rescind, Adopt New or Amend Existing Ohio Administrative Rules and the availability of an imaged version of all rules under consideration.
- C - Full copy of the proposed rescinded, new and amended rules and rules summary and fiscal analyses filed with the Office of the Secretary of State, Joint Committee on Agency Rule Review, Department of Development, and Legislative Service Commission for the following proposed rules:

- Proposed rule 4761-5-01 (rescind)
- Proposed rule 4761-5-01 (new)
- Proposed rule 4761-5-04 (amend)
- Proposed rule 4761-8-01 (amend)

- D - Confirmation of Electronic Rules Filing for proposed rules 4761-5-01 (rescind), 4761-5-01 (new), 4761-5-04 (amend), and 4761-8-01 (amend) filed on January 7, 2013 with the Office of the Secretary of State, Joint Committee on Agency Rule Review, Department of Development, and Legislative Service Commission.
- E - Copy of memorandum of recommendations from the Office of Common Sense Initiative dated December 10, 2012 for proposed rules 4761-5-01 (rescind), 4761-5-01 (new), 4761-5-04 (amend), and 4761-8-01 (amend).
- F - Full copy of the proposed amended rule and rule summary and fiscal analysis filed with the Office of the Secretary of State, Joint Committee on Agency Rule Review, Department of Development, and Legislative Service Commission for proposed rule 4761:1-10-03 (amend).
- G - Confirmation of Electronic Rules Filing for proposed rule 4761:1-10-03 (amend) filed on January 7, 2013 with the Office of the Secretary of State, Joint Committee on Agency Rule Review, Department of Development, and Legislative Service Commission.
- H - Copy of memorandum of recommendation from the Office of Common Sense Initiative dated December 10, 2012 for proposed rule 4761:1-10-03 (amend).
- I-1 collective - Copies of emails received in response to the filing of proposed rules.
- I-2 collective - Copies of emails received in response to the filing of proposed rules.
- I-3 Copies of proponent testimony filed:
  - I-3a: email from David Lucas, MS, RRT-NPS
  - I-3b: letter from Kimberley Johnson, MS, RRT, RCP
  - I-3c: letter from Susan Ciarlariello, MBA, RRT-NPS, RCP
  - I-3d: testimony from F. Herbert Douce, MS, RCP, RRT-NPS, RPFT, FAARC
  - I-3e: testimony from Craig Black, PhD, RRT-NPS, FAARC
- I-4 Copies of opponent testimony filed:
  - I-4a: testimony from the National Board for Respiratory Care, Inc., Kerry E. George, Med, RRT, FAARC, President and Gary A. Smith, RRT (HON), FAARC, Executive Director.
  - I-4b: testimony from Timothy R. Myers, MBA, BsRRT-NPS, FAARC
  - I-4c: testimony from the AARC, George Gaebler, MSED, RRT, FAARC
- J-- collective - Witness sign-in slips.

Ms. Hawkinson moved to admit exhibits A – J inclusive. Hearing no objection to the admission of the exhibits, Mr. Mays admitted State's Exhibits A through J, inclusive.

Motion #3: Mr. Walz moved to waive the reading of the rules. Mr. Slabodnick seconded the motion. Discussion: None.  
Motion carried: 8 – 0.

Mr. Mays recognized the Assistant Attorney General for the purpose of calling witnesses for testimony on the proposed rules.

The following persons were sworn in as witnesses:

1. F. Herbert Douce
2. Sarah Varekojis
3. Elizabeth A. Cooper
4. Craig Black
5. Timothy Dunley
6. Jason D. Galloway
7. Georgianna Sergakis
8. Jefferson Hunter
9. Nancy Colletti
10. George Gaebler
11. Timothy Myers
12. Kerry George
13. Gary Smith

Ms. Hawkinson, AAG, called witnesses in order to testify. Elizabeth A. Cooper read written testimony submitted by Susan M. Ciarlariello. Mr. Timothy Dunley, Jefferson Hunter, and Tom Kallstrom did not provide testimony.

The hearing concluded at 4:27 p.m.

**Agenda item #4: ADJOURNMENT – Day 1**

Hearing no objection, Mr. Mays adjourned the meeting at 4:30 p.m.

Day 2, February 14, 2013

**Agenda item #5: STANDING COMMITTEE MEETINGS**

The Board's Home Medical Equipment Committee met prior to regular business at 9:00 a.m. in office of the Ohio Respiratory Care Board, 16<sup>th</sup> Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. Joel Marx, HME Member, Carol Gilligan, HME Member and Steven Pavlak, M.S., R.R.T., R.C.P. were present. Mr. Marx chaired the meeting. Official minutes of the Board's Home Medical Equipment Committee were prepared and are maintained separate of this journal. The HME Committee meeting adjourned at 9:40 a.m.

The Board's Scope of Practice Committee met prior to regular business at 9:14 a.m. in the Board Room, 31<sup>st</sup> Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. Dr. Cohn was excused from the meeting and Mr. Mays was acting Chairperson. Official minutes of the Board's Scope of Practice Committee were prepared and are maintained separate of this journal. The Scope of Practice Committee meeting adjourned at 9:25 a.m.

Regular Board Meeting

**Members in attendance (Exhibit C):**

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

Joel Marx, HME Member

Robert Slabodnick, MEd, R.R.T., R.C.P.

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

Robert Cohn, M.D.

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

Andrea D. Yagodich, B.S., R.R.T., R.C.P.

Carol Gilligan, HME Member

**Staff in attendance:**

Christopher H. Logsdon, Executive Director

Marcia Tatum, HME Manager

Anthony Isom, Investigator

**Others in Attendance:**

Courtney Hagele, Assistant Attorney General

**Agenda item #6: CALL MEETING TO ORDER**

**Agenda item 6.a: Approval of meeting agenda (Exhibit D)**

Mr. Mays called the meeting to order at 9:45 AM. Mr. Mays asked Ms. Gilligan to call the roll. Present were Joel Marx, Marc Mays, Robert Cohn, M.D., Robert Slabodnick, Carol Gilligan, Steven Pavlak, Andrea Yagodich, and Kenneth Walz. Mr. Mays announced there was a quorum of the Board present to conduct business.

Motion #4: Mr. Walz moved to approve the meeting agenda. Ms. Gilligan seconded the motion. Discussion: Mr. Mays asked that the record reflect that Agenda item 2a was continued. No further discussion. Motion carried 8 – 0.

**Agenda item 6b: Approval of meeting minutes for December 12, 2012 (Exhibit E)**

Motion #5: Mr. Walz moved to approve meeting minutes of December 12, 2012. Mr. Pavlak seconded the motion. Discussion: Mr. Marx stated that agenda item #8a in the December 12, 2012 minutes indicates that the HME Committee took some action on two items, whereas, the Committee minutes state the matter was tabled. Mr. Marx asked the Executive Director to check his notes. Mr. Marx stated he may have reported the Committee's action incorrectly and would like the minutes to reflect that the action was tabled. Mr. Mays stated that Board could not amend its minutes, if the record reflects the actual report. Mr. Mays recommended that the minutes of February 14, 2013 reflect the actual action. Mr. Marx agreed. No further discussion. Motion carried: 7 – Yes, 1 – Abstained (Yagodich)

Mr. Mays asked that the record reflect that the HME Committee report of December 12, 2013, under item #8a of the agenda was incorrect and that the Committee Chairman, Mr. Marx, has informed the Board that the Committee's action on December 12, 2013 was tabled.

**Agenda item #7: OFFICER AND STAFF REPORTS**

**Agenda item 7a: President's Report**

Mr. Mays asked for a motion to go into executive session for the purpose of considering the employment or appointment of a public employee.

Motion #6: Mr. Slabodnick moved to enter Executive Session pursuant to ORC 121.22 (G) to consider the ongoing employment or appointment of a public employee. Ms. Yagodich seconded the motion. Discussion: None. Roll call vote:

Marc Mays -	Yes	Kenneth Walz -	Yes
Joel Marx -	Yes	Robert Cohn, M.D. -	Yes
Steven A. Pavlak -	Yes	Carol Gilligan -	Yes
Andrea Yagodich -	Yes	Robert Slabodnick -	Yes

Motion carried.

The Board entered executive session at 9:53 a.m. and returned to regular, public session at 10:35 a.m. All other parties were asked to leave the room. Mr. Logsdon was asked to join the Board at 10:12 a.m.

Mr. Mays stated that the Board directs the Executive Director to attend the annual AARC national conference and alternatively the annual Council on Licensure, Enforcement and Regulation meetings, or the annual National Board for Respiratory Care meetings, as required.

Motion #7: Ms. Yagodich moved to approve the Executive Director's annual performance review and to continue his ongoing employment as the Executive Director of the Ohio Respiratory Care Board. Mr. Slabodnick seconded the motion. Discussion: None. Motion carried 8 – 0.

Mr. Mays stated that Dr. Cohn was retiring from the Board. Mr. Mays took a moment to recognize Dr. Cohn for his service to the Board and the State of Ohio.

Motion #8: Mr. Slabodnick moved to approve the President's Report. Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 8 – 0.

**Agenda item 7.b: Executive Director's Report (Exhibit F)**

Mr. Logsdon submitted a written report to the Board. He verbally reviewed the report.

1. Mr. Logsdon reviewed the financial activity report for FY 2013. Mr. Logsdon reported that the Board was currently under budget, but suggested that intra-state service billing were not current. Disbursements and funds balances were provided.
2. Mr. Logsdon also reported that his written report concerning FY 2014/2015 budget recommendations contained an error. He correctly reported that the budget recommendations for the Board were less than requested. Mr. Logsdon provided the Board with a copy of the Executive Budget recommendation and recommended that the Board accept the Executive Budget recommendations for FY 2014/2015.

3. Mr. Logsdon reviewed the FY 2013 revenue totals and sources.
4. Mr. Logsdon then reviewed the license statistics report as January 28, 2013.
5. Mr. Logsdon reported on his travel and meetings since the Board's prior meeting.
6. Mr. Logsdon reported on the State's acquisition of a new licensing system for the professional regulatory boards.
7. Last, Mr. Logsdon reported that he is not monitoring any legislation, due to the end of the previous General Assembly. Mr. Logsdon reported that the Human Trafficking bill, H.B. 247 passed, but did not include a provision requiring health care professional to obtain continuing education on the subject. Mr. Logsdon recommended that the Board withdraw its proposed rule addressing Human Trafficking continuing education.

Discussion: None.

Motion #9: Ms. Gilligan moved to approve the Executive Director's report. Mr. Walz seconded the motion. Discussion: None.  
Motion carried: 8 – 0.

#### **Agenda item 7.c: HME Manager's Report (Exhibit G)**

Ms. Tatum filed a written report and gave a brief verbal overview of the report.

Motion #10: Mr. Marx moved to approve the HME Manager's report. Ms. Yagodich seconded the motion. Discussion: None.  
Motion carried: 8 – 0.

#### **Agenda item #8: COMMITTEE REPORTS**

##### **Agenda item 8.a: Scope of Practice Committee Report (Exhibits H – I)**

Mr. Mays reported that he chaired the Scope of Practice Committee meeting in Dr. Cohn's absence. Mr. Mays reported that the committee approved its prior minutes and then considered two scope of practice inquiries concerning the practice of respiratory care. Mr. Rory Mullins, he stated, filed the first inquiry reviewed. Mr. Mays read the inquiry, which asked if respiratory therapists could administer chlorhexidine rinse as a standard antiseptic agent for patients on mechanical ventilators. Mr. Mays stated that the Executive Director prepared a draft response, which was reviewed by the Committee. Mr. Mays read the response and stated that the Committee recommends approving the response.

Next, Mr. Mays discussed the Committee's review of an inquiry submitted by Ms. Pamela Gammon. Ms. Gammon, he stated, inquired if respiratory therapists can provide multiple services and what the litigation issues could be, if any, for therapists engaged in the services described. Mr. Mays stated that the Executive Director prepared a draft response that advised Ms. Gammon that some of the services she described were within the scope of respiratory care practice, but that others were not. Mr. Mays stated that the draft response instructs Ms. Gammon to evaluate each of the services she listed using section 4761.01 of the Revised Code as the measure. Finally, Mr. Mays noted that the draft response instructs Ms. Gammon to contact her own legal counsel concerning litigation or possible litigation.

Mr. Mays asked the Board to consider the two draft responses and approve each response.

Motion #11: Ms. Yagodich moved to approve the Scope of Practice Committee report and the response prepared for Mr. Mullins and Ms. Gammon. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 8 – 0.

**Agenda item 8.b: HME Committee Report (Exhibit J)**

HME Committee – Joel Marx

Mr. Marx reported on the activities of the HME Committee. Mr. Marx approved the Committee's prior meeting minutes. He stated that the Committee reviewed an inquiry concerning the sale of CPAP/BiPAP accessories (tubing, tubing insulators, mask cushions, filters, and headgear) through a KIOSK at retail pharmacies without a prescription. The inquiry, filed by Mr. Andrew Bowman inquired if the practice was acceptable without requiring a prescription. Mr. Marx discussed the Committee's response. Mr. Marx stated that headgear with a patient interface, CPAP/BiPAP masks would require a prescription.

Discussion: Ms. Gilligan noted that the sale of CPAP/BiPAP masks or headgear with a patient interface would constitute the sale of HME equipment and would require a license or certificate of registration issued by the Board, unless the facility met one of the exception listed under ORC 4752.02. Mr. Logsdon inquired about the classification of CPAP/BiPAP masks and headgear with patient interface as HME equipment. After general discussion it was agreed that these items meet the definition of HME equipment as defined under OAC 4761:1-3-02 (C)(7).

Next, Mr. Marx stated that the HME Committee discussed an inquiry asking if the sale of Gamma ray devices for treatment of cancer require an HME license or certificate of registration. Mr. Marx stated that the physician in a physician office applies the technology. After discussion, the Committee, Mr. Marx reported, recommended that the item did not meet the definition of HME under ORC 4752.01 (B).

Motion #12: Mr. Walz moved to approve the recommendations HME Committee and the HME Committee report. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 8 – 0.

**Agenda item #9: PROBABLE REVIEW COMMITTEE REPORT**

Motion #13: Mr. Walz moved to enter Executive Session for the purpose of discussing proposed disciplinary action against licensees under R.C. 121.22(G)(3) and which 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. Pavlak seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Kenneth Walz -	Yes
Joel Marx -	Yes	Robert Cohn, M.D. -	Yes
Steven A. Pavlak -	Yes	Carol Gilligan -	Yes
Andrea Yagodich -	Yes	Robert Slabodnick -	Yes

Motion carried.

The Board entered executive session at 11:43 a.m., and returned to regular, public session at 11:44 a.m. Eight Board members were present during executive session. Mr. Logsdon, Mr. Isom and Ms. Hagele were present during Executive Session.

Motion #14: Ms. Yagodich moved to enter Executive Session for the purpose of considering the investigation of charges or complaints against a licensee under R.C. 121.22(G)(1) and which involves matters that are required to be kept confidential under R.C. 149.43(A)(2) and R.C. 4761.031 and 4752.08 (B). Mr. Slabodnick seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Kenneth Walz -	Yes
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Joel Marx -	Yes	Robert Cohn, M.D. -	Yes
Steven A. Pavlak -	Yes	Carol Gilligan -	Yes
Andrea Yagodich -	Yes	Robert Slabodnick -	Yes

Motion carried.

The Board entered executive session at 11:48 a.m., and later returned to regular, public session at 12:00 p.m. Eight Board members were present during executive session. Mr. Logsdon, Mr. Isom and Ms. Hagele were present during Executive Session.

*\*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 9.b: Approval of Opportunity for Hearing Notices (Exhibit K)**

Motion #15: Ms. Yagodich moved to issue an opportunity for hearing notice in accordance with ORC 119.07 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>
K.	2013ORCB045 (Jessica M. Fayne, RCP.12722)	Violated code of ethical & professional conduct	Violation of Board ORC4761.09 (A) (2)

Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 7 – Yes, 1 – abstained (Mr. Slabodnick).

**Agenda item 9.c: Consent Agreement Approval (Exhibits L)**

*\*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: Ms. Gilligan moved to approve the consent agreement between the Board and the following cases:

**RCB Agreements**

<u>Exh. #</u>	<u>Case no. /Respondent</u>	<u>Violation</u>	<u>Action</u>
L.	Case #2013ORCB019 (Chris M. Lewis, RCP.11294)	Failed to complete Continuing education in term in violation of OAC 4761-9-02	Reprimand and fine

Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 7 – yes, 1 – abstained (Mr. Slabodnick)

The Board meeting broke for lunch at 12:05 p.m. and returned to regular, public session at 1:04 p.m.

**Agenda item #10 & 11: CASE DELIBERATION IN PRIVATE SESSION**

**Agenda item 10.a: In the matter of Deborah A. Makowski**

Motion #17: Ms. Gilligan moved to go into private session for the purpose of entering into quasi-judicial deliberations concerning proposed disciplinary action in the matter of Deborah A. Makowski. Mr. Slabodnick seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Kenneth Walz -	Yes
Joel Marx -	Yes	Robert Cohn, M.D. -	Yes
Steven A. Pavlak -	Yes	Carol Gilligan -	Yes
Andrea Yagodich -	Yes	Robert Slabodnick -	Yes

Motion carried.

The Board moved into private session at 1:05 p.m., and returned to regular, public session at 1:45 p.m. Dr. Cohn, Ms. Gilligan and Ms. Yagodich were excused from participation. Six Board members and Mr. Logsdon were present during private session.

**Agenda item 10.c: In the matter of Bonnie L. Bilko**

Motion #18: Ms. Gilligan moved to go into private session for the purpose of entering into quasi-judicial deliberations concerning proposed disciplinary action in the matter of Bonnie L. Bilko. Ms. Yagodich seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Kenneth Walz -	Yes
Joel Marx -	Yes	Robert Cohn, M.D. -	Yes
Steven A. Pavlak -	Yes	Carol Gilligan -	Yes
Andrea Yagodich -	Yes	Robert Slabodnick -	Yes

Motion carried.

The Board moved into private session at 1:47 p.m., and returned to regular, public session at 2:30 p.m. Dr. Cohn was excused from participation. Seven Board members and Mr. Logsdon were present during private session.

Agenda item #12: FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JOURNAL ENTRIES

**Agenda item 12.a: In the matter of Deborah A. Makowski (Case #2012ORCB062) (Exhibit M)**

The Ohio Respiratory Care Board

**Adjudication Order**

**In the Matter Of:**

Deborah A. Makowski  
168 Grant Avenue  
Barberton, OH 44203

THE MATTER OF DEBORAH A. MAKOWSKI CAME BEFORE THE FOLLOWING MEMBERS OF THE OHIO RESPIRATORY CARE BOARD ON DECEMBER 12, 2012 AT 9:15 A.M. IN THE BOARD ROOM, 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, JOEL MARX, HME MEMBER, ROBERT COHN, M.D., KENNETH WALZ, J.D., R.R.T, R.C.P., STEVEN PAVLAK, R.R.T., M.S., AND ROBERT SLABODNICK, R.R.T, M.Ed. 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. SERVED AS THE APPOINTED HEARING OFFICER IN THIS MATTER.

MICHELLE T. SUTTER, ASSISTANT ATTORNEY GENERAL, REPRESENTED THE STATE OF OHIO.

DEBORAH A. MAKOWSKI APPEARED PRO SE.

CHERYL COLLINS-JOHNSON WAS THE HEARING REPORTER FROM DEPOSITION SPECIALISTS, INC. 35 EAST GAY STREET, SUITE 300, COLUMBUS, OH 43215.

**Preliminary matters:**

Ms. Sutter moved for separation of witnesses and to have State's exhibit D-2 sealed due to its confidential nature. Hearing no objection, Mr. Walz ordered witnesses separated. Mr. Walz stated that he would take up the matter of State's exhibit D-2 at the appropriate time during the hearing.

**State's Exhibits admitted:**

- A - Notice of Opportunity for Hearing approved on August 16, 2012 and mailed to Deborah A. Makowski by certified mail/return receipt #7005 1820 0000 0296 2174 on August 28, 2012, and a signed return receipt for article #7005 1820 0000 0296 2174.
- B - Hearing scheduling letter, dated September 27, 2012, mailed to Deborah A. Makowski by certified mail/return receipt #7005 1820 0000 0296 2426 on September 27, 2012, and a signed return receipt for article #7005 1820 0000 0296 2426.
- C - Letter of complaint detail submitted to the Ohio Respiratory Care Board by Summa Health System, Director, Timothy Buckley, RRT on May 11, 2012.

- D - Four (4) page **redacted** copy of documents facsimiled to the State of Ohio Unemployment Compensation Review Commission, by Deborah A. Makowski on February 16, 2012.
- D-2 - Four (4) page un-redacted copy of documents facsimiled to the State of Ohio Unemployment Compensation Review Commission, by Deborah A. Makowski on February 16, 2012. **(SEALED RECORD)**
- E - Statement of facts given, by telephone, to the Ohio Respiratory Care Board by Deborah A. Makowski on June 12, 2012.
- F - Electronic mail acknowledgement of statement of facts from Deborah A. Makowski on June 12, 2012.

Witnesses called by the State:

1. Deborah A. Makowski, as on cross-examination
2. Timothy Buckley, RRT, System Director, Summa Health System
3. Anthony Isom, Investigator, Ohio Respiratory Care Board

**Respondent's Exhibits admitted:**

- 1 - Ohio Department of Job and Family Services Request to Employer for Separation Information, dated January 30, 2012.
- 2 - Ohio Department of Job and Family Services Transfer to UC Review Commission Letter and related documents, certification date April 16, 2012.
- 3 - State of Ohio Unemployment Compensation Review Commission Notice That An Appeal Has Been Transferred By The Director To The Review Commission Letter and related documents, mailed April 18, 2012.
- 4 - State of Ohio Unemployment Compensation Review Commission Notice of Hearing, mailed April 20, 2012.
- 5 - State of Ohio Unemployment Compensation Review Commission Notice That A Request For Appeal Has Been Filed, dated March 19, 2012.
- 6 - Electronic mail sent to Deborah A. Makowski from Kathy Weishampel, dated February 28, 2012.
- 8 - Ohio Hospital Association Documents For Upcoming Hearing, dated May 7, 2012. **(SEALED RECORD)**
- 9 - State of Ohio Unemployment Compensation Review Commission Decision, dated April 26, 2012.
- 10 - Summa Health System 2011 Non - Exempt Performance Appraisal Form, dated December 23, 2011.
- 11 - Facsimile Transaction Report, dated November 14, 2012.
- 12 - UCRC Online Unemployment Compensation Review Commission web page, dated December 6, 2012.
- 13 - Respondent's chronological order of events from January 15, 2012 through January 20, 2012.
- 14 - State of Ohio Unemployment Compensation Review Commission Audio CD of Hearing.

Witnesses called by the Respondent:

1. Deborah A. Makowski, appeared on her own behalf

#### FINDINGS OF FACT

1. The Ohio Respiratory Care Board finds that the Notice of Opportunity for Hearing was issued in compliance with Section 119.07 of the Ohio Revised Code.
2. On or about February 16, 2012, Deborah A. Makowski sent a personal statement to the State of Ohio Unemployment Review Commission for an appeal hearing. The personal statement revealed specific patient names and patient information relating the direct care of inpatients under her care while she was employed at Summa Health System.
3. The Board found Deborah A. Makowski's testimony to be truthful and forthcoming.

#### CONCLUSIONS OF LAW

- A. Ohio Revised Code § 4761.09 states in pertinent part:

(A) The Ohio respiratory care board may refuse to issue or renew a license or a limited permit, may issue a reprimand, may suspend or permanently revoke a license or limited permit, or may place a license or limited permit holder on probation, on any of the following grounds:

\*\*\*

- (2) Violating any provision of this chapter or an order or rule of the board;

\*\*\*

- B. Ohio Administrative Code rule 4761-10-01 states, in pertinent part:

\*\*\*

(M) A licensee or permit holder shall disclose health care recipient information only with other health care professionals responsible for providing care to the health care recipient with whom the licensee or permit holder is responsible. At all other times, a licensee or permit holder shall hold as confidential all patient information which the licensee or permit holder has knowledge.

\*\*\*

- C. The issue before the Board is the professional conduct of a licensed respiratory care professional, Deborah A. Makowski. Deborah A. Makowski argues that the use of patient names and patient information during an unemployment compensation appeal hearing did not constitute a violation of her professional code of conduct, because she was only following the advice of the Ohio Unemployment Review Commission's hearing officer. Rule 4761-10-01 of the Ohio Administrative Code; however, does not provide for any exception when it comes to protecting patient information. Instead, the rule states "At all other times, a licensee or permit holder shall hold as confidential all patient information which the licensee or permit holder has knowledge." It is the patient's interests that must be held paramount and it is for this reason a professional code of conduct exists for the practice of respiratory care in Ohio. A licensed respiratory care professional has an obligation to adhere to the professional code of conduct provided for in the rules that regulate the respiratory care profession in Ohio.
- D. The Board concludes that Deborah A. Makowski did violate rule 4761-10-01 (M) of the Ohio Administrative Code; however, in concluding this, the Board finds that Deborah A. Makowski's actions were without malicious intent.

- E. The factual and legal allegations contained in the Notice of Opportunity for Hearing have been proved by a preponderance of the evidence.

**ORDER OF THE BOARD**

THEREFORE, it is ordered, adjudged, and decreed by the Ohio Respiratory Care Board that:

In consideration of these findings and conclusions, the Board hereby places the license of Deborah A. Makowski on PROBATION until such time that the following requirements are completed:

1. One contact hour of respiratory care continuing education on professional ethics, and
2. One contact hour of continuing education on Health Insurance Portability and Accountability Act (HIPAA) confidentiality requirements for "individually identifiable health information" or "protected health information" under the HIPAA Privacy Rule.

Prior to completing continuing education requirements pursuant to this Order, the course description, contact hours assigned, and provider shall be reviewed by the Executive Director of the Board. The Executive Director may approve or not approve the course submissions. The Executive Director shall provide written approval of the course submissions or, if not approved, provide written reasons why the course is not approved.

Upon completion of the probation requirements, as verified by providing proof of completion to the Board, Deborah A. Makowski's license may be immediately returned to Active status.

The Order of the Board shall become effective upon the date of mailing of the Order.

Motion #19: ROBERT SLABODNICK, R.R.T., M.Ed. MOVED FOR FINDINGS OF FACT. STEVEN PAVLAK, R.R.T., M.S. SECONDED THE MOTION. MOTION CARRIED. (AYE – 5/ NO - 0, ABSTAINED – 2 (MS. GILLIGAN AND MS. YAGODICH)). DR. COHN WAS NOT PRESENT FOR THE VOTE.

Motion #20: ROBERT SLABODNICK, R.R.T., M.Ed. MOVED FOR FINDINGS OF FACT. STEVEN PAVLAK, R.R.T., M.S. SECONDED THE MOTION. MOTION CARRIED. (AYE – 5/ NO - 0, ABSTAINED – 2 (MS. GILLIGAN AND MS. YAGODICH)). DR. COHN WAS NOT PRESENT FOR THE VOTE.

Motion #21: ROBERT SLABODNICK, R.R.T., M.Ed. MOVED FOR FINDINGS OF FACT. STEVEN PAVLAK, R.R.T., M.S. SECONDED THE MOTION. MOTION CARRIED. (AYE – 5/ NO - 0, ABSTAINED – 2 (MS. GILLIGAN AND MS. YAGODICH)). DR. COHN WAS NOT PRESENT FOR THE VOTE.

SO ORDERED

This Board hereby certifies that the above language is incorporated into the Board's journal in this case.

Mr. Mays stated that the original order shall be signed by the Board President and attached as an exhibit to the meeting minutes.

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**Agenda item 12.b: In the matter of Bonnie L. Bilko (Case #2007ORCB051) (Exhibit N)**

The Ohio Respiratory Care Board

**Adjudication Order**

**In the Matter Of:**

Bonnie L. Bilko  
4385 West 50<sup>th</sup> Street  
Cleveland, OH 44144

THE MATTER OF BONNIE L. BILKO CAME BEFORE THE FOLLOWING MEMBERS OF THE OHIO RESPIRATORY CARE BOARD ON FEBRUARY 13, 2013 AT 10:02 A.M. IN THE BOARD ROOM, 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, JOEL MARX, HME MEMBER, ROBERT COHN, M.D., KENNETH WALZ, J.D., R.R.T., R.C.P., STEVEN PAVLAK, R.R.T., M.S., CAROL GILLIGAN, HME MEMBER, ANDREA D. YAGODICH, B.S., R.R.T., R.C.P., AND ROBERT SLABODNICK, R.R.T, M.ED. 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. SERVED AS THE APPOINTED HEARING OFFICER IN THIS MATTER.

COURTNEY L. HAGELE, ASSISTANT ATTORNEY GENERAL, REPRESENTED THE STATE OF OHIO.

BONNIE L. BILKO (HEREAFTER REFERRED TO AS "MS. BILKO") DID NOT REQUEST A HEARING BEFORE THE BOARD. THIS HEARING WAS HELD PURSUANT TO *GOLDMAN VS. STATE MEDICAL BOARD OF OHIO*, (MARCH 29, 1996), FRANKLIN COUNTY COURT OF APPEALS, 95APE 10-1358 (UNREPORTED).

TERESA L. MANTZ WAS THE COURT REPORTER, DEPOSITION SPECIALISTS, INC. 35 EAST GAY STREET, SUITE 300, COLUMBUS, OHIO 43215.

**Preliminary matters:**

None.

**State's Exhibits admitted:**

- 1a – Notice of Opportunity for Hearing approved on October 10, 2012 and mailed to Bonnie L. Bilko by certified mail/return receipt #7011 1150 0001 6788 5317 on October 17, 2012.
- 1b - Signed return receipt for certified mail article #7011 1150 0001 6788 5317.
- 2a – Evidentiary Review Hearing Notice mailed to Bonnie L. Bilko by certified mail/return receipt #7011 1150 0001 6788 5676 on November 19, 2012.
- 2b - Signed return receipt for certified mail article #7011 1150 0001 6788 5676.
- 3 - Certified copy of a Consent Agreement in the matter of Bonnie L. Bilko approved on August 20, 2007 and a certified copy of a Notice of Opportunity for Hearing dated March 8, 2007.
- 4 – Certified copy of a Consent Agreement in the matter of Bonnie L. Bilko approved October 21, 2009.
- 5a – Certification to Copy Affidavit dated October 2, 2012 from the Geauga County, Chardon Municipal Court.
- 5b - Certified copies of Bonnie L. Bilko's final journal conviction entry for OVI, dated September 4, 2012, from Chardon Municipal Court, Geauga County, Ohio.

5c - Certified copies of Addendum to Order, dated September 4, 2012, from Chardon Municipal Court, Geauga County, Ohio.

6 - Affidavit of Executive Director Christopher H. Logsdon dated February 5, 2013.

Witnesses called by the State:

1. Christopher H. Logsdon, Executive Director, Ohio Respiratory Care Board

#### **FINDINGS OF FACT**

1. The Ohio Respiratory Care Board finds that the Notice of Opportunity for Hearing was issued in compliance with Section 119.07 of the Ohio Revised Code.
2. The Board finds that Bonnie L. Bilko did not request a hearing before the Board.
3. On or about August 20, 2007, Bonnie L. Bilko entered into a consent agreement with the Board, wherein she agreed to the following condition:
  - a. Paragraph 9 (A)(v) stated: "Ms. Bilko shall not use or possess illegal drugs or consume alcohol or other intoxicating substances."
4. On or about June 5, 2009, Bonnie L. Bilko was convicted of "Having Physical Control of Vehicle While Under the Influence," a misdemeanor offense in violation of ORC 4511.194 of the Revised Code, case #TRC0900371 in the Newton Falls Municipal Court, Newton Falls, Ohio. Through her arrest and conviction on June 5, 2009, she violated condition 9 (A)(v) of the August 20, 2007 consent agreement.
5. On or about October 21, 2009, Bonnie L. Bilko entered into a second consent agreement with the Board, wherein she agreed to the following conditions:
  - a. Paragraph 9 (A)(i) stated: Ms. Bilko shall obey all federal, state and local laws, and all rules governing the practice of respiratory care in Ohio. Any arrest, criminal charge, citation, guilty or no contest plea, criminal jury verdict, conviction or treatment in lieu of conviction for any crime other than a minor misdemeanor traffic offense after the effective date of this agreement shall constitute a violation of this agreement and an order of the Board.
  - b. Paragraph 9 (A) (v) stated: "Ms. Bilko shall not use or possess illegal drugs or consume alcohol or other intoxicating substances."
6. On or about September 4, 2012, Bonnie L. Bilko was convicted of "Driving Under the Influence," a misdemeanor offense in violation of ORC 4511.19 (A)(1)(A) of the Revised Code, case #2012 TR C 05082 in the Chardon Municipal Court, Chardon, Ohio.
7. Bonnie L. Bilko self-reported her conviction to the Board on October 2, 2012.
8. Although Bonnie L. Bilko self-reported this conviction to the Board, it is noted that this offense occurred during the active term of the October 21, 2009, consent agreement. This consent agreement is the second agreement Bonnie L. Bilko entered into with the Board and it was based on similar facts as the first agreement Bonnie L. Bilko entered into with the Board on August 20, 2007. The Board finds this is an aggravating fact.

**CONCLUSIONS OF LAW**

A. Ohio Revised Code § 4761.09 (A) states, in part:

(A) The Ohio respiratory care board may refuse to issue or renew a license or a limited permit, may issue a reprimand, may suspend or permanently revoke a license or limited permit, or may place a license or limited permit holder on probation, on any of the following grounds:

\*\*\*

(2) Violating any provision of this chapter or an order or rule of the board; (Emphasis added)

\*\*\*

B. Section 4761.09 (A) (14) states, in pertinent part:

\*\*\*

A consent agreement, when ratified by the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no effect. (Emphasis added)

\*\*\*

C. The Board concludes that Bonnie L. Bilko did violate an Order of the Board by committing a violation of the consent agreement she entered into on October 21, 2009.

D. The factual and legal allegations contained in the Notice of Opportunity for Hearing have been proved by a preponderance of the evidence.

Motion #22: CAROL GILLIGAN, HME MEMBER MOVED FOR FINDINGS OF FACT. ANDREA D. YAGODICH, B.S., R.R.T. SECONDED THE MOTION. MOTION PASSED (AYE – 7/NO – 0/ABSTAINED – 1(DR. COHN)).

Motion #23: ROBERT SLABODNICK, R.R.T, M.ED. MOVED FOR CONCLUSIONS OF LAW; ANDREA D. YAGODICH, B.S., R.R.T. SECONDED THE MOTION. MOTION PASSED (AYE – 7/NO – 0/ABSTAINED – 1 (DR. COHN)).

Mr. Mays asked if there was a motion for the Order in the matter of Bonnie L. Bilko. Mr. Marx moved the following Order:

**ORDER OF THE BOARD**

A. In consideration of these findings and conclusions, the Board hereby suspends Bonnie L. Bilko's license to practice respiratory care for a period of one year. Following the term of suspension, Bonnie L. Bilko shall be eligible for reinstatement of her license and will be placed on probation for a period of three (3) years. The following conditions shall be met during the term of suspension and probation:

- 1) Bonnie L. Bilko shall obey all federal, state and local laws, and all rules governing the practice of respiratory care in Ohio. Any arrest, criminal charge, citation, guilty or no contest plea, criminal jury verdict, conviction or treatment in lieu of conviction for any crime other than a minor misdemeanor traffic offense after the effective date of this Order shall constitute a violation of an Order of the Board.

- 2) Bonnie L. Bilko shall submit to an alcohol and/or drug dependency assessment administered by a Certified License Physician or Drug Assessment Counselor approved by the Executive Director of the Board within 30 days of the reinstatement of her license. Bonnie L. Bilko will be responsible to submit names and addresses of a Certified License Physician or Drug Assessment Counselor to the Board for approval prior to seeking an assessment. Bonnie L. Bilko is responsible for paying the costs of the alcohol and/or drug dependency assessment and any treatment recommended by the Certified License Physician or Drug Assessment Counselor. Upon completion of the assessment, Bonnie L. Bilko shall follow all orders for recommended treatment and aftercare and will remain in the course of treatment and aftercare for the full term of this Order or as recommended otherwise by the treatment provider. The Board shall receive a final discharge report from the treatment provider. Bonnie L. Bilko is responsible for furnishing such reports to the Board.

If Bonnie L. Bilko completed an alcohol and/or drug dependency assessment administered by a Certified License Physician or Drug Assessment Counselor and completed the prescribed course of treatment during the term of her suspension, she shall furnish a final discharge report from the treatment provider. The Executive Director of the BOARD shall have discretionary authority to accept or refuse the alcohol and/or drug dependency assessment administered by a Certified License Physician or Drug Assessment Counselor and/or the prescribed course of treatment. In the event, the Executive Director of the BOARD refuses the alcohol and/or drug dependency assessment and/or the prescribed course of treatment, Bonnie L. Bilko shall be required to repeat the requirements of this section.

- 3) Bonnie L. Bilko shall execute a valid release, allowing the Board to obtain her medical and treatment records from the pre-approved alcohol treatment program.
- 4) Bonnie L. Bilko shall attend Alcoholics Anonymous, or other board-approved meetings, no less than two (2) times per week or as recommended otherwise by the treatment provider. Bonnie L. Bilko is responsible for providing the Board with monthly written documentation of attending such meetings.
- 5) Bonnie L. Bilko shall not use or possess illegal drugs or consume alcohol or other intoxicating substances.
- 6) Bonnie L. Bilko shall not use or possess prescription drugs, except those prescribed, dispensed or administered to her by another so authorized by law who has full knowledge of Bonnie L. Bilko's history of chemical dependency, as evidenced by a written acknowledgement of having reviewed this Order. Any use of a prescription drug in a manner or dosage inconsistent with a physician's prescription will constitute a violation of this Order.
- 7) Bonnie L. Bilko shall submit to random drug and alcohol testing in the manner prescribed by the Board. Bonnie L. Bilko shall pay for such testing. If such drug test evidences the use of alcohol, illegal or non-prescribed prescription drugs it shall be deemed a violation of this Order. A failure to submit a drug screen upon request and any adulterated OR diluted toxicology result shall constitute a positive screen for the purposes of this Order. It is the responsibility of Bonnie L. Bilko to have on file with the board a working phone number with messaging system. A failure to do so will be a violation of this Order. The Investigator or agent's request of drug screen by said messaging system constitutes an authorized drug screen request for the purposes of this Order.

Motion #24: JOEL MARX MOVED FOR THE ORDER OF THE BOARD. CAROL GILLIGAN SECONDED THE MOTION. DISCUSSION: MEMBERS DISCUSSED HOW THE RESPONDENT WOULD VALIDATE COMPLETION OF THE PROBATIONARY REQUIREMENTS. MEMBERS EXTENSIVELY DISCUSSED COMPLIANCE WITH THE REQUIREMENTS DURING THE TERM OF SUSPENSION. MR. MAYS EXPRESSED CONCERN THAT MOTION IS

LENIENT. MS. GILLIGAN ARGUED THAT THE RESPONDENT WAS COMPLIANT FOR THE MAJORITY OF THE TERM OF HER PRIOR AGREEMENT AND SHOULD BE GIVEN AN OPPORTUNITY. MR. PAVLAK AND MS. YAGODICH VOICED AFFIRMATION OF MR. MAYS' POSITION. MR. SLABODNICK EXPRESSED HIS CONCERN THAT THE EVIDENCE DEMONSTRATES A LACK OF REGARD FOR THE BOARD'S DECISIONS. MOTION FAILED. (AYE - 2, NO - 5/ ABSTAINED - 1 (DR. COHN)).

Mr. Mays asked if there was another motion on the Order in the matter of Bonnie L. Bilko. Mr. Walz moved the following Order

**ORDER OF THE BOARD**

THEREFORE, it is ordered, adjudged, and decreed by the Board that:

In consideration of these findings and conclusions, the Board hereby PERMANENTLY REVOKES Bonnie L. Bilko's license to practice respiratory care in the state of Ohio.

The Order of the Board shall become effective upon the date of mailing of the Order.

Motion #25: KENNETH WALZ, J.D., R.R.T, R.C.P. MOVED FOR THE ORDER OF THE BOARD; STEVEN PAVLAK, R.R.T., M.S. SECONDED THE MOTION. MOTION PASSED. (AYE - 5, NO - 2/ ABSTAINED - 1 (DR. COHN)).

SO ORDERED

This Board hereby certifies that the above language is incorporated into the Board's journal in this case.

Mr. Mays stated that the original order shall be signed by the Board President and attached as an exhibit to the meeting minutes.

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**Agenda item #13: NEW BUSINESS**

**Agenda item 13.a: Application ratification for Respiratory Care Licenses and Limited Permits (Exhibit O)**

Motion #26: Ms. Yagodich moved to ratify respiratory care professional licenses and limited permits issued on the following dates:

Limited Permits issued on: December 6, 2012, December 13, 2012, December 20, 2012, December 28, 2012, January 3, 2013, January 10, 2013, January 17, 2013, January 24, 2013, and January 31, 2013.

Respiratory Care Professional Licenses issued on: December 6, 2012, December 13, 2012, December 20, 2012, December 28, 2012, January 3, 2013, January 10, 2013, January 17, 2013, January 24, 2013, and January 31, 2013.

Mr. Pavlak seconded the motion. Discussion: None. Motion carried 8 - 0.

**Agenda item 13.b: Application ratification for Home Medical Equipment Licenses and Certificates of Registration (Exhibit P)**

Motion #27: Mr. Walz moved to ratify HME licenses and certificates of registration issued on the following dates:

HMEL  
December 4, 2012, December 20, 2012, and January 9, 2013.

HMER  
November 27, 2012, December 4, 2012, December 14, 2012, December 20, 2012, December 28, 2012, January 15, 2013, January 17, 2013, January 24, 2013, and January 29, 2013.

Mr. Slabodnick seconded the motion. Discussion: None. Motion carried: 8 – 0.

**Agenda item 13.c: Review of Testimony from Rules Hearing and Consideration of Proposed Rules (Exhibit Q)**

Motion #28: Mr. Walz moved to approve resolution #28 on the final filing of proposed rules:

**Chapter 4761 proposed rescinded rule:**

4761-5-01(rescind) Recognized examinations.

**Chapter 4761 proposed new or amended rules:**

4761-5-01(new) Waiver of licensing requirements pursuant to division (B) of section 4761.04 of the Revised Code.  
4761-5-04 (amend) License application procedure.  
4761-8-01 (amend) Renewal of license or permits.

**Chapter 4752 proposed amended rules:**

4761:1-10-03 (amend) Licensees and certificate holders must comply with investigations conducted by the board.

Ms. Yagodich seconded the motion. Discussion: Mr. Marx expressed disappointment that the groups in opposition offered no compromises. The Executive Director explained the rules filing process and the purpose of the JCARR hearing. No further discussion. Motion carried: 8 – 0.

Mr. Marx was excused from the meeting at 3:06 p.m.

**Agenda item 13.d: Discussion on District of Columbia (Exhibit R)**

Mr. Logsdon presented information on the District of Columbia. Mr. Logsdon explained that the Ohio Revised Code and Board rules use the term “state”. Mr. Logsdon asked the Board to consider a motion that recognizes the District of Columbia as having equivalence to a state for the purpose of issuing a license, renewing a license or granting limited exception to licensing under ORC 4761.11 (A)(4).

The Board discussed the matter and Ms. Yagodich moved the following:

Motion #29: Ms. Yagodich moved to recognize the District of Columbia as a state for the purpose of issuing a respiratory care professional license, renewing a respiratory care professional license, or granting exception to licensing requirements as a non-resident under Section 4761.11(A)(4) of the Revised Code. Mr. Pavak seconded the motion. Discussion: None. Motion carried: 7 – 0.

**Agenda item 13.e: Forms approval (Exhibit S)**

Motion #30: Ms. Gilligan moved to approve the 2013 Winter Newsletter. Mr. Slabodnick seconded the motion. Discussion: None. Motion carried: 7 – 0.

**Agenda item #14: OPEN FORUM**

There were no appearances for open forum.

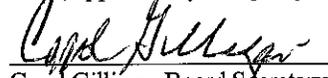
**Agenda item #15: FOR THE GOOD OF THE BOARD**

There were no matters for the good of the Board.

**Agenda item #12: ADJOURNMENT**

Hearing no objection, Mr. Mays adjourned the meeting at 3:20 p.m.

Board President's Certification: These are a true account of the proceedings in accordance with Section 121.11 of the Ohio Revised Code, approved by a majority of a quorum of the membership of the Board on April 17, 2013.

  
\_\_\_\_\_  
Carol Gilligan, Board Secretary

  
\_\_\_\_\_  
Witness