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OHIO RESPIRATORY CARE BOARD

77 SOUTH HIGH STREET, 16TH FLOOR

COLUMBUS, OHIO 43215-6108

OFFICIAL BOARD MEETING MINUTES OF August 26, 2009

NOTE ON COMMITTEE MEETINGS

The Board's Rules, Home Medical Equipment and Education Committees met prior to the regular business meeting. The Education Committee met at 9:18 a.m. in room West B&C on the 31st floor, Vern Riffe Center for the Government and Arts. The Home Medical Equipment Committee met at 9:40 a.m. in room West B&C, 31st floor, Vern Riffe Center for the Government and Arts. Official minutes of the committee meetings were taken and are maintained separate of this journal. Committee Chairpersons for each committee gave a report during the course of the regular business meeting.

August 26, 2009

Regular Business Meeting

Agenda items #1: CALL MEETING TO ORDER

Presiding: Marc Mays, President, called the meeting to order on August 26, 2009 at 10:20a.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., Carol Gilligan, HME member, Joel Marx, HME member, Robert Cohn M.D., Esther L. Kester, R.R.T., R.C.P., Darrell L. Heckman, J.D., Public Member, Ken Walz, J.D., R.R.T, R.C.P. and Anita Adams, M.B.A, 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.

Joel Marx, HME Provider Member, Secretary

Carol Gilligan, HME Provider Member

Robert Cohn, M.D.

Darrell L. Heckman, J.D.

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

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

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

Staff in attendance:

Christopher H. Logsdon, Executive Director

Anthony Isom, Investigator

Marcia Tatum, HME Manager (arrived at 2:45 p.m.)

Others in Attendance:

Yvonne Tertel, Assistant Attorney General

Victoria Shorter

Tommie R. Weaver

Lynn Gorton

Kathleen R. Lewis

Kamela Yuricich

Zach Haughawout, Joint Committee on Agency Rule Review

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

The proposed meeting agenda was mailed in advance of the meeting. Mr. Mays inquired if there were any amendments to the business agenda. Hearing none, he asked for a motion to approve the agenda

Motion #1: Ms. Adams moved to approve the meeting agenda for August 26, 2009. Ms. Kester seconded the motion. Discussion: None. Motion carried: 9 - 0.

Agenda item 1.2: Approval of previous Board Meeting Minutes

Mr. Mays asked the membership if they had the opportunity to review the minutes. All answered affirmatively. Mr. Mays asked if there was a motion to approve the minutes. Mr. Walz stated there was an error on page 8 that needed corrected. He noted that under agenda item 3.3, Mr. Marx should be changed to Mr. Heckman. Mr. Marx inquired about the use of the term "fiscal year." He asked if FY 2009 should be FY 2010. Mr. Logsdon stated the minutes were correct as reported.

Motion #2: Ms. Gilligan moved to approve the meeting minutes from June 9, 2009. Mr. Marx seconded the motion. Discussion: No further discussion. Motion carried: 9 – 0. Mr. Mays directed Mr. Logsdon to correct the minutes as indicated.

Agenda item 1.3: Correction of April 14 & 15, 2009 Meeting Minutes

Mr. Mays asked Mr. Logsdon to discuss the issue. Mr. Logsdon stated that an error in the minutes required correction. He directed the members to page 15, paragraph H, stating "Rose Marie Stewart" should be deleted and "Christine Mosser" should be inserted. Mr. Marx apologized for not catching the error.

Motion #3: Ms. Ciarlariello moved to approve the corrected meeting minutes from April 14 & 15, 2009. Mr. Walz seconded the motion. Discussion: No further discussion. Motion carried: 9 – 0.

Agenda item #2: BOARD OFFICER AND STAFF REPORT

Agenda item 2.1: President's Report

Mr. Mays gave a verbal report. He informed the members that he would be starting the annual performance evaluation process for the Board's Executive Director. Mr. Mays stated that the process would be very similar to the prior year and he advised members that this would include active input from each of the Board members.

Next, Mr. Mays stated that Mr. Logsdon had taken a two-week vacation and that the office function went very well during his leave.

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

Mr. Logsdon issued a written report. He verbally reviewed the following matters:

1. Mr. Logsdon stated that the Board just began FY 2010, informing the membership that the Board's budget was reduced under H.B. #1. Mr. Logsdon stated that funding for the agency was rolled back to 2008 levels for both FY 2010 and FY 2011. A review of the Board's current expenditure needs was completed, he reported and Mr. Logsdon expressed his confidence that FY 2010 funding will sufficiently meet the agency's expenditure needs. Mr. Logsdon stated that he was not as confident for FY 2011 due to a lack of inspection funding for HME facilities. Mr. Logsdon stated that FY 2011 was the first year of a four-year inspection cycle and the current budget does not fund the Board's anticipated activity for FY 2011. Mr. Logsdon stated that the agency has implemented a number of cost saving measures, including decreasing Board meetings to one-day, rather than two-days, reducing inspector contracts for inspections by 15%, and a proposal to eliminate paper I.D. cards and mailing.

2. Mr. Logsdon directed members to Board revenue and expenditures listed in his written report and inquired if there were any questions.

3. Mr. Logsdon discussed the state's new travel reporting system. He stated that Board members would be handled as proxy participants and board staff would enter all travel data. The system, he stated, should increase the payment-processing rate and provide members with quicker reimbursement.

Discussion: Mr. Marx asked Mr. Logsdon to provide definitive guidance for members that travel to Columbus for personal business on days adjacent to board meetings. Specifically, he asked if members should turn in mileage. Mr. Logsdon stated that he would research the issue.

Agenda item 2.3: HME Manager's Report

Ms. Tatum issued a written report. A brief verbal review was provided. Ms. Tatum reported that the Board has approved 8 new HME licenses and 26 new HME Registrations since the last meeting. Ms. Tatum reported that six applications are currently pending. Ms. Tatum also reported on the number of inspections scheduled and outstanding for licensed HME facilities. She informed the Board that

the agency completed nineteen inspections in May and June 2009 and that thirteen of those inspections had been reviewed and approved.

Ms. Tatum stated that she has sent all inspectors new contracts for FY 2010. She stated that the contracts reflect the reduced funding of the Board and do not exceed $2,400 each. In addition, a rate reduction of 15% was proposed in each. So far, two inspectors have agreed to the terms and she reported that no others have contacted her concerning the proposed contracts.

Last, Ms. Tatum reported on the number of HME license and certificate of registration renewal applications filed in FY 2010.

Motion #4: Ms. Kester moved to approve the Officer and Staff Reports filed. Mr. Heckman seconded the motion. Discussion: None. Motion carried: 9 - 0.

The Board took a break at 10:37 a.m. and returned to public session at 10:50 a.m.

Agenda item #3: BOARD COMMITTEE REPORTS

Agenda item 3.1: HME Committee Report

Mr. Marx stated that the committee met at 9:45 a.m. this morning. Mr. Marx stated that the Committee approved the prior meeting minutes, and reviewed a number of issues: (1) the Committee, he stated, considered a request from the Executive Director to review a n Eye Response Technology System to determine if the system would be included as an HME device or equipment and therefore regulated under ORC 4752. Mr. Marx stated that the Committee determined that the system was a medical communication system, but not home medical equipment as it is defined under ORC 4752.01, and (2) the Committee reviewed electronic correspondence sent to the Board's Executive Director from the Executive Director of the Board of Orthotics, Prosthetics, and Pedorthics. Mr. Marx stated that the Committee did not act on the letter. Mr. Marx also stated that the Committee reviewed the inspection report for FY 2010 and found everything to be acceptable. Last, Mr. Marx reported that the HME Committee reviewed a request by DMETRAIN.COM to be recognized as a provider of continuing education for HME facilities. The Committee, he stated, will be recommending approval.

Mr. Mays inquired about Mr. Marx's understanding of language in HB #1 that would require nursing facilities to provide HME services under a capped state Medicaid rate. These services, he stated would include complex rehabilitation, oxygen, speech pathology, physical therapy, and others would be lumped together and given to the nursing facility to provide under the per bed per diem rate. Mr. Marx stated that the change would have a significant impact on HME providers that currently provide included HME services to nursing facilities. Mr. Marx stated that the concern is if the services would be provided at the same level of service currently offered by licensed or registered HME facilities. Further, Mr. Marx stated that the HME law, under ORC 4752.02, exempts nursing facilities and hospitals from holding a license or certificate of registration to provide HME services and therefore, the Board may not have the jurisdiction to address the issue.

Ms. Gilligan stated that the stakeholders are currently trying to initiate legislation to unbundle these services. The Board, she stated, should be concerned with the quality of care of these patients. Ms. Gilligan stated that oxygen is one of these services. Mr. Marx stated that nursing facilities do have certain regulations they must meet under the department of health standards. Mr. Mays stated that the change was made in law and this absolves the board of concern, because the legislature exempted nursing facilities. Mr. Walz stated that the legislation was likely passed to save costs, but the legislature probably did not consider the quality ramification of the change or the impact on the existing governance. Mr. Mays reiterated that the Board has no jurisdiction in the matter. Mr. Heckman asked the members to give an example of services rendered prior to the change and services to be rendered after the change. Dr. Cohn stated that the concept is not different from the DRG regulations or capitated insurance reimbursements imposed upon hospitals many years ago. Dr. Cohn stated asked if the HME members were concerned, that patient care would worsen under the new changes. Mr. Marx stated that no one is looking out for the patients care. Dr. Cohn asked if nursing facilities had oversight authorities to assure care is performed to standard. Mr. Gilligan agreed that the regulatory oversight for nursing homes would need to adjust to the changes. Ms. Gilligan summarized the concerns of interested parties, including physical therapy, complex rehabilitation providers, oxygen service

provider, and others. Mr. Marx stated that the Board should attempt to verify that the Ohio Department of Health would be regulating the quality of services provided. Mr. Mays stated that this area of care might be new to the Ohio Department of Health. Ms. Ciarlariello stated that the Ohio Department of Health has always, from her perspective, been willing to listen to the input of other interested parties.

Ms. Gilligan asked to address the reimbursement aspect of the new law. She stated that the rate dis-incentivizes providers from giving care at the same level across the care spectrum. She stated that some organizations might be heavily weighted toward patients that have more complex rehabilitation needs. Ms. Gilligan stated that the reimbursement rate is the same for all health care providers, because it is attached to the bed, not the complexity of the patient. Mr. Mays stated that hospitals had the same concern years ago, but the quality of care has actually gone up over time, not down. Mr. Mays stated that he, personally, was not pessimistic about patient outcomes. Last, Ms. Gilligan addressed the issue of services being tied to the bed, not the patient. Ms. Gilligan stated this restricts the movement of patients from one facility to another. Mr. Mays stated that he agrees there may be problems, but it is the law.

Ms. Gilligan asked the Board to write a response to the Ohio Department of Job and Family Services concerning the rules that they will file to implement the new law. Mr. Marx stated that any response from the Board must be directed at the patient's best interest. Mr. Mays stated that he did not have a problem with the suggestion. Mr. Marx offered to draft the letter, which he would ask Mr. Logsdon to forward to the Board membership and legal for editing. Mr. Mays asked if Ms. Yuricich, Director of OAMES, had any comments. Ms. Yuricich stated that OAMES has formed a broad coalition of parties to begin looking at the issue. No further discussion.

Agenda item 3.2: Education Committee Report

Ms. Kester stated that the Education Committee met at 9:18 a.m. this morning. Ms. Kester stated that the Committee looked at the 2008 education report and took up the suggestion from the Executive Director to have the included programs review the report for accuracy prior to publication, since the report will actually list programs by name. Next, the Committee reviewed the needs survey data report drafted by the Executive Director. Ms. Kester stated that the Committee would be reviewing the data this month prior to finalizing the report. Last, the Committee reviewed CoARCs draft program standards. She stated that the Committee will respond to the draft standards, but has very little time to respond. Mr. Mays stated that the Boards concerns go back to incidents where the Board had a belief that CoARC may not be following their own standards as tight as they should. Ms. Ciarlariello stated that the Education Committee believes the Board should be among the communities of interest when determining when or if a program should be accredited.

Other discussion: Ms. Gilligan also informed the membership that CMS/Medicare competitive bidding begins again in October. She stated that the program was deferred the prior year when the HME and rehabilitation industry agreed to reimbursement cuts, but the program is now being implemented. Mr. Mays asked if the change would result in significant consolidation in market place. Ms. Gilligan affirmed this conclusion, but also stated that the level of services may diminish. Dr. Cohn reminded members that the Board's role is different from the role of an industry advocacy organization and the Board should be careful with blurring the lines. Mr. Marx stated the discussion was informational.

Motion #5: Mr. Marx moved to approve DMEtrain as a provider of HME Continuing Education pursuant to rule 4761:1-13-01 (D) of the Ohio Administrative Code. Ms. Gilligan seconded the motion. Discussion: None. Motion passed: 9 – 0.

Motion #6: Dr. Cohn moved to approve the Board Committee Reports. Ms. Kester seconded the motion. Discussion: None. Motion passed: 9 – 0.

The Board to a break from 11:30 a.m. to 11:35 a.m.

Mr. Mays announced that **Agenda item #6** would be removed from the agenda. Mr. Heckman stated that a procedural error was noted and the hearings originally scheduled would be continued until October 21, 2009. The membership discussed the remainder of the agenda. No further discussion.

Mr. Logsdon stated that Mr. Isom would be available for agenda item #4 in few minutes. Mr. Mays stated that he would proceed to Agenda item #7, New Business:

Agenda item #7: NEW BUSINESS

Agenda item 7.1: Application ratification for licenses and limited permits (Exhibit D)

Motion #7: Mr. Walz moved to place upon the minutes of the August 26, 2009 meeting, the names of respiratory therapists and limited permit applicants who met the qualifications for their respective authorization, pursuant to Sections 4761.04 and 4761.05 of the Revised Code and associated rules there under, and who were issued a license or limited permit by the Executive Director of the Board on the following dates: June 4, 2009, June 11, 2009, June 12, 2009, June 18, 2009, June 19, 2009, June 25, 2009, July 1, 2009, July 6, 2009, July 9, 2009, July 10, 2009, July 16, 2009, July 21, 2009, August 10, 2009, August 11, 2009, August 13, 2009, and August 14, 2009. Ms. Ciarlariello seconded the motion. Discussion: Mr. Heckman inquired if Miami-Jacobs Career College was fully accredited. Ms. Adams stated that she believed the college was still functioning under a CoARC letter of review. Mr. Walz asked what would happen to students if a program functioning under a letter of review did not become accredited. Mr. Logsdon stated that he was not certain, but believed CoARC would permit students to complete the program before completely discontinuing functionality. Motion carried: 9- 0.

Mr. Isom arrived. Mr. Mays directed the members back to Agenda item #4.

Agenda item #4: PROBABLE REVIEW COMMITTEE REPORT

Motion #8: Mr. Marx moved to enter Executive Session for the purpose of discussing proposed disciplinary action against licensees, which is pending or imminent court action under R.C. 121.22(G)(3) and involves matters that are required to be kept confidential under R.C. 149.43(A)(2) and R.C. 4761.031 and 4752.08 (B). Ms. Adams seconded the motion. Discussion: None. Roll Call vote:

Darrell L. Heckman -	Yes	Carol Gilligan -	Yes
Joel Marx -	Yes	Robert Cohn, M.D. -	Yes
Marc Mays -	Yes	Esther Lucile Kester -	Yes
Susan Ciarlariello -	Yes	Anita Adams -	Yes
Kenneth Walz -	Yes		

Motion carried.

The board entered executive session at 11:50 a.m. and returned to regular, public session at 12:05 p.m. All voting members of the board, Mr. Logsdon, Mr. Isom and Ms. Tertel were present during executive session.

The Board broke for lunch at 12:07 p.m and returned to public session at 1:05 p.m. The Board proceeded with Agenda item #5, Public Rule Hearing on Proposed Rules.

Agenda item #5: PUBLIC RULES HEARING

The public hearing on proposed rules began at 1:05 p.m. Mr. Mays explained the hearing process and asked members of the board introduce themselves.

Motion #9: Ms. Ciarlariello moved to waive the reading of the rules. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 9 – 0.

He then asked Mr. Logsdon to list the rules under consideration:

Respiratory Care Licensing ORC 4761 rule amendments proposed:

4761-7-01	Original license or permit and identification card
4761-8-01	Renewal of license or permits
4761-9-02	General RCCE requirements and reporting mechanism
4761-9-03	Activities which do not meet the Ohio RCCE requirements
4761-11-03	Board imposition of penalties
4761-12-03	Replacement of license or certificate

Respiratory Care Licensing ORC 4761 rule rescission proposed:

4761-2-04 Personal information systems

Respiratory Care Licensing ORC 4761 new rule proposed:

4761-2-05 Personal information systems

Home Medical Equipment facility Licensing ORC 4752 rule amendments proposed:

4761:1-2-02	Personnel
4761:1-2-03	Board records
4761:1-3-02	Home medical equipment defined
4761:1-8-01	Fees

Home Medical Equipment facility Licensing ORC 4752 rule rescission proposed:

4761:1-2-04 Personal information systems

Home Medical Equipment facility Licensing ORC 4752 new rule proposed:

4761:1-2-05 Personal information systems

The Court Reporter was Sheryl A. Bennett, Deposition Specialists, 35 E. Gay St., Suite 300, Columbus, Ohio 43215.
Ms. Yvonne Tertel, Assistant Attorney General called Mr. Christopher Logsdon as a witness for the Ohio Respiratory Care Board. Mr. Logsdon certified that the following exhibits were maintained in the course of daily business for the board.

The following states exhibits were introduced.

1 – Letter of original electronic rules filing with the Office of the Secretary of State, Joint Committee on Agency Rule Review, Department of Development, and Legislative Service Commission on July 17, 2009 for each rule under consideration.

2 –Copy of Public Hearing Notice filed on July 17, 2009.

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

There were no witnesses or verbal testimony provided

Exhibits 1 – 3 were admitted. The hearing concluded at 1:17 p.m.

Agenda item #4(Continued)**:** PROBABLE REVIEW COMMITTEE REPORT

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

Darrell L. Heckman -	Yes	Carol Gilligan -	Yes
Joel Marx -	Yes	Robert Cohn, M.D. -	Yes
Marc Mays -	Yes	Esther Lucile Kester -	Yes
Susan Ciarlariello -	Yes	Anita Adams -	Yes
Kenneth Walz -	Yes		

Motion carried.

The board entered executive session at 1:18 p.m. and returned to regular, public session at 1:20 p.m. All voting members of the board, Mr. Logsdon, Mr. Isom and Ms. Tertel were present during executive session.

Mr. Walz inquired about a non-substantive change in proposed rule 4761-2-05 and proposed rule 4761:1-2-05. Mr. Logsdon reviewed Mr. Walz's issue, which was the capitalization of the word "system" appearing twice in paragraph (A) (2) in both rules. Mr. Logsdon stated that it was a non-substantive issue and the rule would be corrected and re-filed.

Motion #11: Ms. Ciarlariello moved to enter Executive Session for the purpose of discussing proposed disciplinary action against licensees, which is pending or imminent court action under R.C. 121.22(G)(3) and involves matters that are required to be kept confidential under R.C. 149.43(A)(2) and R.C. 4761.031 and 4752.08 (B). Ms. Gilligan seconded the motion. Discussion: None. Roll Call vote:

Darrell L. Heckman -	Yes	Carol Gilligan -	Yes
Joel Marx -	Yes	Robert Cohn, M.D. -	Yes
Marc Mays -	Yes	Esther Lucile Kester -	Yes

Susan Ciarlariello - Yes Anita Adams - Yes

Kenneth Walz - Yes

Motion carried.

The board entered executive session at 1:25 p.m. and returned to regular, public session at 1:55 p.m. All voting members of the board, Mr. Logsdon, Mr. Isom and Ms. Tertel were present during executive session.

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

The Board took a break from1:56 p.m. to 2:15 p.m.

Agenda item 4.2: Approval of Opportunity for Hearing Notices

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

Case no./Respondent		Issue	ORC Code
RCB Proposed OHNs			
1.	2007ORCB051(Bonnie Bilko)	Violation of an Order of the Board	ORC 4761.09 (A)(2)
2.	2008ORCB034 (Jared D. Bryan)	Impairment in practice	ORC 4761.09 (A)(8)
3.	2008ORCB041 (Loretta Jeronimo)	Unethical/unprofessional practice	ORC 4761.09 (A)(2)
4.	2009ORCB051 (Angela M. Rider)	Impairment in practice	ORC 4761.09 (A)(8)
5.	2009ORCB066 (Angela N. Smith)	Felony conviction	ORC 4761.09 (A)(1)
		Unprofessional Conduct	ORC 4761.09 (A)(7)
6.	2009ORCB067 (Evelyn K. Gorton)	Unlicensed practice	ORC 4761.09 (A)(2)
7.	2010ORCB001 (Latasha N. Harris)	Concealment of Mat. Facts	ORC 4761.09 (A)(4)
8.	2010ORCB002 (Daar Warsame)	Concealment of Mat. Facts	ORC 4761.09 (A)(4)
9.	2010ORCB006 (Scott M. McChristy)	Unethical/unprofessional practice	ORC 4761.09 (A)(2)
		Gross misconduct	ORC 4761.09 (A)(5)
		Unprofessional Conduct	ORC 4761.09 (A)(7)
10.	2010ORCB010 (David Ledoux)	Felony conviction	ORC 4761.09 (A)(1)
HME Proposed OHNs			
1.	2010HME002 (Accurate Medical Supply, Inc.)	Unlicensed Practice	ORC 4752.09 (A)(1)

Dr. Cohn seconded the motion. Discussion: None. Motion carried: 7 – yes, Mays and Marx - Abstained

Motion #13: Mr. Marx moved to withdraw an opportunity for hearing notice issued in the matter of case #2009ORCB062 (Kimberly Campbell-Card). Dr. Cohn seconded the motion. Discussion: None. Motion carried: 8 – yes, Mays - Abstained

Agenda item 4.3: Approval of Consent Agreements (Exhibit E collective)

Motion #14: Dr. Cohn moved to approve the following consent agreements between the Board and the following respective respondents:

RCB Agreements

Case no.	Respondent
2009ORCB065	Elizabeth A. Williams (RCP.11529)

HME Agreements

Case no.	Respondent
2009HME003	Homeside Healthcare, Inc. (HMEL.11363)
2009HME010	Diller Medical Equipment, Inc. (HMEL.11378)
2009HME013	Linn Homecare, Inc. (HMEL.11113)

Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 7 – yes, Mays and Marx – Abstained

Agenda item 4.5: Probation Compliance Report

Motion #15: Ms. Gilligan moved to close the following cases currently under probationary compliance monitoring because the licensee has met all probationary conditions:

Case no.	Respondent
2009ORCB035	Sheryl A. Spaulding (RCP.9987)
2007ORCB075	Robert Colon (RCP.10847)
2009ORCB025	Jessica K. Orth (RCP.9345)
2009ORCB047	Kenneth L. White (RCP.5565)

Ms. Adams seconded the motion. Discussion: None. Motion carried: 8 – yes, Mays – Abstained

Agenda item #7 (Continued): NEW BUSINESS

Agenda item 7.2: Application ratification for HME licenses and certificates of registration (Exhibit F)

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

HMEL
June 11, 2009, June 23, 2009, June 24, 2009, June 25, 2009, July 1, 2009, July 16, 2009, August 11, 2009

HMER
June 3, 2009, June 11, 2009, June 12, 2009, June 23, 2009, June 24, 2009, June 25, 2009, June 29, 2009, July 1, 2009, July 6, 2009, July 14, 2009, July 16, 2009, July 21, 2009, August 10, 2009, August 11, 2009, and August 18, 2009

Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 8 – yes, Marx – Abstained

Agenda item 7.1b: Inquiry on OAC 4761-4-01, regarding degree requirements (Exhibit G)

Mr. Mays directed members to read the letter submitted by a license (identifying information redacted) concerning attaining a certificate of completion from the U.S. Army's accredited respiratory care programs and an unrelated Bachelor's Degree. Mr. Mays also directed members to OAC 4761-4-01.

Discussion: Ms. Ciarlariello stated that the scenario presented is unique. She stated that the individual has completed an accredited program and has passed the national CRT test, earning a national credential. Dr. Cohn stated that the applicant argues that Thomas Edison College is willing to transfer all of her existing college credit earned for her Bachelor's Degree into the program and award her an Associate Degree with a major in Respiratory Care. Mr. Logsdon explained that Thomas Edison is a long-distance learning college that the U.S. Army has an articulation agreement with to meet the NBRC's educational requirements for the CRT credential. Mr. Logsdon stated that the Board must answer whether OAC 4761-4-01 requires an Associate Degree with a major in respiratory care or if the rule requires graduation from an accredited college and an Associate Degree or an equivalent degree with a major in respiratory care. Mr. Logsdon stated that the individual, in this case, graduated from the program prior to the NBRC's requirement that respiratory care programs must be minimally an Associate Degree program.

Mr. Marx asked if the Board could interpret the rule to require an equivalent of an Associate Degree and a major in respiratory care as being the individual's military training. Mr. Logsdon urged the Board to weigh the matter carefully, to avoid interpreting a rule in such a way that changes the true intent. Mr. Logsdon stated that rule has always been interpreted mean that the person must graduate from an accredited program that requires an Associate Degree with a major in respiratory care. Mr. Logsdon reminded the members that the Board's rule goes back to 1997, which superseded the NBRC rule requiring an Associate Degree.

Ms. Ciarlariello stated that she was representing the Ohio Society for Respiratory Care when the rule was promulgated and its intent was to require a minimum of an Associate Degree. This applicant, Ms. Ciarlariello stated, has two Bachelor's Degrees. Mr. Logsdon stated that the individual appears willing to obtain the proper transcript, but states it would be a matter of paying Thomas Edison College. Mr. Heckman stated that the proposition of an individual paying money to get a transcript, just to meet our requirements is not acceptable. Mr. Mays stated that he does not believe the individual meets the requirements of the Board. Mr. Heckman agreed. Mr. Walz stated that the individual indicates that the Executive Director asked her to write a letter concerning the issue. Mr. Logsdon affirmed this request. Ms. Ciarlariello stated that the Army's articulated college seems willing to concede that the individual meets all of their requirements for an Associate Degree with a major in respiratory care. Ms. Ciarlariello stated that she would like to move that the Board grant the individual a license based upon meeting the equivalency standards under OAC 4761-4-01.

Motion #17: Ms. Ciarlariello moved to grant the individual a license based upon meeting the equivalency standards under OAC 4761-4-01. Ms. Kester seconded the motion. Discussion: Dr. Cohn asked for a ballot vote. Mr. Marx asked if there was a rule that specifically addresses military education. Ms. Ciarlariello stated that we do not have such a rule. Mr. Walz asked if the person's license in California was valid and in good standing. Mr. Logsdon affirmed it was. Discussion ended. Vote: 5 – Yes, 4 – No.

Mr. Walz asked if the Board's vote changes the rule. Mr. Marx stated that he did not believe so. Mr. Marx stated that the specific facts of this application are unique and not generally applicable. The membership affirmed Mr. Marx's conclusion.

Agenda item 7.3: Approval of Respiratory Care Continuing Education on Ethics

Mr. Mays asked Mr. Logsdon to discuss the matter. Mr. Logsdon stated the Board had previously moved to give him the authority to review and recognize continuing education programs on Ethic and Laws and Rules on behalf of the agency pursuant to OAC 4761-9-05 (A)(6). In the question before the Board, he stated, the program would be provided by him. In addition, Mr. Logsdon stated that a member of the Board has also requested recognition of a continuing education program on Professional Ethics. Mr. Walz identified himself as the member. Mr. Logsdon stated that the matter was being brought before the Board to address the issue of conflict of interest. Mr. Logsdon affirmed that neither Mr. Walz nor himself were being monetarily rewarded or otherwise provided any thing of value for speaking. Mr. Walz affirmed.

Mr. Walz stated that the question was not Mr. Logsdon's authority to recognize programs under OAC 4761-9-05 (A)(6), but rather the appearance of granting recognition to a sitting member, which, he stated, should go through a higher level of review. Mr. Mays agreed that the appearance of impropriety should be addressed. Mr. Mays asked that the matter be addressed individually.

The first issue addressed was Mr. Logsdon's request for recognition of 1-contact hours of RCCE on Professional Ethics. Mr. Mays stated that he did not see any issue. Mr. Marx and Mr. Walz stated that the Board should address the matter of remuneration. Mr.

Mays stated that the issue was not on the table in this case, because Mr. Logsdon was providing the educational presentation as part of his job and no remuneration of any kind was being offered or accepted. Mr. Walz agreed with the direction taken, meaning that Mr. Logsdon should route his presentations through the Board for recognition.

Motion #18: Ms. Adams moved to recognize the continuing education program titled, "Professional Ethic in the Practice of Respiratory Care" for one-contact hour of education pursuant to OAC 4761-9-05 (A)(6). Ms. Gilligan seconded the motion. Discussion: Mr. Marx stated he would support the motion if Mr. Logsdon affirmed he was not receiving any thing of value. Mr. Logsdon affirmed. No further discussion. Motion carried: 9 – 0.

The next issue discussed was Mr. Walz's continuing education submission. Mr. Walz stated that he had developed a presentation on ethics prior to becoming a board member, which was approved for credit and would like submit another program for recognition. Mr. Walz stated that he was not being paid as a presenter. Mr. Marx stated that the issue of remuneration was a matter for Mr. Walz to clarify with the Ohio Ethics Commission. Mr. Mays stated that the question is really if Mr. Logsdon could approve the program. Ms. Adams asked Mr. Walz to identify his target audience. Mr. Walz stated his audience was respiratory therapists. Mr. Mays stated that, if no issuance of any thing of value was in question, then he could think of no better person than a member of the Board to address ethics. Mr. Walz stated that he was presenting as an individual, not a representative of the Board. Mr. Mays stated that he does not believe a member can separate the role of a member and an individual. Mr. Heckman stated that he was favorable to the current review process through the Executive Director. Mr. Mays asked if there were any dissenting views. Hearing none, he stated that the Board's Executive Director could continue approving programs.

Agenda item 7.4: Approval of 2009 Annual Report (Exhibit H)

Mr. Mays inquired if the membership had the opportunity to review the draft annual report.. Mr. Walz addressed a few non-substantive changes. Mr. Logsdon asked members to forward any non-substantive corrections. Several corrections were noted on page 11 and Mr. Walz asked if Mr. Heckman was elected to the appointed hearing officer position. Mr. Walz also noted a correction on page 14. Mr. Walz also requested that the report be fully justified for continuity. Mr. Mays inquired if the membership had any substantive changes and if the objectives identified by the Executive Director for FY 2010 were acceptable. Hearing no other comments, Mr. Mays asked if the membership was prepared to take action on the report.

Motion #19: Ms. Adams moved to approve the 2009 Annual Report. Ms. Gilligan seconded the motion. Discussion: Mr. Walz offered to act as an editor for final corrections prior to publication. No further discussion. Motion carried: 9 – 0.

Ms. Ciarlariello was excused from the meeting at 2:45 p.m.

Agenda item 7.5: FY 2010 License/Limited permit renewal

Mr. Mays asked Mr. Logsdon to discuss the matter. Mr. Logsdon stated that the FY 2010 renewal process will be different than any other. He outlined the following changes:

1. All licensees, not limited permit holders, would be required to renew their license online, unless the individual could show reasonable inability to renew through an electronic means. In these cases, the Board will mail a paper renewal form.

2. Limited Permit and HME renewal will remain unchanged.

3. Upon renewal of RCP licenses and Limited Permits, the Board will not be issuing a renewal ID card. Instead, the Board's rules currently being amended will allow the agency to recognize its web-based license verification as the official notification of licensing by the State.

Mr. Walz stated that a recent case in California found that a State Board had to accept other methods of payment. Mr. Logsdon stated that the Board would permit other methods, but that electronic will be stressed as the preferred means. Mr. Logsdon stated that renewal instructions will post a renewal deadline date several weeks in advance of the actual license expiration date.

Mr. Mays asked if there were any concerns with the changes. Hearing none, the Board moved to the next item of business.

Agenda item 7.7: Resolution – Eugene Andrews (Exhibit I collective)

Mr. Mays read a resolution into the record, attached hereto as Exhibit I, acknowledging the long service and outstanding accomplishments of Eugene Andrews. Mr. Andrews was a long-term member of the Ohio Respiratory Care Board. Mr. Mays asked if there was opposition to adopting the resolution. Hearing none, the resolution was adopted.

Mr. Andrews addressed the Board, filing a letter. He expressed his deep appreciation and honor for being allowed to serve the public of the state of Ohio and the profession of respiratory care. The following members took a moment to express appreciation for Mr. Andrews service: Joel Marx, Marc Mays, and Christopher Logsdon.

Agenda item 7.6: HME Inspection contracts – competitive bidding

Mr. Mays asked Mr. Logsdon to discuss the issue. Mr. Logsdon stated that the Board has contracted with five persons experienced in home medical equipment facility accreditation to perform inspection services for licensed home medical equipment facilities. Mr. Logsdon stated that the position requirements are unique and the availability of persons possessing the expertise to perform the services was very limited. Mr. Logsdon stated that agencies are required to obtain bids for service. He is asking the Board to consider these services as single source vendors, because, in his opinion, bids would not generate any submissions and the Board requires at least five surveyors to reach all areas of the state. Mr. Mays asked if there was any opposition to adopting the recommendation of Mr. Logsdon by considering the HME Inspectors as single source vendors. Hearing none, the vendors will be recognized as such.

Agenda item 7.8: Resolution to adopt administrative rule

Motion #20: Mr. Marx moved to direct the Executive Director to final file and adopt the proposed amended, rescinded, or new rules listed following the jurisdictional period of review by the Joint Committee on Agency Rule Review. Rules:

1. Respiratory Care Licensure rules, amended:

- OAC 4761-7-01
- OAC 4761-8-01
- OAC 4761-9-02
- OAC 4761-9-03
- OAC 4761-11-03
- OAC 4761-12-03

2. Respiratory Care Licensure rules, rescinded:

- OAC 4761-2-04

3. Respiratory Care Licensure rules, new:

- OAC 4761-2-05

4. Home Medical Equipment Licensure rules, amended:

- OAC 4761:1-2-02
- OAC 4761:1-2-03
- OAC 4761:1-3-02
- OAC 4761:1-8-01

5. Home Medical Equipment Licensure rules, rescinded:

- OAC 4761:1-2-04

6. Home Medical Equipment Licensure rules, new:

- OAC 4761:1-2-05

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

Agenda item #8: OPEN FORUM

No one appeared.

Agenda item #9: FOR THE GOOD OF THE BOARD

Members discussed the format of the Probable Review Committee report presented by the Board's Investigator, Mr. Isom. Mr. Heckman stated that he will rely upon the recommendations of the PRC, but would like less information on the report. Mr. Heckman stated that he has long had some concerns over the format, but believes the PRC should be resolved to performing it duties and the board should respect this process. Mr. Marx asked that case age dates remain in the PRC report. Mr. Logsdon agreed, stating that if the report could be modified to reduce concern, it should be pursued. Mr. Logsdon agreed to work with staff to revise the report format.

Ms. Adams stated that she met someone from the American Sleep Association who stated that the Association is seeking input on specific clinical issues.

Agenda item #10: ADJOURNMENT

Hearing no further matters, Mr. Mays adjourned the business meeting at 3:40 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 October 21, 2009.

_____ _____

Secretary Witness