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OHIO RESPIRATORY CARE BOARD

77 SOUTH HIGH STREET, 16TH FLOOR

COLUMBUS, OHIO 43215-6108

OFFICIAL BOARD MEETING MINUTES OF August 15, 2007

Administrative Hearings held pursuant to Chapter 119. of the Ohio Revised Code

Agenda items #1: CALL MEETING TO ORDER

Presiding: Dr. Robert Cohn, Vice President , called the meeting to order on August 15, 2007 at 9:10 a.m. in room West B & C, 31st Floor of the Vern Riffe Building for Government and the Arts, 77 South High Street, Columbus, OH, 43215 for the purpose of holding an administrative hearing and a regular board meeting. Present were Robert Cohn, M.D., Vice President, Anita Adams, R.R.T., R.C.P., Susan Ciarlariello, R.R.T., R.C.P., Dana Rinehart, Public Member, Joel Marx, Carol Gilligan, and Eugene Andrews, R.R.T., R.C.P. Marc Mays, President, was excused for a family medical emergency. Margaret Traband, M,Ed., RRT was excused from the meeting due to business scheduling conflict. Dr. Cohn noted for the record that a quorum of the members of the board was present and that business could be conducted.

Members in attendance:

Robert Cohn, M.D., Vice President

Susan Ciarlariello, R.R.T., R.C.P.

Anita Adams R.R.T., R.C.P.

Dana Rinehart, Public Member

Eugene Andrews, R.R.T., R.C.P.

Joel Marx, HME Provider Member

Carol Gilligan, HME Provider Member

Staff in attendance:

Christopher H. Logsdon, Executive Director

Jason McLean, Investigator

Marcia L. Tatum, HME Manager

Others in Attendance:

Melinda Snyder Osgood, Assistant Attorney General

Agenda item #1: ADMINISTRATIVE HEARINGS

Preliminary matters: Dr. Cohn inquired if there was any changes in the Board's hearing schedule. Mr. Logsdon addressed the Board and explained that three hearings would be continued pending a review of consent agreements signed by the involved respondents.. Mr. Logsdon asked that Bonnie Bilko, Shannon Short, and Shelley Shadowen be noted in the record as continued hearings. Hearing no objection, Dr. Cohn directed that the record of the Board's proceeding reflect that Administrative Hearing agenda item #1, #2, and #3 be continued pending consideration of a proposed consent agreement in each case. Dr. Cohn stated that the Board would proceed with agenda item #4.

Agenda item 4: Hearing in the Matter of Tammy Cooper

The matter of Tammy Cooper came before the following members of the Ohio Respiratory Care Board August 15, 2007 at 9:10 a.m. in room West B & C, 31st Floor of the Vern Riffe Building for Government and the Arts, 77 South High Street, Columbus, OH, 43215. Present were Robert Cohn, M.D., Vice-President, Anita Adams, R.R.T., R.C.P., Susan Ciarlariello, R.R.T., R.C.P., Dana Rinehart, Public Member and Presiding Officer, Joel Marx, HME Member, Carol Gilligan, HME Members, and Eugene Andrews, R.R.T., R.C.P. Margaret Traband and Marc Mays were excused. Dr. Cohn noted for the record that a quorum of the members of the board was present and that business could be conducted. Melinda Snyder Osgood, Assistant Attorney General, represented the state of Ohio. Ms. Cooper appeared Pro Se. Sheryl A. Bennett was the Court Reporter, Deposition Specialists, Inc., Professional Court Reporters, 35 East Gay Street, Suite 300, Columbus, Ohio 43215. For the record, each member of the Board, Board staff, and the Assistant Attorney General introduced themselves and their city/county of residence or business. Ms. Anita Adams arrived at 9:13 a.m., during introductions.

Preliminary matters: Mr. Rinehart inquired if there were any preliminary matters. Hearing none, he proceeded with the hearing. Mr. Rinehart inquired if Ms. Cooper was aware of her right to be represented by legal counsel. Ms. Cooper affirmed that she received an Opportunity for Hearing Notice and was aware of her right to have an attorney. Mr. Rinehart asked Ms. Cooper if she was prepared to continue without legal representation. Ms. Cooper answered affirmatively.

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

Witnesses called:

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

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

State's Exhibits admitted:

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- A. Copy of Tammy L. Cooper's application for an initial license to practice respiratory care in the State of Ohio, file date April 30, 2007 and a verification of education form filed on April 30, 2007.
- B. Certified Judgment Entry, dated August 5, 1993, Case Number 93-CR-005240, Court of Common Pleas, Clermont County, Ohio.
- C. Certified Judgment Entry, dated November 2, 1998, Case Number B- 9804975, Court of Common Pleas, Hamilton County, Ohio.
- D. Letter dated April 18, 2007, from Tammy Cooper to the Ohio Respiratory Care Board.
- E. Notice of Opportunity for Hearing dated June 5, 2007, sent to Tammy L. Cooper by Certified Mail/Return Receipt #7004 2510 0001 7352 5868 and sign return receipt.
- F. Letter dated June 11, 2007, from Tammy L. Cooper requesting a hearing before the Ohio Respiratory Care Board.
- G. Hearing Scheduling Letter dated June 21, 2007, mailed to Tammy L. Cooper, 6858 Netherland Dr., Liberty Township, Ohio 45044.

Ms. Cooper then presented her case in chief. Ms. Cooper did not call any witnesses, but did testify on her own behalf.

Discussion:

Mr. Marx asked the respondent if she had been convicted of any crimes since 1998. Ms. Cooper answered "no." Mr. Marx asked the respondent if she had ever been terminated from a job since 1998. Ms. Cooper stated "no." Mr. Andrews asked the respondent how she was doing in school. Ms. Cooper responded that she achieved mostly A's and B's. Mr. Andrews asked the respondent if she still had acquaintances with the person from whom she stole a credit card. Ms. Cooper stated that the person was naturally angry and broke off the friendship. She stated, she no longer has a relationship with this person. Ms. Adams asked the respondent if she was currently employed. Ms. Cooper stated she was not, but that she was supported by her husband.

Ms. Cooper moved to admit respondent's exhibits 1 through 13. Hearing no objection, Mr. Rinehart admitted the respondent's exhibits.

Respondent's Exhibits admitted:

- 1. Letter dated June 6, 2007, from Michael Chaney, B.A.S., R.R.T.
- 2. Letter dated July 25, 2007, from Thomas J. Stormer, B.B.A., R.R.T.
- 3. Letter from Jenny A. Smith.
- 4. Letter from Jeff Meyer, Manager Support Services, Hormel Foods Corporation
- 5. Letter dated August 7, 2007, from Kelly Rhoades, R.N.
- 6. Letter dated August 12, 2007, from Denise L. Pierce.
- 7. Letter dated July 17, 2007, from Elizabeth Blomquist.
- 8. Letter dated July 24, 2007, from Eric Betts, R.N., B.S.N.
- 9. Letter from Michelle Allis.

10. Letter dated July 29, 2007, from Leigh Kreger.
11. Electronic mail, dated August 14, 2007, from Jan Cox.
12. Letter from Adam Wolf.
13. Letter dated August 14, 2007, from J. Kevin Cooper.

Both parties then gave a brief closing statement.

The hearing concluded at 9:37 a.m.

Motion #1: Mr. Andrews moved to enter executive session pursuant to Revised Code Section 121.22, for the purpose of considering the investigation of charges or complaints against licensees or regulated individuals under the board's jurisdiction. Ms. Gilligan seconded the motion. Discussion: None. Roll Call vote:

Susan M. Ciarlariello -	Yes	Anita Adams -	Yes
Dana Rinehart -	Yes	Robert Cohn -	Yes
Joel Marx-	Yes	Eugene Andrews -	Yes
Carol Gilligan -	Yes		

Motion carried.

The board entered executive session at 9:37 a.m. and returned to regular, public session at 9:45 a.m. All voting members of the board were present during executive session.

- Findings, Conclusions and Journal Entry (Exhibit A)

Motion #2: Ms. Ciarlariello moved that the Board finds that the allegation contained in Count 1 of the Opportunity for hearing notice in the matter of Tammy L. Cooper is TRUE. Based upon the findings of the Board, which shall be listed in the Board's final Order, the Board concludes:

Upon consideration of all the evidence presented and the testimony of witnesses, the board makes the following FINDINGS OF FACT:

- A. Ms. Cooper was issued an Opportunity for Hearing Notice in compliance with Chapter 119. of the Revised Code.
- B. On or about March 30, 2007, Ms. Cooper filed an initial application for a license to practice respiratory care in the state of Ohio. As part of this application, Ms. Cooper provided an affirmative response to the question #3, Part F, "Have you ever been convicted of any felony or misdemeanor offense in violation of any federal, state or municipal ordinance."
- C. Ms. Cooper provided the Ohio Respiratory Care Board with certified judgment entries of two criminal convictions.
- D. Judgment Entries provided by Ms. Cooper demonstrate the following:
 - a. On or about August 3, 1993, Ms. Cooper was convicted in the Clermont County Court of Common Pleas, case #93-CR-005240, of FORGERY, in violation of sections 2913.31 (A)(1) and 2913.21 (A)(1) of the Ohio Revised Code, a felony of the fourth degree and a misdemeanor of the first degree respectively.

- b. On or about November 2, 1998, Ms. Cooper was convicted in the Hamilton County Court of Common Pleas, case #B-9804975, of THEFT, in violation of section 2913.02 (A)(2) of the Ohio Revised Code, a felony of the fourth degree; of FORGERY, in violation of section 2913.31 (A)(1), a felony of the fifth degree; and of THEFT, in violation of section 2913.02 (A)(3), a felony of the fifth degree.
- E. The Board found by a preponderance of the evidence that Ms. Cooper was convicted of two felonies and one misdemeanor
- F. The Board also found that Ms. Cooper was cooperative and forthcoming in this matter. She provided all documentation requested and answered the Board's questions honestly. Further, the Board finds her responses did show remorse for her prior actions.
- G. Section 4761.09 (A)(1) of the Revised Code permits the Board to consider imposing disciplinary action, including refusal to issue a license or limited permit, for a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense involving moral turpitude or of a felony, in which case a certified copy of the court record shall be conclusive evidence of the matter.
- H. The Board further concludes, by a preponderance of the evidence, that Ms. Cooper's application has met the requirements set forth by R.C. 4761.05. She demonstrated remorse for her conduct and a change in lifestyle.

Upon consideration of the findings of fact and a review of Chapter 4761 of the Revised Code, the Ohio Respiratory Care Board makes the following CONCLUSIONS OF LAW:

- A. Section 4761.09 of the Ohio Revised Code provides in pertinent part as follows:
 - (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 revoke a license or limited permit, or may place a license or limited permit holder on probation, on any of the following grounds:
 - (1) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense involving moral turpitude or of a felony, in which case a certified copy of the court record shall be conclusive evidence of the matter; ***
- B. Pursuant to Section 4761.09 of the Ohio Revised Code, it is within the Board's discretion to refuse to issue a license or after issuance of a license may issue a reprimand, may suspend or permanently revoke a license, or may place a license holder on probation based upon the Board's finding that Ms. Cooper was convicted of two felonies and one misdemeanor. The Board finds by a preponderance of the evidence that Count 1 of the Board's Opportunity for Hearing Notice is TRUE.
- C. However, having found the above to be true, it is within the Board's discretion to impose a disciplinary sanction. The Board may consider aggravating and mitigating factors in determining if such action should be taken. In this case, Ms. Cooper demonstrated a significant change in lifestyle since her last conviction of record. She also demonstrated remorse for her actions and uses her prior experiences to positively impact the lives others she encounters. Based upon these findings, the Board concludes she is not a risk to the public.

In consideration of these findings and conclusions, it is hereby Ordered that the Board hereby issues Tammy L. Cooper a limited permit to provide respiratory care in the State of Ohio under the supervision of a licensed respiratory care provider.

Ms. Adams seconded the motion. Discussion: None Motion carried: 7- Yes.

Dr. Cohn stated that the Board's minutes shall serve as the official journal of proceedings in this matter and that the Board's President shall sign the Original Order of the Board, which shall be enter upon the official Journal of these proceeding as an exhibit to this record.

Committee Meetings

COMMITTEE MEETINGS

The Board's Home Medical Equipment Committee met at 10:00 a.m. to consider business. Official minutes of the committee meeting were taken and are maintained separate of this journal. The Board's Scope of Practice Committee met at 11:37 a.m. to consider business. Official minutes of the committee meeting were taken and are maintained separate of this journal.

Regular Business Meeting

Agenda item #1: CALL MEETING TO ORDER (Exhibit B)

Dr. Cohn called the regular business meeting to order at 1:05 p.m. All members of the Board, excluding Ms. Traband and Mr. Mays were present. Mr. Andrews took the roll:

Members in attendance:

Robert Cohn, M.D., Vice President

Susan Ciarlariello, R.R.T., R.C.P.

Anita Adams R.R.T., R.C.P.

Dana Rinehart, Public Member

Eugene Andrews, R.R.T., R.C.P.

Joel Marx, HME Provider Member

Carol Gilligan, HME Provider Member

Staff in attendance:

Christopher H. Logsdon, Executive Director

Jason McLean, Investigator

Marcia L. Tatum, HME Manager

Others in Attendance:

Melinda Snyder Osgood, Assistant Attorney General

Dr. Cohn noted that a majority of the Board attended and that business could be conducted.

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

The proposed meeting agenda was mailed in advance of the meeting. Dr. Cohn inquired if there were any amendments to the business agenda. Hearing none, the agenda was adopted by unanimous consent.

Agenda item 1.2: Approval of previous Board Meeting Minutes

Draft meeting minutes from the previous Board meeting on June 5 & 6, 2007, were provided to members in advance of the meeting for review.

Motion #2: Ms. Ciarlariello moved to approve the meeting minutes from June 5 & 6, 2007. Mr. Rinehart seconded the motion. Discussion: Mr. Marx stated that the minutes needed two non-substantive corrections. The first was on page 4; the public session time was incorrect. Mr. Logsdon stated he would consult his notes and correct the time. The second, Mr. Marx stated, was on page 6, change "completion" to "registration." Hearing no other corrections or amendments, Dr. Cohn called the question. Motion carried: 7-0.

Agenda item #2: OFFICER AND STAFF REPORTS

Agenda item 2.1: President's Report

Dr. Cohn did not present a report.

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

Mr. Logsdon filed a written report. A verbal review of his report was provided.

1. Mr. Logsdon presented the FY 2008, 1st Quarter financial activity report. He reported that the agency just started FY 2008. Mr. Logsdon reported that the agency had not expended significant funds in FY 2008. Mr. Logsdon stated that the State's new financial processing system (OAKs) has resulted in slow payment to vendors and contracted agents of the Board. One problem reported, stated Mr. Logsdon, was the DAS Central Service Agency failed to encumber funds for year-end FY 2007 as reported at the Board's last business meeting. This issue will result in a need to file a State of Ohio Controlling Board request for funding. The Office of Budget and Management is aware of the problem and they will support a Controlling Board request. Mr. Logsdon stated request will likely be considered during the 3rd financial quarter.

2. Mr. Logsdon gave a general program update. He reported on the number of licenses and limited permits issued in FY 2007 and the number issued since 07/01/2007. He also stated that the agency is looking into an online method of meeting the jurisprudence review requirement under the new continuing education rules that will become effective on 07/01/2008. Mr. Logsdon also stated that he is drafting a fall newsletter and it should be ready for Board consideration in October.

3. Mr. Logsdon reported that the agency is revamping its information technology security plan, in light of recent losses of sensitive electronic data by another state agency. Mr. Logsdon stated that the process will improve the agency's IT security, but may also increase costs associated with information back up and maintenance.

4. Mr. Logsdon reviewed the statistics on revenue generated by the agency during FY 2007.

5. Mr. Logsdon updated the Board on recently adopted rules and legislation being monitored. He reported on the status of H.B. 130 and H.B. 104.

6. Last, Mr. Logsdon reported that the agency hired an HME Manger, Marcia L. Tatum.

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

Ms. Marcia Tatum filed a written report. A verbal review of her report was provided.

1. Ms. Tatum reported that the Board has completed a review of the license and certificate of registration issuance data and revenue for FY 2007. She reported that the agency issued 104 HME licenses and 88 HME Certificates of Registration. Additionally, Ms. Tatum reported that the Board completed 90 inspections during FY 2007. Ms. Tatum reported that 22 inspections have been scheduled for FY 2008, 11 HME licenses and 8 HME certificates of registration have been issued since July 1, 2007.

2. Ms. Tatum gave a brief update on projects currently assigned that affect the HME licensing program. She stated that she is performing: (1) a clean up of the standard correspondence templates used by the agency, (2) updating the Board's website with current information, (3) HME clean-up legislation, and (4) a review of all data files before licensing renewal begins on July 1, 2008.

3. Last, Ms. Tatum reported that all HME facilities licensed since May 2007 were issued investigative surveys to review compliance with the Chapter 4752 of the Revised Code. Facilities issued certificates of registration since May 2006, were reported to their respective accrediting organizations.

Discussions:

Mr. Logsdon discussed the Board's guidelines approved by the Board at the October 2006 Board Meeting concerning unlicensed practice. Mr. Logsdon stated that the Board's third recommendation required the staff to issue cease and desist notices, opportunity for hearing notices and consent agreement to practicing facilities applying for licenses after October 2006. Mr. Logsdon requested that the recommendation be withdrawn. Mr. Rinehart agreed that the recommendation was not acceptable and should be rescinded. Mr. Marx disagreed. He stated that the process of issuing a cease and desist is valid. Mr. Logsdon argued that the recommendation is valid on a case-by-case basis, but not as a general policy. Mr. Marx agreed with this position and requested an update on the progress with the remaining guidelines. Mr. Logsdon provided a timeline for completion of the full project.

Motion #3: Mr. Rinehart moved to withdraw guideline #3 approved in October 2006 as follows:

3. Issue a Cease and Desist, Opportunity for Hearing, and consent agreement to any new applicant (after October 16, 2006) practicing in Ohio prior to the date of application.

Mr. Andrews seconded the motion. Discussion: Mr. Marx stated he was happy that the staff was moving on the issue. Motion carried: 7-0.

Agenda item 2.4: Assistant Attorney General's Report

Ms. Snyder Osgood, Assistant Attorney General gave a verbal report. Ms. Snyder Osgood stated that the Board's Executive Director filed a request for an informal opinion on the Board's jurisdiction over facilities holding a certificate of registration. The issue, she stated, concerns the Board's authority to impose disciplinary action if the facility loses accreditation or voluntarily drops its accreditation. Ms. Snyder Osgood stated a case was recently reviewed that alleged a facility was not holding proper accreditation for nearly a year. The matter is a public safety issue, Ms. Snyder Osgood stated, because the facility is not obliged during this period of non-accreditation to follow any specific standards, adhere to written rules, or, due to the facilities certificate of registration, be subject to inspections by the Board. The opinion, she stated, is not complete yet, but the preliminary research indicates that the Board does not have jurisdiction. It is possible, Ms. Snyder Osgood stated, the Board could file a motion for injunction. Such an action, she stated, would be difficult to sustain in most courts. Ms. Snyder Osgood stated injunctive actions should be limited to situations where public safety is at risk.

Mr. Marx asked how this issue relates to the Board's motion to issue an opportunity for hearing notice in a similar matter. Ms. Snyder Osgood stated the notice was drafted, but was later held. A legal review of the notice indicated the Board may not have jurisdiction to issue the notice. Mr. Marx asked what process resulted in the non-issuance of the Board's hearing notice. Ms. Snyder Osgood stated that she advised the staff to hold the notice, because the Board did not have the law to support the order. Ms. Snyder Osgood stated the decision came after the Board's Probable Review Meeting and after the June 5, 2007, Board meeting. Mr. Marx stated that the Board chose to issue the notice and the directive should be followed unless withdrawn by the Board. Mr. Rinehart stated the Board does not gain by sending the notice. Mr. Rinehart stated the error was caught and the recommendation of Mr. Marx to withdraw the notice should be considered. Mr. Logsdon stated the recommendation has been included in the Probable Review Committee Report.

Motion #4: Mr. Rinehart moved to approve the staff and Assistant Attorney General reports. Mr. Andrews seconded the motion. Discussion: None. Motion carried: 7-0.

Agenda item #3: BOARD COMMITTEE REPORT

Agenda item 3.1: HME Committee Report – Joel Marx

Mr. Marx stated that the HME Committee met during the morning session of this meeting to consider a number of HME issues. After discussion and consideration, the Committee is prepared to make recommendations to the full Board on the following, he stated:

1. The Committee considered an application from Commission on Accreditation of Rehabilitation Facilities (CARF) for recognition as an accrediting organization under OAC 4761:1-4-01 for the purpose of issuing a Certificate of Registration. The application was complete, except for signing a standard cooperative agreement. The Committee recommends approving the recognition of CARF pending receipt of a signed cooperative agreement.
2. The Committee developed a policy on ownership change, facility location change, and transferability of licenses. The policy will be developed into a rule for consideration, but it would prescribe the following:
 - a. Licensure is based upon facility and current ownership. If the facility changes or location changes, it would require a new license.
 - b. If ownership changes, the license would remain active, but the facility should be re-inspected within an established period of time, such as 60 days. Notification of ownership change would be addressed using the Board's change of ownership and address form.
 - c. The Committee is recommending re-inspection on three facilities that were rated as unsatisfactory by the field inspector. A review of the reports filed supported the recommendations.
 - d. The Committee recommends the development of a rule that will require the license or certificate of registration holding facility to provide Board contact information to patients upon equipment setup. The recommendation was not unanimous, but staff were asked to develop the rule.

Discussion: Ms. Ciarlariello inquired about the transfer of a license. She asked if the law or rules address the issue. Mr. Logsdon stated that the Board does not have any policy, law or rule that addresses the issue. The staff has dealt with address and ownership changes using its address and ownership change form. The form is informative, he stated, and it allows the Board to update its records, but that is all. Mr. Logsdon stated several different, but related scenarios exist: facilities that move, facilities that consolidate and want the license transferred, or facilities that are purchased. Mr. Marx recommended that any law change should clarify who holds the license – the facility or the person or owner. The interpretation to date indicates the facility holds the license, because the law states each facility must hold a separate license. Mr. Logsdon stated that rules should clarify these policies. Ms.

Ciarlariello stated that a change in ownership of a facility could imply a change in the facility's policies. Mr. Marx stated that the Committee is recommending re-inspection for that very reason.

Agenda item 3.2: Scope of Practice Committee Report – Dr. Robert Cohn

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

A. Patrick Roth – Dayton, Children's Hospital

Mr. Roth inquired if a respiratory care provider can administer Nitrous Oxide to induce moderate sedation for numerous procedures, such as stitching, and setting bones.

Recommended response:

The Committee recommended that the Board advise Mr. Roth that the procedure is not within the scope of respiratory care practice. The Committee did consider the scope of the therapist in setting up Nitrous Oxide equipment and monitoring the equipment. The Committee did not have any problems with the role of a therapist for these purposes.

B. Carol Billetter – Willoughby, Lake Hospital System

Ms. Billetter inquired if respiratory care providers can administer contrast agent through intravenous administration for improved echocardiography visualization.

Recommendation:

Dr. Cohn stated that the Board has addressed the administration of contrast media in past scope of practice responses. Based on the Board's past responses, the Committee recommends supporting the administration of contrast media for echocardiography.

Motion #5: Mr. Marx moved to approve the report and recommendations of the HME and Scope of Practice Committees. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 7-0.

Agenda item #4: PROBABLE REVIEW COMMITTEE REPORT

Motion #6: Ms. Ciarlariello moved to enter executive session pursuant to Revised Code Section 121.22, for the purpose of considering the investigation of charges or complaints against licensees or regulated individuals under the board's jurisdiction. Dr. Cohn seconded the motion. Discussion: None. Roll Call vote:

Susan M. Ciarlariello -	Yes	Anita Adams -	Yes
Dana Rinehart -	Yes	Joel Marx -	Yes
Robert Cohn -	Yes	Eugene Andrews-	Yes
Carol Gilligan -	Yes		

Motion carried.

The board entered executive session at 2:00 p.m. and returned to regular, public session at 2:18 p.m. All voting members of the board, Ms. Snyder Osgood, Ms. Tatum, Mr. Logsdon, and Mr. McLean were present during executive session.

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

Motion #7: Ms. Adams moved to close the following respiratory care cases as unfounded or non-jurisdictional:

- a. 2006ORCB041
- b. 2007ORCB042
- c. 2007ORCB076

Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 7 – 0.

Motion #8: Mr. Andrews moved to issue an opportunity for hearing notice as presented to the Board in the matters of :

- a. Case # 2006ORCB014 (Dawn Long) for allegedly violating Section 4761.09 (A)(2) of the Revised Code and paragraph (I) of rule 4761-10-01 of the Ohio Administrative Code.
- b. Case # 2007ORCB080 (Dana Bauer) for allegedly violating Section 4761.09 (A)(2) of the Revised Code.
- c. Case # 2008ORCB001 (Kimberly DuBro) for allegedly violating Section 4761.09 (A)(4) of the Revised Code.
- d. Case # 2008ORCB002(Karen Hollifield) for allegedly violating Section 4761.09 (A)(4) of the Revised Code.

Mr. Marx seconded the motion. Discussion: None. Motion carried: 7 – 0.

Motion #9: Ms. Gilligan moved to close the following home medical cases as unfounded or non-jurisdictional:

- a. 2007HME001
- b. 2007HME020

Mr. Andrews seconded the motion. Discussion: None. Motion carried: 7 – 0.

Motion #10: Mr. Rinehart moved to issue an opportunity for hearing notice as presented to the Board in the matters of :

- a. Case # 2008HME003 (Sleep Right SG) for allegedly violating Section 4752.09 (A)(1) of the Revised Code.
- b. Case # 2008HME004 (Home Choice Health Care) for allegedly violating Section 4752.09 (A)(1) of the Revised Code.
- c. Case # 2007HME023 (Doc's Pharmacy) for allegedly violating Section 4752.09 (A)(1) of the Revised Code.

Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 6 – 1 abstained (Marx).

Motion #11: Ms. Ciarlariello moved to approve the following consent agreements (**Exhibit F –I**):

<u>Case:</u>	<u>Respondent:</u>
2007ORCB043	Sandra Richmond
2007ORCB051	Bonnie Bilko
2007ORCB073	Shannon Short
2007ORCB078	Shelley Shadowen

Mr. Andrews seconded the motion. Discussion: None. Motion carried: 7 – 0.

Dr. Cohn stated that the Board's minutes shall serve as the official journal of proceedings in this matter and that the Board's President shall sign the Original Consent Agreement, which shall constitute the Order of the Board in each of the aforementioned. The Consent Agreements shall be enter upon the official Journal of these proceeding as an exhibit to this record.

Motion #12: Ms. Gilligan moved to withdraw the following Opportunity for Hearing Notices:

2007ORCB059 Dawn Borgerding
2007ORCB058 Rebecca Barnhart
2007HME019 Diabetic Solutions
2007HME021 Monitor Medical
2007HME022 Pharmacy Support Services
2007HME025 Barberton Home Medical

Agenda item #5: NEW BUSINESS

Agenda item 5.1: Application ratification for licenses and limited permits (Exhibit J collective)

Lists of licenses and limited permits issued since the Board's June 5, 2007, meeting pursuant to Rule 4761-2-02 of the Ohio Administrative Code were mailed to members in advance of the meeting.

Motion #13: Mr. Rinehart moved to place upon the minutes of the August 15, 2007 meeting, the names of respiratory therapists and limited permit applicants who met the qualifications for their respective authorization, pursuant to Sections 4761.04 and 4761.05 of the Revised Code and associated rules there under, and who were issued a license or limited permit by the Executive Director of the Board on the following dates: June 7, 2007, June 21, 2007, June 30, 2007, July 3, 2007, July 5, 2007, July 6, 2007, July 19, 2007, and August 2, 2007. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 7-0.

Agenda item 5.2: Application ratification for HME licenses and Certificates of Registration (Exhibit K collective)

Motion #14: Mr. Marx moved to place upon the minutes of the August 15, 2007 meeting, the names of Home Medical Equipment facility applicants who met the qualifications for their respective authorization, pursuant to Sections 4752.05 and 4752.12 of the Revised Code and associated rules there under, and who were issued a license or Certificate of Registration by the Home Medical Equipment Committee of the Board on the following dates: June 7, 2007, June 21, 2007, July 7, 2007, July 23, 2007 and August 2, 2007. Mr. Andrews seconded the motion. Discussion: None. Motion carried: 7-0.

Agenda item 5.3: Recognition of Accrediting Organizations

The Board considered an application filed by the Commission on Accreditation of Rehabilitation Facilities (CARF) as an accrediting organization under OAC 4761:1-4-01.

A staff review of the application material indicated that the organization met all but one of the requirements under OAC 4761:1-4-01. Mr. Logsdon stated that the organization made two changes in the standard cooperative agreement contract required for recognition. Mr. Marx asked Mr. Logsdon to explain the changes. Mr. Logsdon stated that the primary change was the organization's responsibility to periodically supply the Board with lists of organizations accredited. Mr. Logsdon stated that change would require the Board to periodically report a list of all certificate of registration holders to CARF. Mr. Marx stated that the HME did not support the amended contract and recommended that the Board not approve the recognition of CARF until a standard cooperative agreement is signed.

Motion #15: Mr. Rinehart moved to approve CARF as a recognized accrediting organization under OAC 4761:1-4-01 for the purposes of issuing a certificate of registration contingent upon filing a standardized cooperative agreement. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 7-0.

Agenda item 5.4: Inspection review and motions to order re-inspection

Mr. Marx reported that the HME committee reviewed three facility inspection reports and moved to recommend re-inspection based upon the unsatisfactory rating of the onsite inspector and a review of the inspection report.

Motion #16: Mr. Andrews moved to re-inspect the following organization, including the filing of a new inspection fee:

1. Mid-US Medical, Inc., Toledo, Ohio
2. Life Guard Medical Supply, McConnelsville, Ohio
3. Barberton Medical Supply, Barberton, Ohio

Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 7-0.

Agenda item 5.5: HME Strategic Plan

Mr. Marx reported that the HME Committee reviewed a draft of the HME program strategic plan for 2007/2008. The plan was created by the Executive Director based upon the identified objectives identified by the HME Committee at the Strategic Planning Conference held in March 2007 in Mansfield, Ohio. Mr. Marx stated that the Committee reviewed the document and found it to be a functional tool for the next two years. The Committee, he stated, recommends the adoption of the strategic plan. Ms. Gilligan stated that the plan addresses some of the federal regulation changes currently affecting the HME industry. She reviewed the many changes, concentrating on the competitive bidding processes and the difficulty these regulations place upon the industry. Mr. Andrews mentioned that the U.S. Congress might be considering some legislation to counter the competitive bidding impact. Additionally, Ms. Gilligan informed the Board that some federal budget legislation proposes to limit the term of vendor ownership of HME equipment. Ms. Gilligan stated that she just wanted the Board to know that the industry was under unbelievable stress.

Motion 17: Ms. Ciarlariello moved to adopt the 2007/2008 HME Strategic Plan. Mr. Andrews seconded the motion. Discussion: None. Motion carried: 7-0.

Agenda item 5.6: Scope of Practice Inquiries

Dr. Cohn informed the Board that the Scope of Practice Committee recommends the approval of the responses outlined during his report to the Board.

Motion #18: Ms. Ciarlariello moved to approve the Scope of Practice Committee responses in the matter of Carol Biletter and Craig Gordon. Dr. Cohn seconded the motion. Discussion: None. Motion carried: 7-0.

Agenda item 5.7: Annual Report (Exhibit L)

Mr. Logsdon mailed a copy of the draft annual report in advance of the meeting. Mr. Rinehart provided Mr. Logsdon with a corrected draft of the report, but reported none of the changes was substantive. No other discussion.

Motion #19: Ms. Gilligan moved to approve the 2007 Annual Report as amended. Dr. Cohn seconded the motion. Discussion: None. Motion carried: 7-0.

Agenda item #6: OPEN FORUM

No one appeared.

Agenda item #7: FOR THE GOOD OF THE BOARD

Mr. Logsdon introduced a revised investigatory policy #6.22 (**Exhibit M**)

Motion #20: Ms. Ciarlariello moved to approve policy #6.22 . Dr. Cohn seconded the motion. Discussion: None. Motion carried: 7-0.

Agenda item #8: ADJOURNMENT

Hearing no further matters, the meeting adjourned the meeting at 3:15 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 August 14, 2007.

Secretary

Witness