

OHIO RESPIRATORY CARE BOARD

77 S. HIGH STREET, 16TH FLOOR

COLUMBUS, OHIO 43215-6108

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OFFICIAL BOARD MEETING MINUTES OF FEBRUARY 8, 2017

REGULAR BUSINESS MEETING

MEMBERS IN ATTENDANCE (Exhibit A):

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

Steven Pavlak, R.R.T., R.C.P., Secretary

Michael C. Aquillo, Public Member

Dr. Nancy Colletti, Ph.D., R.R.T., R.C.P.

Melissa Cross, HME Member

Dr. Madhu Sasidhar, M.D., F.C.C.P.

Andrea Yagodich, R.R.T., R.C.P.

Staff in attendance:

Corey C. Schaal, J.D. /M.P.A., Executive Director

Marcia L. Stephenson, HME Manager

Mark Kimmerle, Investigator

Traci L. McDonald, Administrative Professional I

Others in Attendance:

Steve Kochheiser, Asst. Attorney General

Melissa L. Wilburn, Senior Asst. Attorney General

David P. Corey, OSRC Executive Director

Todd Newkirk, Esq.

Michael Spencer, Court Reporter

ADMINISTRATIVE HEARING (Agenda Items 1.a)

Agenda Item 1.a: In the matter of Tracey Anne Maynard, Case# 2015 ORCB 14

The matter of Tracey Anne Maynard came before the following members of the Ohio Respiratory Care Board on February 8, 2017 at 9:12 a.m. in Room West B & C, 31st Floor of the Vern Riffe Center for Government and the Arts, 77 S. High Street, Columbus, Ohio 43215. Present were Kenneth Walz, J.D., R.R.T., R.C.P. President; Michael C. Aquillo, Public Member; Nancy Colletti, Ph.D., R.R.T., R.C.P.; Melissa Cross, HME Member; Steven Pavlak, M.S., R.R.T., R.C.P., Secretary, and Dr. Madhu Sasidhar, M.D., FCCP, Physician Member. While present in the room, Andrea D. Yagodich, R.R.T., R.C.P. recused herself from the proceedings based upon her role as the Board's 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.

Melissa L. Wilburn, Senior Assistant Attorney General, represented the State of Ohio.

Tracey Anne Maynard did not appear.

Michael Spencer was the Court Reporter, Armstrong & Okey – 222 E. Town Street, Columbus, Ohio 43215.

Preliminary matters:

Mr. Walz noted that Ms. Maynard was not present for the Hearing. Mr. Walz asked the members of the Board to introduce themselves.

Mr. Walz briefly reviewed the rules of the Goldman hearing.

Ms. Wilburn gave an opening statement. The State presented its case in chief. The State of Ohio moved for the admission of State's Exhibits A through E. With no objections, the State's exhibits were admitted.

Ms. Wilburn gave a closing statement. The hearing concluded at 9:31 a.m.

DELIBERATION IN QUASI-JUDICIAL SESSION

Agenda item 4.a: Deliberation in Quasi-Judicial Session

Tracey Anne Maynard (Case #2015 ORCB 14)

Mr. Walz announced that the Board would be entering into quasi-judicial session for deliberations concerning the matter of Tracey Anne Maynard (Case#2015 ORCB 14). The session started at 9:33 a.m. and concluded at 10:10 a.m. Ms. Yagodich was excused from participating in the quasi-judicial session.

ADMINISTRATIVE HEARING (Agenda Items 1.b)

Agenda Item 1.b: In the matter of Jamie Elizabeth Knapp, Case# 2014 ORCB 51

The matter of Jamie Elizabeth Knapp came before the following members of the Ohio Respiratory Care Board on February 8, 2017 at 10:12 a.m. in Room West B & C, 31st Floor of the Vern Riffe Center for Government and the Arts, 77 S. High Street, Columbus, Ohio 43215. Present were Kenneth Walz, J.D., R.R.T., R.C.P. President; Michael C. Aquillo, Public Member; Nancy Colletti, Ph.D., R.R.T., R.C.P.; Melissa Cross, HME Member; Steven Pavlak, M.S., R.R.T., R.C.P., Secretary, and Dr. Madhu Sasidhar, M.D., FCCP, Physician Member. While present in the room, Andrea D. Yagodich, R.R.T., R.C.P. recused herself from the proceedings based upon her role as the Board's 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.

Melissa L. Wilburn, Senior Assistant Attorney General, represented the State of Ohio.

Jamie Elizabeth Knapp did not appear.

Michael Spencer was the Court Reporter, Armstrong & Okey – 222 E. Town Street, Columbus, Ohio 43215.

Preliminary matters:

Mr. Walz noted that Ms. Knapp was not present for the Hearing. Mr. Walz asked the members of the Board to introduce themselves.

Mr. Walz briefly reviewed the rules of the Goldman hearing.

Ms. Wilburn gave an opening statement. The State presented its case in chief. The State of Ohio moved for the admission of State's Exhibits A through F. With no objections, the State's exhibits were admitted.

Ms. Wilburn gave a closing statement. The hearing concluded at 10:28 a.m.

DELIBERATION IN QUASI-JUDICIAL SESSION

Agenda item 4.b: Deliberation in Quasi-Judicial Session

Jamie Elizabeth Knapp (Case #2014 ORCB 51)

Mr. Walz announced that the Board would be entering into quasi-judicial session for deliberations concerning the matter of Jamie Elizabeth Knapp (Case#2014 ORCB 51). The session started at 10:30 a.m. and concluded at 11:01 a.m. Ms. Yagodich was excused from participating in the quasi-judicial session.

ADMINISTRATIVE HEARING (Agenda Items 1.c)

Agenda Item 1.c: In the matter of Jennifer Lynn Adams, Case# 2017 ORCB 34

The matter of Jennifer Lynn Adams came before the following members of the Ohio Respiratory Care Board on February 8, 2017 at 11:03 a.m. in Room West B & C, 31st Floor of the Vern Riffe Center for Government and the Arts, 77 S. High Street, Columbus, Ohio 43215. Present were Kenneth Walz, J.D., R.R.T., R.C.P. President; Michael C. Aquillo, Public Member; Nancy Colletti, Ph.D., R.R.T., R.C.P.; Melissa Cross, HME Member; Steven Pavlak, M.S., R.R.T., R.C.P., Secretary, and Dr. Madhu Sasidhar, M.D., FCCP, Physician Member. While present in the room, Andrea D. Yagodich, R.R.T., R.C.P. recused herself from the proceedings based upon her role as the Board's 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.

Melissa L. Wilburn, Senior Assistant Attorney General, represented the State of Ohio.

Ms. Jennifer Lynn Adams did not appear, but was represented by her attorney, Todd W. Newkirk, Esq., Newkirk Health Law, LLC – 85 Gay Street, Columbus, Ohio 43215.

Michael Spencer was the Court Reporter, Armstrong & Okey – 222 E. Town Street, Columbus, Ohio 43215.

Preliminary matters:

Mr. Walz noted that the record would reflect that Ms. Adams was not present, but that she was represented by counsel, Todd Newkirk.

Mr. Walz asked the members of the Board and the Board staff to introduce themselves. Mr. Newkirk introduced himself.

Mr. Walz briefly reviewed the rules of the hearing and then inquired if there were any other preliminary matters. Ms. Wilburn stated that she had spoken with Mr. Newkirk prior to the hearing and Mr. Newkirk had agreed to stipulate to the admissibility of State's Exhibits A through F.

Ms. Wilburn gave an opening statement. Mr. Newkirk gave an opening statement. The State presented its case in chief. The State of Ohio moved for the admission of State's Exhibits A through F. Hearing no objection from Mr. Newkirk, the State's exhibits were admitted.

Mr. Newkirk presented Ms. Adam's case in chief.

Ms. Wilburn gave a closing statement. Mr. Newkirk gave a brief closing statement. The hearing concluded at 11:13 a.m.

DELIBERATION IN QUASI-JUDICIAL SESSION

Agenda item 4.c: Deliberation in Quasi-Judicial Session

Jennifer Lynn Adams (Case #2017 ORCB 34)

Mr. Walz announced that the Board would be entering into quasi-judicial session for deliberations concerning the matter of Jennifer Lynn Adams (Case#2017 ORCB 34). The session started at 11:18 a.m. and concluded at 11:33 a.m. Ms. Yagodich was excused from participating in the quasi-judicial session.

OSRC UPDATE

Added Item: Ohio Society for Respiratory Care Update

David Corey gave an update on the OSRC. They have a Board meeting coming up and they are formalizing their upcoming agenda for the year. They will be working on unveiling a new website and focusing more on the presence in Social Media. The Governor's budget will be discussed in the next Board meeting for the OSRC. The new budget, which was 3,512 pages, recently released in Blue Book form, was about 500 pages less than expected. House leadership and Senate leadership have discussed that they were a bit disappointed. Early January, the OSRC was told this bill would probably be DOA. This bill discusses disbanding and merging the Respiratory Care Board into the Medical Board, same language as the substitute version in the December bill. The OSRC have had one Coalition meeting already, another meeting Monday will all the effected board and interested party. Looking at the make up at the House Finance Committee members, you have a lot that were not in favor of this last session in the 131st General Assembly. We're somewhat confident that this can be done, having a separate discussion apart from the Budget.

CALL REGULAR MEETING TO ORDER

President Walz called the meeting to order at 1:15 pm. President Walz requested roll be taken by the Board Secretary, Steven Pavlak. In attendance is as follows: Mr. Walz, Mr. Aquillo, Ms. Cross, Dr. Colletti, Mr. Pavlak, Dr. Sasidhar and Ms. Yagodich.

Agenda item 2: Adoption of Proposed Meeting Agenda (Exhibit B)

President Walz requested a motion to approve the agenda.

Motion # 1: Mr. Pavlak moved to approve the meeting agenda, Mr. Aquillo seconded the motion. The motion carried: 7-0.

Agenda item 3: Approval of Prior Meeting Minutes (Exhibit C)

President Walz requested a motion to approve the prior meeting minutes.

Motion # 2: Dr. Colletti moved to adopt the meeting minutes from December 14, 2016. Mr. Pavlak seconded the motion. The motion carried: 7-0.

FINDINGS OF FACT, CONCLUSIONS OF LAW & ORDER OF THE BOARD

Agenda item 5.a: In the matter of Tracey Anne Maynard, Case# 2015 ORCB 14 (Exhibit D)

The Ohio Respiratory Care Board

Adjudication Order

Tracey Anne Maynard
37828 Lake Drive
Avon, OH 44011

THE MATTER OF TRACEY ANNE MAYNARD CAME BEFORE THE FOLLOWING MEMBERS OF THE OHIO RESPIRATORY CARE BOARD ON FEBRUARY 8, 2017 AT 9:12 A.M. IN ROOM WEST B & C, 31ST FLOOR OF THE VERN RIFFE CENTER FOR GOVERNMENT AND THE ARTS, 77 S. HIGH STREET, COLUMBUS, OHIO 43215. PRESENT WERE KENNETH WALZ, J.D., R.R.T., R.C.P. PRESIDENT; MICHAEL C. AQUILLO, PUBLIC MEMBER; NANCY COLLETTI, PH.D., R.R.T., R.C.P.; MELISSA CROSS, HME MEMBER; STEVEN PAVLAK, M.S., R.R.T., R.C.P., SECRETARY, AND DR. MADHU SASIDHAR, M.D., FCCP, PHYSICIAN MEMBER. WHILE PRESENT IN THE ROOM, ANDREA D. YAGODICH, R.R.T., R.C.P. RECUSED HERSELF FROM THE PROCEEDINGS BASED UPON HER ROLE AS THE BOARD'S 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.

MELISSA L. WILBURN, SENIOR ASSISTANT ATTORNEY GENERAL, REPRESENTED THE STATE OF OHIO.

TRACEY ANNE MAYNARD DID NOT APPEAR FOR THE HEARING.

MICHAEL SPENCER WAS THE COURT REPORTER, ARMSTRONG & OKEY – 222 E. TOWN STREET, COLUMBUS, OHIO 43215.

Preliminary matters: Mr. Walz noted that Ms. Maynard was not present for the Hearing. Mr. Walz asked the members of the Board to introduce themselves. Mr. Walz briefly reviewed the rules of the Goldman hearing.

Ms. Wilburn gave an opening statement. The State presented its case in chief. The State of Ohio moved for the admission of State's Exhibits A through E. With no objections, the State's exhibits were admitted.

State's Exhibits admitted:

- A. Notice of Opportunity for Hearing
- B. Goldman Hearing Notice
- C. Tracey Anne Maynard – Contact Information from eLicense
- D. Tracey Anne Maynard – License Reinstatement Application
- E. Tracey Anne Maynard – 2016 Online License Renewal Application

Witnesses called by the State:

- 1. Mark Kimmerle, Ohio Respiratory Care Board Investigator

FINDINGS OF FACT

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

- A. Ms. Maynard was issued a Notice of Opportunity for Hearing in compliance with Section 119.07 of the Revised Code.
- B. Ms. Maynard did not request a hearing before the Ohio Respiratory Care Board.
- C. The Ohio Respiratory Care Board finds that Ms. Maynard was properly notified of the date, time, and place of the hearing.
- D. The Board finds that on or about July 21, 2014, Ms. Maynard filed an application to reinstate her respiratory care professional license #RCP.13280, which expired on June 30, 2014. As part of her application, Ms. Maynard provided copies of her continuing education completion certificates. The following continuing education was reported:
 - 1. Jurisprudence Module 1.1, dated July 16, 2014
 - 2. LAW REVIEW 1.2, DATED July 16, 2014
 - 3. Tracheostomy: procedures timing and tubes, dated July 16, 2014
 - 4. Aerodigestive and respiratory changes post tracheostomy, dated July 16, 2014
 - 5. Application of the Passy-Muir swallowing and speaking valve, dated July 16, 2014

6. Interdisciplinary trach team: Where do I start?, dated July 16, 2014
 7. Ventilator application of the Passy-Muir valve, dated July 16, 2014
 8. Passy-Muir valve FAQ challenge, dated July 16, 2014
 9. Early SLP intervention for the ventilated ICU patient, dated July 16, 2014
 10. Interdisciplinary decision-making with patients requiring tracheostomy mechanical ventilation, dated July 16, 2014
 11. Early intervention in persons with minimally conscious state & tracheostomy, dated July 16, 2014
 12. How you breathe matters: swallowing safely, dated July 16, 2014
 13. Home care tracheostomy team: navigating and networking, dated July 17, 2014
 14. Swallowing function: Passy-Muir valves use for evaluation and rehabilitation, dated July 17, 2014
 15. Quality in pulmonary function testing, dated July 18, 2014
 16. Swallowing management of the tracheostomy adult patient, dated July 17, 2014
 17. PFT: back to basics, dated July 18, 2014
 18. Patient safety and the respiratory therapist, dated July 18, 2014
 19. Asthma self-management, dated April 11, 2014
- E. Ms. Maynard was an active license holder in the state of Ohio from July 1, 2012 until June 30, 2014 when her license expired. As an active license holder from July 1, 2012 until June 30, 2014, Ms. Maynard was required to complete her continuing education requirements on or before June 30, 2014.

CONCLUSIONS OF LAW

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:

1. 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;
2. Rule 4761-9-02 (B) of the Ohio Administrative Code states:
 - (B) RCCE contact hours shall be obtained during the term of collection as set forth in paragraphs (C)(1) and (C)(2) of this rule. RCCE contact hours shall be earned prior to the license or limited permit expiration date for the renewal period.
3. Based upon a preponderance of the evidence, the Ohio Respiratory Care Board concludes that Ms. Maynard did not earn sufficient RCCE contact hours prior to the license expiration date for the renewal period which ended June 30, 2014.
4. The Board finds by a preponderance of the evidence that Count I of the Board's Notice of Opportunity for Hearing is TRUE.

5. 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. Maynard violated a rule of the Board by failing to earn sufficient RCCE contact hours prior to the license expiration date for the renewal period.

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 immediately and indefinitely SUSPENDS Tracy Anne Maynard's license to practice respiratory care in the state of Ohio beginning on the effective date of this Order. The Board also FINES Tracy Anne Maynard in the amount of TWO HUNDRED dollars (\$200.00), payable to the BOARD within SIXTY (60) days of the effective date of this Order. Following the payment of the fine, Ms. Tracey Anne Maynard may be eligible for reinstatement of her license upon approval of the Ohio Respiratory Care Board by an affirmative vote of a majority of the Board following an interview before the Ohio Respiratory Care Board. Prior to an interview before the Board, Ms. Tracey Anne Maynard shall submit proof to the Board of RCCE contact hours obtained during the term of collection for the renewal period which ended on June 30, 2016.

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

Motion # 3:

DR. NANCY COLLETTI MOVED FOR FINDINGS OF FACT. MICHAEL AQUILLO SECONDED THE MOTION. MOTION PASSED (AYE – 6/ NO – 0/ ABSTAINED – 1 (ANDREA YAGODICH)).

Motion # 4:

DR. NANCY COLLETTI MOVED FOR CONCLUSIONS OF LAW. STEPHEN PAVLAK SECONDED THE MOTION. MOTION PASSED (AYE – 6/ NO – 0/ ABSTAINED – 1 (ANDREA YAGODICH)).

Motion # 5:

DR. MADHU SASIDHAR MOVED FOR THE ORDER OF THE BOARD. STEVEN PAVLAK SECONDED THE MOTION. MOTION PASSED (AYE – 6/ NO – 0/ ABSTAINED – 1 (ANDREA YAGODICH)).

SO ORDERED

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

Agenda item 5.b: In the matter of Jamie Elizabeth Knapp, Case# 2014 ORCB 51 (Exhibit E)

The Ohio Respiratory Care Board

Adjudication Order

Jamie Elizabeth Knapp
2975 Airport Road
Adrian, MI 49221

THE MATTER OF JAMIE ELIZABETH KNAPP CAME BEFORE THE FOLLOWING MEMBERS OF THE OHIO RESPIRATORY CARE BOARD ON FEBRUARY 8, 2017 AT 10:12 A.M. IN ROOM WEST B & C, 31ST FLOOR OF THE VERN RIFFE CENTER FOR GOVERNMENT AND THE ARTS, 77 S. HIGH STREET, COLUMBUS, OHIO 43215. PRESENT WERE KENNETH WALZ, J.D., R.R.T., R.C.P. PRESIDENT; MICHAEL C. AQUILLO, PUBLIC MEMBER; NANCY COLLETTI, PH.D., R.R.T., R.C.P.; MELISSA CROSS, HME MEMBER; STEVEN PAVLAK, M.S., R.R.T., R.C.P., SECRETARY, AND DR. MADHU SASIDHAR, M.D., FCCP, PHYSICIAN MEMBER. WHILE PRESENT IN THE ROOM, ANDREA D. YAGODICH, R.R.T., R.C.P. RECUSED HERSELF FROM THE PROCEEDINGS BASED UPON HER ROLE AS THE BOARD'S 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.

MELISSA L. WILBURN, SENIOR ASSISTANT ATTORNEY GENERAL, REPRESENTED THE STATE OF OHIO.

JAMIE ELIZABETH KNAPP DID NOT APPEAR FOR THE HEARING.

MICHAEL SPENCER WAS THE COURT REPORTER, ARMSTRONG & OKEY – 222 E. TOWN STREET, COLUMBUS, OHIO 43215.

Preliminary matters: Mr. Walz noted that Ms. Knapp was not present for the Hearing. Mr. Walz asked the members of the Board to introduce themselves. Mr. Walz briefly reviewed the rules of the Goldman hearing.

Ms. Wilburn gave an opening statement. The State presented its case in chief. The State of Ohio moved for the admission of State's Exhibits A through F. With no objections, the State's exhibits were admitted.

State's Exhibits admitted:

- A. Notice of Opportunity for Hearing
- B. Goldman Hearing Notice
- B-1. Certificate of Mailing for Goldman Hearing Notice
- C. Jamie Elizabeth Knapp – Contact Information from eLicense
- D. Judgement – United States of America v. Jamie Knapp (N.D. – Ohio; Case No. 3:15 CR 132)
- E. Verdict – United States of America v. Jamie Knapp (N.D. – Ohio; Case No. 3:15 CR 132)
- F. Indictment – United States of America v. Jamie Knapp (N.D. – Ohio; Case No. 3:15 CR 132)

Witnesses called by the State:

1. Mark Kimmerle, Ohio Respiratory Care Board Investigator

FINDINGS OF FACT

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

- A. Ms. Knapp was issued a Notice of Opportunity for Hearing in compliance with Section 119.07 of the Revised Code.
- B. Ms. Knapp did not request a hearing before the Ohio Respiratory Care Board.
- C. The Ohio Respiratory Care Board finds that Ms. Knapp was properly notified of the date, time, and place of the hearing.
- D. The Board finds that on or about May 10, 2013 to March 25, 2014, while working as a respiratory care practitioner, Ms. Knapp knowingly and without authorization obtained individually identifiable health information relation to an individual; to wit, electronic medical records, which were maintained by ProMedica Bay Park Hospital and contained individually identifiable health information of approximately 596 patients.
- E. The Board finds that on or about October 18, 2016, in the United States District Court, Northern District of Ohio, case number 3:15 CR 132, Ms. Knapp was found guilty of one misdemeanor count of Obtaining Individually Identifiable Health Information in violation of 41 U.S.C. 132d-6(a)(2), an offense involving moral turpitude.

CONCLUSIONS OF LAW

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:

1. 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:
 - (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;
 - (6) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care;

2. Rule 4761-11-03 (A) of the Ohio Administrative Code states:

(A) Any licensee or permit holder found by the board to be in violation of section 4761.09 of the Revised Code may be reprimanded, placed on probation or have his license or permit suspended, refused for renewal, or revoked by the board. In addition, the board may fine violators as provided for in division (A)(6) of section 4761.03 of the Revised Code, not less than one hundred dollars nor more than one thousand dollars.

3. Rule 4761-10-01(N) of the Ohio Administrative Code states:

(N) A licensee or permit holder shall access only health care recipient information which is necessary and relevant to their function and authority as a respiratory care provider.

4. Based upon a preponderance of the evidence, the Ohio Respiratory Care Board concludes that Ms. Knapp received a judicial finding of guilt for an offense involving moral turpitude.

5. Based upon a preponderance of the evidence, the Ohio Respiratory Care Board concludes that Ms. Knapp violated the standards of ethical conduct adopted by the board by not accessing only health care recipient information which was necessary and relevant to her function and authority as a respiratory care provider.

6. The Board finds by a preponderance of the evidence that Count I and Count II of the Board's Notice of Opportunity for Hearing are TRUE.

7. 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. Knapp both received a judicial finding of guilt for an offense involving moral turpitude, and violated a standard of ethical conduct adopted by the board

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 PERMANENTLY REVOKES Ms. Knapp's license to practice as a respiratory care professional in the state of Ohio.

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

Motion # 6:

MELISSA CROSS MOVED FOR FINDINGS OF FACT. MICHAEL AQUILLO SECONDED THE MOTION. MOTION PASSED (AYE – 6/ NO – 0/ ABSTAINED – 1 (ANDREA YAGODICH)).

Motion # 7:

DR. NANCY COLLETTI MOVED FOR CONCLUSIONS OF LAW. STEPHEN PAVLAK SECONDED THE MOTION. MOTION PASSED (AYE – 6/ NO – 0/ ABSTAINED – 1 (ANDREA YAGODICH)).

Motion # 8:

MICHAEL AQUILLO MOVED FOR THE ORDER OF THE BOARD. MELISSA CROSS SECONDED THE MOTION. MOTION PASSED (AYE – 6/ NO – 0/ ABSTAINED – 1 (ANDREA YAGODICH)).

SO ORDERED

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

Agenda item 5.c: In the matter of Jennifer Lynn Adams, Case #2017 ORCB 34 (Exhibit F)

The Ohio Respiratory Care Board

Adjudication Order

Jennifer Lynn Adams
5555 West Maple
Geneva, OH 44041

THE MATTER OF JENNIFER LYNN ADAMS CAME BEFORE THE FOLLOWING MEMBERS OF THE OHIO RESPIRATORY CARE BOARD ON FEBRUARY 8, 2017 AT 11:03 A.M. IN ROOM WEST B & C, 31ST FLOOR OF THE VERN RIFFE CENTER FOR GOVERNMENT AND THE ARTS, 77 S. HIGH STREET, COLUMBUS, OHIO 43215. PRESENT WERE KENNETH WALZ, J.D., R.R.T., R.C.P. PRESIDENT; MICHAEL C. AQUILLO, PUBLIC MEMBER; NANCY COLLETTI, PH.D., R.R.T., R.C.P.; MELISSA CROSS, HME MEMBER; STEVEN PAVLAK, M.S., R.R.T., R.C.P., SECRETARY, AND DR. MADHU SASIDHAR, M.D., FCCP, PHYSICIAN MEMBER. WHILE PRESENT IN THE ROOM, ANDREA D. YAGODICH, R.R.T., R.C.P. RECUSED HERSELF FROM THE PROCEEDINGS BASED UPON HER ROLE AS THE BOARD'S 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.

MELISSA L. WILBURN, SENIOR ASSISTANT ATTORNEY GENERAL, REPRESENTED THE STATE OF OHIO.

MS. JENNIFER LYNN ADAMS DID NOT APPEAR, BUT WAS REPRESENTED BY HER ATTORNEY, TODD W. NEWKIRK, ESQ., NEWKIRK HEALTH LAW, LLC – 85 EAST GAY STREET, COLUMBUS, OHIO 43215.

MICHAEL SPENCER WAS THE COURT REPORTER, ARMSTRONG & OKEY – 222 E. TOWN STREET, COLUMBUS, OHIO 43215.

Preliminary matters: Mr. Walz noted that Ms. Adams was not present for the Hearing. However, Mr. Walz noted that the record would reflect the presence of Ms. Adam's counsel, Mr. Todd W. Newkirk. Mr. Walz asked the members of the Board to introduce themselves. Mr. Walz then asked the staff of the Board to introduce themselves.

Other preliminary matters: Melissa L. Wilburn, SAAG, stated she talked with Mr. Newkirk prior to the hearing and Mr. Newkirk had agreed to stipulate to the admissibility of State's Exhibits A through F. Mr. Newkirk confirmed this stipulation.

State's Exhibits admitted:

- A. Notice of Opportunity for Hearing
- B. Correspondence indicating a Request for Hearing by Ms. Adams' Counsel, Todd W. Newkirk
- C. Hearing Scheduling Letter
- D. Jennifer Lynn Adams – Contact Information from eLicense
- E. Jennifer Lynn Adams – License Reinstatement Application
- F. Journal Entry – Ashtabula County Court

Witnesses called by the State:

1. Mark Kimmerle, Ohio Respiratory Care Board Investigator

FINDINGS OF FACT

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

- A. Ms. Adams was issued a Notice of Opportunity for Hearing in compliance with Section 119.07 of the Revised Code.
- B. Ms. Adams did request a hearing and have counsel present before the Ohio Respiratory Care Board.
- C. The Ohio Respiratory Care Board finds that Ms. Adams was properly notified of the date, time, and place of the hearing.
- D. The Board finds that on or about February 18, 2016, in Ashtabula County Court, Eastern Area, Jefferson, Ohio Case Number 2015 CR A 0041 E, Ms. Adams pled guilty to one count Misuse of a Credit Card, a first degree misdemeanor, in violation of §2913.21 of the Ohio Revised Code, which occurred during Ms. Adams care for a patient, although not in her capacity as a Respiratory Care Professional.

CONCLUSIONS OF LAW

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:

1. 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:
 - (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;
2. Rule 4761-11-03 (A) of the Ohio Administrative Code states:
 - (A) Any licensee or permit holder found by the board to be in violation of section 4761.09 of the Revised Code may be reprimanded, placed on probation or have his license or permit suspended, refused for renewal, or revoked by the board. In addition, the board may fine violators as provided for in division (A)(6) of section 4761.03 of the Revised Code, not less than one hundred dollars nor more than one thousand dollars.
3. Based upon a preponderance of the evidence, the Ohio Respiratory Care Board concludes that Ms. Adams pled guilty and received a judicial finding of guilt for an offense involving moral turpitude.
4. The Board finds by a preponderance of the evidence that Count I of the Board's Notice of Opportunity for Hearing is TRUE.
5. 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. Adams pled guilty and received a judicial finding of guilt for an offense involving moral turpitude.

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 PERMANENTLY REVOKES Ms. Adams' license to practice as a respiratory care professional in the state of Ohio.

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

Motion # 9:

MELISSA CROSS MOVED FOR FINDINGS OF FACT. DR. NANCY COLLETTI SECONDED THE MOTION. MOTION PASSED (AYE – 6/ NO – 0/ ABSTAINED – 1 (ANDREA YAGODICH)).

Motion # 10:

STEVEN PAVLAK MOVED FOR CONCLUSIONS OF LAW. MICHAEL AQUILLO SECONDED THE MOTION. MOTION PASSED (AYE – 6/ NO – 0/ ABSTAINED – 1 (ANDREA YAGODICH)).

Motion # 11:

DR. NANCY COLLETTI MOVED FOR THE ORDER OF THE BOARD. STEVEN PAVLAK SECONDED THE MOTION. MOTION PASSED (AYE – 6/ NO – 0/ ABSTAINED – 1 (ANDREA YAGODICH)).

SO ORDERED

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

RECOGNITION OF STEPHEN KOCHHEISER, AAG

The Board recognized Assistant Attorney General Stephen Kochheiser with a Resolution for his service to the Board as legal counsel for the past several years.

OFFICER AND STAFF REPORTS

Agenda item 6.a: President's Report

President Walz had no report.

Agenda item 6.b: Executive Director's Report (Exhibit G)

FY2018/FY2019 Biennial Budget/Proposed Reorganization

The Governor has proposed his last biennial budget, the FY18/FY19 biennium- July 1, 2017 to June 30, 2019. Similar to the Healthcare Board Reorganization bills introduced in late November, the Governor is proposing to merge several healthcare boards (9) into 3 new Boards. The Respiratory Care Board would be split with HME going to the Board of Pharmacy and RCP, along with the Dietetics Board, going to the State Medical Board. Unlike the last proposals, these changes would occur on January 22, 2018. This would give nearly 7 months to plan for the changes for the transition. As such, the Board has no funding proposed for FY19 and has 61.5 of the money which was requested for FY18. This Sixty-one and a half percent is equal to the amount of time proposed for the Board to exist as an independent agency in FY18.

As of February 6th, the actual language within the main operating budget bill has yet to be released. As such, we only have the proposed budget figures and the summary of the proposed structural changes at the higher level. Current assertions from the Governor's office indicate that the language which was adopted in the House Bill 617 sub-bill both would be sub-committees of other existing committees and the exact number and make-up of members would be decided by the respective Board presidents under future rules. At the present time, it is unclear whether the funds the Board would need for the end of FY18 were added to the budgets of Medical and Pharmacy and what that allocation entailed.

eLicense 3.0

All staff are participating in the current design sprints for the new eLicensing 3.0 system being developed by the Department of Administrative Services (DAS) in conjunction with the outside contractor, Deloitte. Currently, we meet at DAS for 8-24 hours a week to go over the public and board (private) portals which will be used in the new enterprise system which is based on a salesforce platform. We tentatively still have a go-live date of mid-July for the new system. At the present time, staff is able to provide input regarding the information to be gathered and stored in the system

along with the look and feel of the displays. While some items are standardized, there are many instances where we are providing the language and the preferred set-up.

It is anticipated that a presentation of the new system can be provided at the June Board meeting. At a point shortly after the go live date, all new applications, renewals and reinstatements will be handled online. In March, the board Staff will begin updating all current and recent licensees regarding the upcoming change in the system in order to submit applications and to automatically make service requests.

OnBase/iSynergy

In tandem with the move to a new licensing system, DAS has been working with another contractor, Hyland, to develop a document management system which can be used in conjunction with the new eLicense system. OnBase would integrate into eLicense 3.0 and would enable the Board to replace our current document management system, iSynergy, which is shared with the Ohio Chemical Dependency Professionals Board (OCDPB). Recently, DAS informed the board Directors that integration into the new system, along with the 500% increase in the cost of using the new eLicense system. On February 22nd, the staff will participate in a demonstration of the new system and on either the 22nd or the 24th, the Director of OCDPB and I will meet with DAS & Hyland to review our current system, iSynergy, and to discuss our offsite server manager, Coleman Professional Services.

Recently, the staff has been experiencing problems connection to iSynergy. While this latest problem appears to have been fixed. Utilizing a state system with local provision of service should hopefully lead to less downtime and a quicker resolution of problems. Taking into consideration the potential move to a new system, I've sought to execute a shorter contract with Coleman Professional Services. The current contract runs through the end of March. While the seat license will again be for 12 months, the storage service will cover only six months. This should enable the Board either time to transition to the new system, or the opportunity to delay some costs until the end of FY18-after the possible dissolution of the Board.

Board Members

Other Boards, including those which are proposed to be merged, have seen recent appointments made to them after years of vacancies. As such, it may be hoped that with the possibility that the Board would exist as currently structured through to January of 2018, the Governor will likely appoint/reappoint members to positions for which terms are ending. Dr. Nancy Colletti, Carol Gilligan and Andrea Yagodich all have expressed an interest and desire in being reappointed to the Board. I have shared those desires with both OAMES and OSRC as they statutorily make recommendations to the Governor. Currently, all three terms expire on March 14th, but all three members can serve without reappointment for an additional 60 days, unless someone else is appointed to that seat on the Board.

HTC- Hyperbaric Technologist Certification

With the move toward the new eLicense system, I reached out again to the National Board of Diving and Hyperbaric Medical Technology, to help get the word out regarding the need for those with a Certification from the Board as Hyperbaric Technologists to register their certification with our Board, unless they are otherwise licensed as a healthcare provider and able to operate a hyperbaric chamber under their own scope of practice. As a private entity, the National Board does not provide contact information for those certified in Ohio, but as they did when we passed our rule in 2014, they have just recently sent out another email to those who they have email addresses. As such, we have received one application, but numerous phone calls in the past week. Most of those inquiring already have a license from us or another healthcare board and thus do not need to file a certification. However, I would like to get most potential current applicants into the system before our conversion to eLicense 3.0.

2017 Limited Permit Renewals

The Board staff will soon begin the renewals for the L1 & L2 limited permit holders for 2017. The mailing will go out on March 15h, and this will be the last paper renewal before the Board transitions online with the new eLicense 3.0 system.

BUDGET OVERVIEW (As of February 6, 2017) (See exhibit G)

Total Budget:	\$590,032.00
Total Expenses	\$300,776.24
<u>Total Encumbrances</u>	<u>\$14,498.52</u>
Total Budget Balance	\$274,757.24

REVENUE OVERVIEW (As of February 6, 2017) (Attachment 1)

As of February 6, 2017 – with Deposit ID 17091, the Board had received total revenues of \$68,633.69 for the 2017 fiscal year. This amount is split fairly equally between RCP (\$35,063.69) and HME (\$33,570.00). This reflects an increase of \$11,645.00 reported at the prior Board Meeting.

STATUS OF LICENSES (As of February 6, 2017) (Attachment 2)

EXPENDITURE REPORT (As of February 6, 2017) (Attachment 3)

Agenda item 2.c: HME Manager's Report (Exhibit H)

Marcia Stephenson, HME Manager, shared with the board that since the last meeting the staff has approved 4 HMEL applications and 10 HMER application. There are 4 Applications pending.

Discussion: A new inspector has been obtained to handle the Northwestern part of Ohio. At this time, all inspections that are due have been scheduled with the exception of a few that are awaiting dates from assigned inspectors. There are four inspections that were conducted less than three years ago.

As of February 3, 2017, the HME Licensing division has collected \$33,570.00 aggregate revenue for Fiscal Year 2017.

There was a discussion regarding Whole Body Health, a licensee reapplying for licensure after having signed a surrender agreement. The staff will gather additional information and discuss the matter with the Assistant Attorney General before raising the matter back with the HME Committee.

Director Schaal mentioned that one of the numbers for a license was not used, Marcia Stephenson then explained that it had been used in error. Once a number is entered in the system, it cannot be reused.

Discussion: Dr. Sasidhar had a question regarding an inspection date, Mrs. Stephenson will be following up on this question during the Boards' lunch break. Mr. Pavlak questioned the threshold the Inspectors are held to. Mrs. Stephenson does not hold them to a certain amount of inspections, they are issued as to how they come up for inspection. Mr. Schaal did state that two of the Inspectors' contracts had not been renewed due to their lack of availability and one retired. A fourth Inspector has been added. Most of the Inspectors complete side work with the Accrediting body and this can be a conflict of interest for some locations. Mrs. Stephenson is looking to the Board for some direction as to

the inspection window. Mr. Schaal had the Board take the Color coded spreadsheet of Inspections home to review. Mrs. Stephenson had a Chiropractor question the language of the inspections check list. The Inspection check list will be reviewed.

Motion # 12: President Walz entertained a motion to approve the President's Report, Executive Director's Report and HME Manager's Report. Dr. Sasidhar moved and Dr. Colletti seconded the motion. Motion carried: 7 – 0.

COMMITTEE REPORTS

Agenda item 7.a: HME Committee Report

Director Schaal briefly presented the HME Committee Meeting. Director Schaal presented the Board with an updated color-coded Inspection Spreadsheet via email in January. Mrs. Stephenson, HME Manager, has been updating this information presented it to the Committee. Approval of Prior Committee Meeting Minutes, the HME Committee met earlier in the day and approved the prior meeting minutes from the December 14th meeting. HME Committee approved 4 HMEL, 10 HMER and 4 pending applications. Director Schaal then discussed the January, February and March inspections that have been ongoing. We have a 4th inspector, Hal Freehling who will be handling the Northwestern part of Ohio. Mr. Freehling will be doing an inspection with Mark Kemerer, and he will go on a sight visit on the 23rd of February. Director Schaal is encumbering more money and giving Steve DeGenero additional funds. At this time, all inspections that are due have been scheduled with the exception of a few that are awaiting dates from assigned inspectors. There are four inspections that were conducted less than three years ago. Providers are requesting clarification on the language within the inspection packet on one-time transactions, so the staff will review for possible revision.

Agenda item 7.b: Rules Committee Report

Mr. Pavlak spoke last week with Mr. Schaal regarding the 25 Rules, to check for changes or errors. Two, non-errors were located. One of the problems were handled through LSC and probably already updated online. In regard to the Inspections for HME, we would like the 4 year inspection Rule to be a 3 year inspection rule. The initial inspections would be within 6 months of initial licensure, and then 3 months thereafter. We want to amend the OAC rule 4761:1-14 for the inspection frequency. Mr. Schaal did say that the 2017 Rules Review be put out for comment in order to move forward on them and the amended rule be put out for public comment.

Motion # 13: President Walz entertained a motion to approve the HME and Rules Committee reports inclusive of putting amended and reviewed rules out for public comment. Mr. Aquillo moved and Dr. Colletti seconded the motion. Motion carried: 7 – 0.

PROBABLE REVIEW COMMITTEE (PRC) REPORT (Exhibits I & J)

Agenda item 8.a: Probable Review Committee Report (Exhibit I) & Enforcement Report (Exhibit J)

Motion # 14: Mr. Pavlak moved to enter Executive Session for the purpose of considering the investigation of charges or complaints against licensees 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. 4761.03(E) and 4752.08 (B). Mr. Aquillo seconded the motion.
Discussion: None. Roll Call vote:

Kenneth Walz -	Yes	Michael Aquillo -	Yes
Dr. Nancy Colletti -	Yes	Melissa Cross -	Yes
Steven Pavlak -	Yes	Dr. Madhu Sasidhar -	Yes
Andrea Yagodich -	Abstained		

Motion carried: 6 – 0

The Board entered executive session at 3:05 p.m. and returned to regular, public session at 3:34 p.m. As a member of the Probable Review Committee, Ms. Yagodich excused herself from participating in this portion of the meeting. Aside from the remaining Board members, also present during executive session were Director Schaal and Ms. Wilburn.

**Names and identifying information were redacted from discussion and from proposed consent agreements 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 consent agreements through a motion on the record during public session.*

In public session, the Board took the following actions:

Agenda item 8b: Approval of Consent Agreements (Exhibits K & L)

Motion # 15: Mr. Pavlak made a motion to approve the following Consent agreements, Mr. Aquillo seconded the motion. Discussion: None. Motion carried: 6 – 0. Ms. Yagodich abstained.

2017-RCB-22
2017-RCB-24

Agenda item 8.c: Approval of Closing Cases

Motion # 16: Dr. Sasidhar made a motion to approve the closing of the following cases. Mr. Aquillo seconded the motion. Discussion: None. Motion carried: 6 – 0. Ms. Yagodich abstained.

2017-RCB-12
2017-RCB-18
2016-HME-10002

Agenda item 8.d: Probation Compliance Report

Motion # 17: Dr. Colletti moved to approve the Probation Compliance Report. Ms. Cross seconded the motion. Discussion: None. Motion carried: 6 – 0. Ms. Yagodich abstained.

NEW BUSINESS

Agenda item 9.a: Acknowledgement of RCP Licenses and Limited Permits issued since the last meeting (Exhibit M)

Motion # 18: Dr. Colletti moved to ratify Respiratory Care Professional Licenses and Limited Permits issued between 12/05/2016 – 01/30/2017, Ms. Cross seconded the motion. Discussion: None. Motion carried 7 - 0.

Agenda item 9.b: Acknowledgement of Home Medical Equipment Licenses and Certificates of Registration (Exhibit N)

Motion # 19: Dr. Sasidhar moved to ratify Home Medical Equipment Licenses and Certificates of Registration issued between issued between 12/02/2016 – 1/20/2017, Mr. Aquillo seconded the motion. Discussion: None. Motion carried 7 - 0.

EXECUTIVE SESSION

Motion #20: Mr. Pavlak moved to enter Executive Session for the purpose of considering the employment of a public employee under R.C. 121.22(G)(1). Ms. Yagodich seconded the motion. Discussion: None. Secretary Steven Pavlak proceeded with Roll Call vote:

Kenneth Walz -	Yes	Michael Aquillo -	Yes
Dr. Nancy Colletti -	Yes	Melissa Cross -	Yes
Steven Pavlak -	Yes	Dr. Madhu Sasidhar -	Yes
Andrea Yagodich -	Yes		

Motion carried: 7 – 0

The Board entered executive session at 3:38 p.m. and returned to regular, public session at 4:02 p.m.

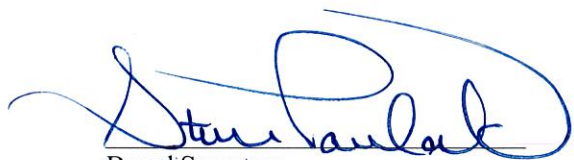
FOR THE GOOD OF THE BOARD

President Walz asked if anyone had any other matters for the good of the Board. There was no further discussion.

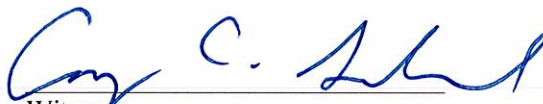
ADJOURNMENT

President Walz asked if there was any other business to bring before the Board. Hearing none, President Walz indicated that there would be 30 minutes for Executive Session added on the agenda for the next meeting to discuss the employment of a public employee. The meeting adjourned at 4:08 p.m.

Board 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 April 19, 2017.



Board Secretary



Witness