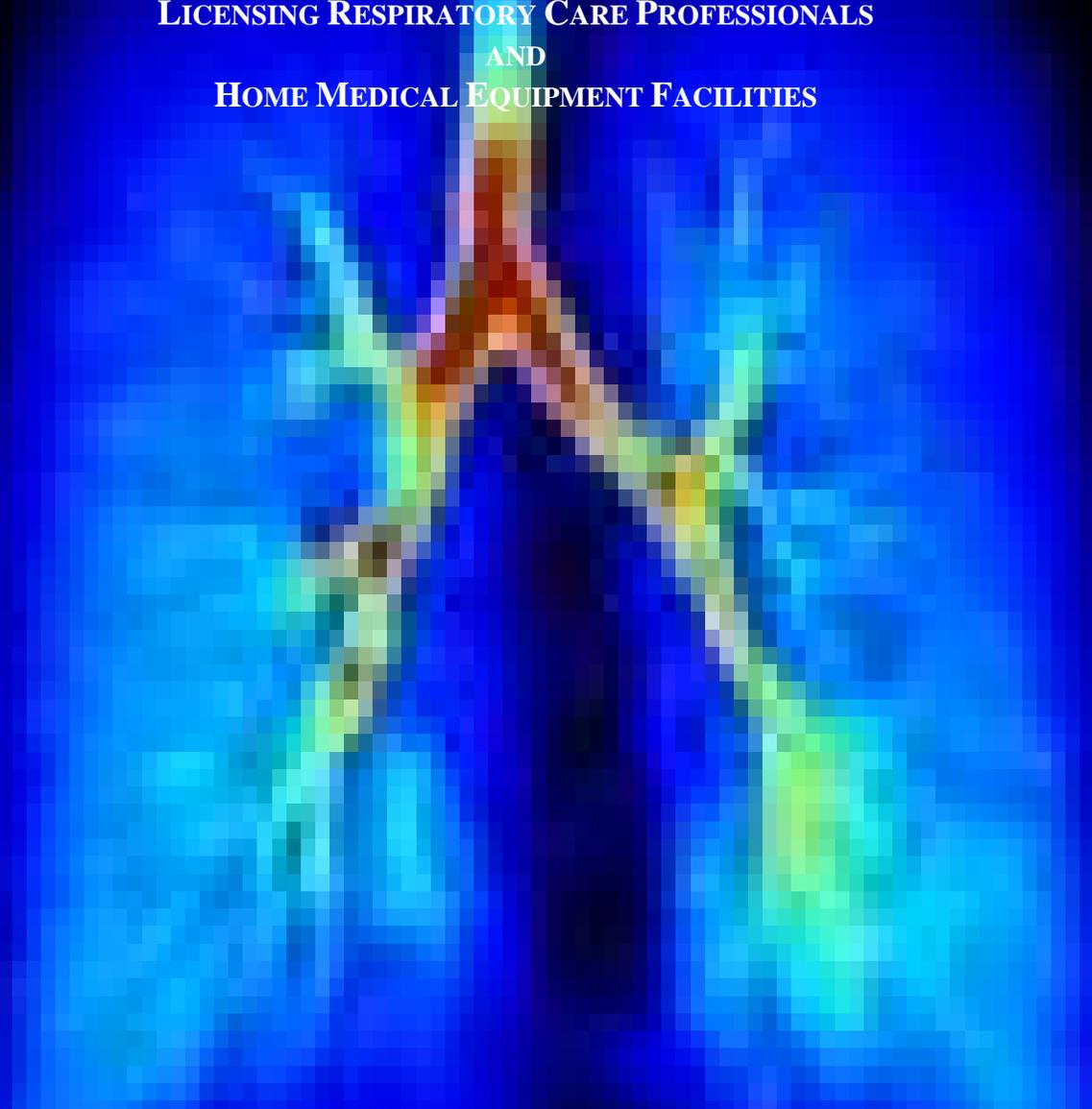


OHIO RESPIRATORY CARE BOARD

LICENSING RESPIRATORY CARE PROFESSIONALS
AND
HOME MEDICAL EQUIPMENT FACILITIES



ANNUAL REPORT
FY 2009

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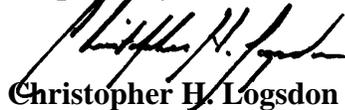
EXECUTIVE SUMMARY

Pursuant to Section 4761.03 (H) of the Ohio Revised Code, the Ohio Respiratory Care Board (hereafter referred to as “the Board,”) is required to file an annual report to the Governor and Ohio General Assembly. The annual report, by law, must list the official actions taken by the Board during the prior year and any recommendations for the improvement of the practice of respiratory care in Ohio. Although the statute only requires the Board to report on improvements to the practice of respiratory care, the Board believes recommendations on the improvement of home medical equipment regulation should also be addressed.

The Board’s annual report strives to inform the Governor, the Ohio General Assembly and the General Public of all its activities and actions taken during the prior year. The report is written to cover all aspects of the Board’s operations: regulatory, financial, and judicial. The Board is committed to full public disclosure and accountability at all levels of operations.

On behalf of the Ohio Respiratory Care Board, I would like to thank the people of Ohio for allowing us to serve them.

Respectfully,



Christopher H. Logsdon
Executive Director

Letter to the Governor and Ohio General Assembly

Dear Governor Strickland and Members of the Ohio General Assembly:

It is my pleasure to submit, on behalf of the Ohio Respiratory Care Board, its annual report for Fiscal Year 2009. This report reflects the efforts made by the Ohio Respiratory Care Board to ensure that all of the persons and facilities licensed by this Board are properly qualified to provide services to the citizens of Ohio. This report also summarizes the enforcement activities undertaken during fiscal year 2009, demonstrating the Board's role in disciplining licensees that violate the law. Finally, this report establishes the future goals of the Board and provides suggestions for improving the practice of respiratory care and improving home medical equipment facility licensure in Ohio.

This report will provide information about the practice of respiratory care and home medical equipment facilities, our methods of operation, the accomplishments and actions of the agency and the dedication of the Board members and its staff. I believe you will find the Board dedicated to the regulatory role it has been so empowered to accomplish.

Respectfully submitted,

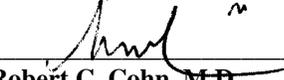


Marc K. Mays, MSA, RRT, RCP
President, Ohio Respiratory Care Board

Board Members



Marc K. Mays, R.R.T., R.C.P., M.S.A.
Board President
Professional Member
Columbus, Ohio



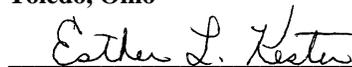
Robert C. Cohn, M.D.
Physician Member
Cleveland, Ohio



Susan M. Ciarlariello, R.R.T., R.C.P., M.B.A.
Professional Member
Dayton, Ohio



Kenneth Walz, R.R.T., R.C.P., J.D.
Professional Member
Toledo, Ohio



Esther L. Kester, R.R.T., R.C.P., M.B.A.
Professional Member
Ravenna, Ohio



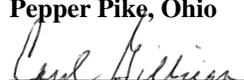
Darrell L. Heckman, Attorney at Law
Public Member
Urbana, Ohio



Anita L. Adams, R.C.P., M.B.A.
Professional Member
Dayton, Ohio

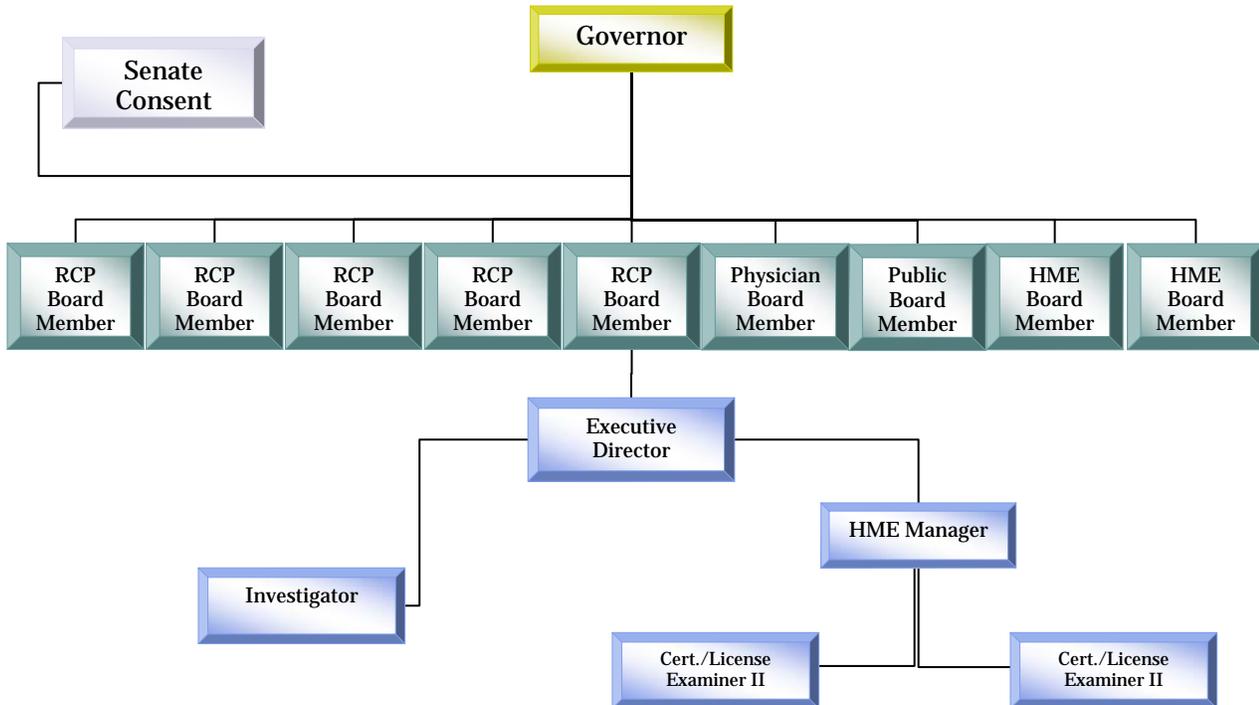


Joel D. Marx, B.S.
HME Professional Member
Pepper Pike, Ohio



Carol Gilligan
HME Professional Member
Bath, Ohio

Board Organization



Board Authority and Functions

The Board's primary purpose by law is to protect the public by regulating the practice of respiratory care and home medical equipment facilities in Ohio. With the advent of home medical equipment licensing under Chapter 4752 of the Revised Code, the Board membership was expanded to include persons with expertise in the provision of home medical equipment services. In this regard, the Board acts as a unique licensing-agent for both the respiratory care profession and home medical equipment facilities in Ohio.

In addition to its licensing duties, the Board investigates complaints and takes any necessary corrective action, investigates inquiries and performs home medical equipment facility inspections, holds rules hearings pursuant to Chapter 119 of the Ohio Revised Code, and monitors continuing education compliance. The Board also approves respiratory care educational programs and, when necessary, conducts on site review.

Home medical equipment facilities registered by the Board are required to follow standards of practice set down by the organization that accredits the facility. Licensed home medical equipment facilities must adhere to standards of practice developed by the Board through rule authority. These facilities are inspected at least once every four years to assure compliance with the Board's standards or, randomly, upon cause.

Following an adjudication hearing held pursuant to Chapter 119 of the Revised Code, the Board may take action against a licensed respiratory care provider or home medical equipment facility licensed by the Board. Within the parameters of the law for respiratory care, the Board may refuse to issue a license or a limited permit; issue a reprimand; suspend or revoke a license or limited permit; or place a license or limited permit holder on probation. Additionally, the Board may also levy fines. Similar authority exists for home medical equipment facilities licensed by the Board. Certificate of registration holding facilities are subject to the standards developed by their accreditation organization. The Board is obligated by law to take action against a certificate of registration holder if the accreditation organization moves to revoke or suspend the facility accreditation.

If a person or facility is found to be practicing without a license, the Board may seek an injunction or appropriate restraining order for such practice. If imposed by a court of law, unlicensed practice of home medical equipment services can result in substantial financial penalty. The Office of the Ohio Attorney General, upon the Board's request, may pursue appropriate relief through the court of common pleas in the county in which the violation occurs.

The Board is composed of nine members (five respiratory care professionals, two home medical equipment facility managers, one physician who specializes in pulmonary medicine and one member of the general public) who are appointed by the Governor, with the advice and consent of the Ohio Senate. The Board is a diverse group of persons, representative of the demographic and cultural makeup of the home medical equipment industry and respiratory care profession. Members are paid for each day employed in the discharge of official duties. All members are reimbursed according to state travel rules for travel expenses.

The Board is self-sustained through fees generated from applications for initial licensure, renewal fees, fines and other miscellaneous sources. Fees are deposited into a joint operating fund (called the "4K9" fund) consisting of fees from twenty-two professional licensing Boards. Each agency in the fund is required to generate sufficient revenue to meet its own expenses. Although the 4K9 fund serves as the funding source for the Board, it must still go through the standard biennial budget process. Hence, the Board's biennial budget is established by the Ohio General Assembly. Each year, the Board reviews licensure fees and budget requirements to determine if fee adjustments are necessary.

Although the Board must provide the same services as larger agencies, it does so with a small staff. The office is staffed by one Executive Director, two License/Certification Examiner II positions, one Investigator, and one Home Medical Equipment Licensing Manager. The office is located at the Vern Riffe Center for Government and the Arts, 77 South High Street, 16th Floor, Columbus, Ohio. Office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday.

The Board disseminates information concerning its activities, including Board meeting minutes, forms, notices, and Board member profiles on its state Webpage: www.respiratorycare.ohio.gov.

Mission Statement

The mission of the Board is to protect and serve the public of Ohio by effectively and efficiently regulating Home Medical Equipment facilities and the practice of Respiratory Care in the State of Ohio through the licensing of qualified facilities and practitioners, the establishment of standards for respiratory care educational programs and home medical equipment facilities and the enforcement of the laws and rules governing these practices.

Vision Statement

Making a responsible difference for the citizens of Ohio --- by efficient and effective Licensing for Respiratory Care Professionals and Home Medical Equipment facilities, Enforcing Practice Standards and Promoting Professional Competency.

Board Programs

- Respiratory Care Practice

At the end of FY 2009, 7384 persons in Ohio held active licenses to practice respiratory care. Since its inception, the Ohio Respiratory Care Board has issued more than 11,600 total licenses to qualified respiratory therapists. Additionally, the Board issued 320 limited permits to students that are enrolled at twenty-one different respiratory care programs throughout the state of Ohio.

The Board was established in 1989 to regulate the practice of respiratory care. Respiratory therapists, under the prescription of a licensed physician or qualified certified nurse practitioner or clinical nurse specialist, may provide many therapeutic, high risk and life-saving procedures to patients suffering from a variety of diseases and ailments affecting the lungs and heart. Persons suffering from emphysema, lung cancer, asthma, cystic fibrosis, and many other lung/heart ailments receive assessment, care, education and rehabilitation by respiratory therapists. The profession provides care in hospitals, long-term care facilities, sleep study laboratories, home care organizations, and physician offices. Today, all lower forty-eight states, the District of Columbia, and Puerto Rico require some form of licensure for respiratory therapists. Only Alaska and Hawaii do not require licensing in this practice.

- Home Medical Equipment Licensing and Registration

The Ohio Respiratory Care Board is charged with the licensing/certification and inspection of Home Medical Equipment (HME) facilities in the state of Ohio that sell, rent, deliver, install or maintain HME equipment. The law focuses on home medical equipment providers that sell or lease life-sustaining or technologically sophisticated equipment. By rule, the Board can identify other equipment that meets the definition of HME. A full list of equipment falling under the definition home medical equipment is defined in rule and regularly posted to the Board's home medical equipment website.

Two types of authorization to practice may be issued:

(1) **Certificate of Registration:** this status would apply to those facilities that are already accredited by the Joint Commission on Accreditation of Health Organizations or another accrediting organization recognized by the Ohio Respiratory Care Board. Holders of this authorization may provide the full range of home medical equipment services defined in the law, but will not be subject to the requirements of a licensed facility. For example, a Certificate of Registration holder would not have to undergo inspection by the Board because the accrediting organization performs this requirement.

(2) **License:** this status would apply to all non-accredited facilities. Licensed providers are subject to regular inspections and must comply with all provisions of the law to legally sell or lease the full range of home medical equipment services defined in the law.

Currently, the Board licenses 209 home medical equipment facilities and registers 527 home medical equipment facilities, giving Ohio an active total of 736 licensed or registered home medical equipment facilities providing services to Ohio citizens. In FY 2009, the Board inspected 74 home medical equipment facilities. FY 2010 represents the end of a four-year inspection cycle. The Board, by the end of the next fiscal year, anticipates completing all 210 facility inspections; thereby, setting the stage to begin the next round of inspection in FY 2011.

2009 Actions of the Board

Official actions of the Board are journalized in the minutes of each meeting. In FY 2009, the Board met every other month for two days. Generally, the first day consists of committee meetings and routine business: approvals of licenses, hearing notices, consent agreements, expenditures and discussion on topical issues before the membership. The second day of the Board meeting is reserved for adjudication hearings. The Board hears nearly all of its own cases and normally renders decisions the same day of the hearing. Board meeting minutes are available to the public by mail, e-mail, and a full year or more of minutes are maintained on the Board's website.

The following is a synopsis of the important actions taken by the Board during each meeting. This list does not include routine business and investigative matters, nor disciplinary hearings and findings.

- August 12, 2008

- **The Board's Scope of Practice Committee met and reviewed two inquiries. One inquiry asked if non-licensed personnel in the home medical equipment environment could educate and instruct patients on the use of pulse oximeter. The Committee determined that the procedure was not within the scope of an unlicensed person working for a licensed or registered home medical equipment facility. The determination was based upon differentiation of the term "demonstration," which is included in the scope of home medical equipment practice and "instructing in the use" of a pulse oximeter. The Committee found a substantive difference in the procedures. The Scope of Practice Committee also considered an inquiry asking if respiratory care providers could treat pressure ulcers formed by equipment used in the practice of respiratory care. The Committee concluded that no provision exists to include this procedure within the scope**

of respiratory care practice. The Board approved the Scope of Practice Committee's recommendations to address the inquiries filed.

- The Board's Home Medical Equipment Committee met and after reviewing the report of the Home Medical Equipment Manager, recommended ratifying the issuance of 11 HME licenses and 36 HME Certificates of Registration. The Committee also informed the Board that new legislation recently passed will permit the agency to waive part of the home medical equipment facility renewal fees based upon the date of issuance of the initial license or certificate of registration. The Board approved the Home Medical Equipment Committee's recommendations.
- The Board's Education Committee met and recommended the approval of a personal service contract to assist the Committee with writing the annual Education Report. The Board approved the Education Committee's recommendations.
- The Board approved:
 - Twelve Opportunity for Hearing Notices based upon alleged violations of the laws and rules governing the practice of respiratory care and five Opportunity for Hearing Notices based upon alleged violations of the laws and rules governing the practice of home medical equipment licensure.
 - Seventeen informal content agreements
 - Withdrawal of six previously issued Opportunity for Hearing Notices based upon notification that the HME facility had closed.
- The Board ratified the issuance of 166 respiratory care professional licenses and 74 limited permits.
- The Board reviewed Board member pay policy draft. After consideration, the Board moved to maintain the existing per diem pay policy.
- The Board approved a new initial application for respiratory care professional licensing.
- The Board completed its annual goals and objectives the FY 2008 annual report.

- October 6, 2008 – Teleconference Meeting under ORC 4761.09 (C)

- The Board moved to issue a summary suspension order in the matter of Alicia A. Howe.

- October 14 & 15, 2008

- The Board moved to adopt the recommendations of the Home Medical Equipment Committee by:
 - Recognizing Visual Rehabilitation Therapy devices as home medical equipment as defined under ORC 4752.01.
 - Refusing to render an opinion on a position statement on the scope of home medical equipment practice filed by a third party with the Ohio Department of Job and Family Services and referred to the Board for review.

- The Board moved to adopt the position of the Scope of Practice Committee on the setup and instruction of CPAP and CPAP mask fitting for home medical equipment personnel.
- The Board moved to adopt the position of the Scope of Practice Committee on allowing in-state employees of an out-of-state company to be trained by the company's out-of-state licensed personnel.
- The Board moved to approve two draft rules for filing with the Joint Committee on Agency Rule Review.
- The Board moved to approve seventeen Opportunity for Hearing Notices based on alleged violations of the laws and rules governing the practice of respiratory care in Ohio and one Opportunity for Hearing Notice based on an alleged violation of the laws and rules governing the licensing or registration of home medical equipment facilities in Ohio. The Board also moved to approve:
 - Ten consent agreements in lieu of an administrative hearing before the Board.
 - Closing four complaint investigations based on unfounded or non-jurisdictional.
 - Withdraw four Opportunity for Hearing Notices.
- The Board ratified the issuance of nine HME facility licenses, 19 HME Certificates of Registration, 84 respiratory care professional licenses and 62 limited permits.
- The Board moved to approve the reduction of 2009 home medical equipment license and certificate of registration renewal fees by the amount already paid for the initial license.
- The Board moved to approve six applications for recognition as providers of continuing education on ethics pursuant to OAC 4761-9-05(A) (6).
- The Board approved the FY 2008 annual report.
- The Board moved to file two new and seven amended rules with the Joint Committee on Agency Rule Review.
- The Board moved to approve an independent educational consultant contract.
- Following a hearing held pursuant to Chapter 119. of the Ohio Revised Code, the moved to issue an order Revoking the license of Nasky & Goldfinger Medical Corporation for violating provisions of RC 4752.09 (A)(1).
- Following a hearing held pursuant to Chapter 119. of the Ohio Revised Code, the moved to issue an order Issuing the license of James D. Montgomery after finding the allegations of being convicted of a felony to be true.

- December 9 &10, 2008

- The Board moved to approve the following office policies:

- **IT Security Policy**
 - **IT Incident Response Policy**
 - **Criminal Background Check Policy**
 - **Amended Travel Policy**
 - **Amended Records Retention Policy**
- **The Board approved the acquisition of a document image system.**
 - **The Board's Education Committee reported the Committee has asked the Executive Director to perform a statewide survey of employers on the current employment of respiratory care providers. The Education Committee also reported that the Ohio State University was exploring the possibility of a Masters Degree program for respiratory care professionals. The Board took no official action.**
 - **The Board ratified the issuance of six HME facility licenses, 12 HME Certificates of Registration, 45 respiratory care professional licenses and 42 limited permits. In addition, the Board considered an application for reinstatement and after considering the qualifications of the applicant, the Board moved to refuse to recognize the continuing education filed by the applicant due to its content.**
 - **The Board approved:**
 - **Two Opportunity for Hearing Notices based on violations of the laws and rules governing the practice of respiratory care in Ohio,**
 - **Four consent agreements in lieu of administrative hearings before the Board.**
 - **Withdrawing eight Opportunity for Hearing Notice for compliance with outstanding issues.**
 - **Close two complaints as non-jurisdictional**
 - **The Board considered a petition for the extension of the active term of a limited permit filed by Pamela Zipfel. After reviewing the information provided, the Board moved to refuse to extend the active term of the permit, because an unusual hardship was not proven.**
 - **The Board considered a petition for the issuance of a second limited permit filed by Dawn Hanrahan. After reviewing the information provided, the Board moved that the Board was prohibited from issuing a second limited permit under the Ohio Revised Code.**
 - **The Board reviewed and approved two education programs on professional ethics filed by F. Herbert Douce and Lisa M. Houle.**
 - **The Board reviewed a petition filed by the Ohio Association of Medical Equipment Services to be a recognized provider of continuing education. After reviewing the petition, the Board moved to approve recognition.**
 - **The Board held two hearings pursuant to Chapter 119. of the Ohio Revised Code:**

- The Board moved to issue an order to fine a home medical equipment provider, Walking Aides for Independence, after finding the allegations of practicing without a license to be true.

- February 10, 2009

- The Board moved to approve the performance review of the agency Director, Christopher H. Logsdon.
- The Board moved to approve agency policy 2.95(a) on the management and use of state email, agency policy 2.95 (b) on accessing Personal Confidential Information maintained by the Board, and agency policy 5.3 on public records requests.
- The Board's Rules Committee reported on reviewing a preliminary draft of a new rule governing the access of personal confidential information pursuant to H.B. 648 of the 129th General Assembly. The Board moved to authorize the Executive Director to file the final draft of the rule once the agencies legal counsel has properly reviewed it.
- The Board's Home Medical Equipment Committee reported that it had reviewed a list of 5 home medical equipment facilities issued an HME license and 16 home medical equipment facilities issued a certificate of registration. In addition, the committee reported that it had reviewed a request from the Ohio Department of Job and Family Services to review home medical equipment payment codes under the Ohio Medicaid program to determine if the codes were recognized as home medical equipment as defined under ORC 4752.02. The committee reported that it had met with a group of oncology service provider to consider the impact of the home medical equipment law on the practice of providing home infusion services. The committee reported that the organization was directed to obtain authorization from the Board to provide a recognized HME service. Last, the committee reviewed a cochlear implant device and determined that it was not home medical equipment as it is defined under ORC 4752.02.
- The Board's Education Committee reported that it had reviewed the draft 2008 Ohio Education Report.
- The Board approved:
 - Fourteen consent agreements in lieu of an administrative hearing before the Board.
 - One Opportunity for Hearing Notices based on violations of the laws and rules governing the practice of respiratory care in Ohio.
 - Withdrawing two opportunity for hearing notices due to compliance with the original licensing provisions of withdrawal of the initial license application.

- February 12 & 13, 2009

- The Board held a public administrative rules hearing to consider two new and ten amended rules. Following the hearing, the Board moved to withdraw one rule and final

file the eleven proposed rules on or after the date, Joint Committee on Agency Rule Review jurisdiction ends.

- The Rules Committee reported that the Board had completed the phase one of the Board's five-year rule review process. The Committee identified nine rules that required substantive and non-substantive amendments. The other rules were determined to be "no change" rules. In all, the committee reviewed twenty-four respiratory care rules under OAC 4761 and thirty-five home medical equipment rules under OAC 4761:1.
- The Board's Scope of Practice Committee considered two respiratory care practice inquiries and one HME inquiry. In response to a question asking if respiratory care providers can perform nasal swabbing for MRSA culture, the Committee recommended that the Board respond by stating that the procedure was within the scope of respiratory care practice. In response to a question asking if unlicensed technicians could replace empty oxygen tanks if respiratory care developed a competency program, the Committee recommended that the Board respond by informing the organization that the Board does not have jurisdiction to address the inquiry. Last, the Committee considered an inquiry asking if an HME facility requires a license if it only provides services under contract to a Hospice program. The Committee recommended that the Board respond by stating the Hospices are exempt under ORC 4752.02 and that a direct agent of the Hospice would also be exempt under the scenario presented. The Board approved the recommendations of the Committee by a vote of 9 – 0.
- The Board approved:
 - Thirty-two consent agreements in lieu of an administrative hearing before the Board.
 - Six Opportunity for Hearing Notices based on violations of the laws and rules governing the practice of respiratory care in Ohio.
- The Board ratified the issuance of 51 respiratory care professional licenses, 41 limited permits, 5 home medical equipment facility licenses, and 16 home medical equipment facility certificates of registration.
- The Board moved to recognize specific Ohio Medicaid DME Procedures Codes as requiring an Ohio HME license or Certificate of Registration to engage in HME services.
- The Board moved to approve a memorandum of understanding with the Ohio Department of Job and Family Services.

-- April 14 and 15, 2009

- **The Board met on April 14, 2009 to conduct a strategic planning session for FY 2010 and 2011. The considered the following issues and developed strategic steps to address each:**

Issue #1: Licensing Review Process: Guidance to evaluate background checks.

Interests and Concerns:

**Public safety
Efficiency in licensing process
Board time spent in licensing process
Applicant delay time
Fairness
Consistency**

Changes to Board Policy identified:

- **Delegate authority to the Executive Director to make the determination to dismiss or to refer to the Probable Review Committee (PRC) for the following types of prior criminal convictions:**
 - **Minor traffic convictions**
 - **First time DUI**
 - **Minor misdemeanors (not a 1st, 2nd, 3rd, or 4th degree misdemeanor) when there is no pattern (no more than 2 minor misdemeanors in the last 5 years) of convictions.**
- **Delegate authority to the Probable Review Committee (PRC) to make a determination to dismiss a case for lack of probable cause (lack of a prima facie case -- a factual determination by the PRC) and to issue, renew, or reinstate the license or limited permit for the person in question. If a decision is made by the PRC to dismiss a case, the PRC will give notice to the full Board of the dismissal.**
- **Require the PRC to hold the dismissal, issuance, or reinstatement of a license for cases involving an applicant with a prior conviction or complaint involving a prior conviction, where the PRC makes a determination of probable cause.**
- **Not issue a license for cases involving an applicant with a prior conviction until the Board makes a decision at its next regularly scheduled meeting.**

Issue #2: Administrative Hearing Process: Disciplinary guidance

Changes to Board Policy identified:

- **Address Goldman hearings by affidavit.**
- **Consider the use of a hearing examiner when the Board perceives an appearance of a conflict of interest.**

- **Appoint a Board member as the hearing officer for non- Goldman or no consent cases, to hear a case on behalf of the Board/without the full Board .**
- **Amend the disciplinary guidance manual.**
- **Guidelines will only address continuing education violations, unlicensed/unauthorized practice violations, and impairment violations.**

Issue #3: Home Medical Equipment (HME): Home Medical Equipment Continuing Education Rule for licensed home medical equipment facilities.

Changes to Board Policy identified:

- **Review “recognized organizations” every two years.**
- **Apply rule to continuing education requirements rule to all home medical equipment facility employees.**
- **Audit on inspection or validate compliance during inspection.**
- **Identify additional continuing education resources for licensed home medical equipment facilities.**

● The Board approved:

- **One consent agreement in lieu of an administrative hearing before the Board.**
- **Two Opportunity for Hearing Notices based on violations of the laws and rules governing practice of respiratory care in Ohio.**
- **Close two complaints based on non-jurisdictional or unfounded reasons.**
- **The withdrawal of one opportunity for hearing notice.**

● The Board ratified the issuance of eight HME facility licenses, 19 HME certificates of registration, 54 respiratory care professional licenses and 43 respiratory care limited permits.

● The Board moved to recognize the VGM Group as a provider of home medical equipment continuing education.

● The Board moved to approve the administration Relenza by respiratory care providers within the scope of respiratory care practice.

● The Board moved to approve the FY 2010/2011 strategic plan.

● The Board held elections for Board officers. Mr. Marc Mays was elected President of the Board and Mr. Joel Marx was elected Secretary of the Board. Mr. Mays’ first act was to appoint Dr. Robert Cohn as Vice-President. Mr. Darrell Heckman was elected to the Appointed Hearing Officer position.

● The Board held five hearings pursuant to Chapter 119. of the Ohio Revised Code:

- The Board moved to issue an order to fine Malcolm R. Toles after finding the allegations of failure to complete continuing education requirements within the term of collection to be true.
- The Board moved to issue an order to fine Rose M. Stewart after finding the allegations of practicing under a lapsed license to be true.
- The Board moved to issue an order to fine Christine A. Mossor after finding the allegations of failure to complete continuing education requirements within the term of collection to be true.
- The Board moved to issue an order to fine Jessica K. Orth after finding the allegations of practicing under a lapsed license to be true.
- The Board moved to issue an order to fine Rebecca M. D'Amico after finding the allegations of failure to complete continuing education requirements within the term of collection to be true.

- June 9, 2009

- The Board's Home Medical Equipment Committee, Scope of Practice Committee, Education Committee and Rules Committee met to consider business.
- The Board held a 2-hour Ohio Ethic Law education session.
- The Board held one hearing pursuant to Chapter 119. of the Ohio Revised Code:
 - The Board moved to issue and Order to fine and place on probation Victoria Shorter after finding the allegations of obtaining a limited permit by false or misleading representation or concealment of material facts to be true.
- The Board reviewed a FY 2010 spending reduction plan submitted by the Executive Director. After discussion, the Board moved to approve the Executive Director's report, including specific spending reductions and moved to file rules that will allow the Board to reduce printing cost relating to the provision of license and limited permit identification cards, opting instead for online licensing verification.
- The Board approved:
 - Four Opportunity for Hearing Notices based on violations of the laws and rules governing the practice of respiratory care and two Opportunity for Hearing Notices based on violations of the laws and rules governing the practice home medical equipment provision in Ohio.
 - Three consent agreements in lieu of an administrative hearing before the Board.
 - Withdrawal of one Opportunity for Hearing Notice based upon compliance of standards being met.
 - Closing six complaints as not jurisdictional or unfounded.
- The Home Medical Equipment Committee reported that it reviewed the issue of providing physician office therapy that results in patients being sent home with the equipment. The Home Medical Equipment Committee reported that it believes an HME license is required for these activities if the equipment is billed for separately as a sale or rental.

- **The Scope of Practice Committee reported that the Committee reviewed two scope of practice inquiries. The first inquiry considered was a question from the Massachusetts Professional Licensing Board asking if respiratory therapists in Ohio could administer intraosseous cannula insertion and perform needle insertion for pneumothoraces. The committee supported a position that both procedures could be provided by competently trained therapists under the appropriate circumstances. The Committee also reported reviewing an inquiry on provision of oral suctioning and continuous positive airway pressure (CPAP) therapy by unlicensed personnel. The Committee supports a position that oral suctioning can be performed by unlicensed personnel, but CPAP cannot be performed by unlicensed persons, unless the person is expressly exempted under ORC 4761.**
- **The Board ratified the issuance of 8 HME facility licenses, 20 HME Certificate of Registrations, 51 respiratory care professional licenses and 51 limited permits.**
- **The Board moved to approve revised policy #2.95 (B) concerning accessing records containing personal confidential information.**
- **The Board by consensus directed the Executive Director to inform the National Board for Respiratory Care, Inc., in writing, that the Board will not participate in the national disciplinary database until specific changes to the system are addressed.**

Trends and Opportunities

- Respiratory Care Scope of Practice

The Ohio Respiratory Care Board continues to believe the scope of respiratory care practice should be amended to address the practice of respiratory care protocol-based therapies and procedures. Nationally, many respiratory care laws permit therapists to work under standard protocol orders issued by physicians. Extensive surveys and studies demonstrate the efficacy of respiratory care protocols, proving patient care outcomes can be improved and costs can be reduced. Many state laws actually note “protocols” within the statutory scope of practice. In Ohio, protocol care involving medication administrations are governed by the Ohio State Board of Pharmacy. This, in effect, restricts physicians from ordering respiratory care procedures (involving medication administration) by nationally recognized protocols. The Board contends that patient care could be optimized and less expensive if respiratory care protocols are utilized according to the practice guidelines developed by the American Association for Respiratory Care (AARC). The Board believes this issue should be addressed through legislation.

- Advanced Respiratory Care Practice

The Ohio Respiratory Care Board is monitoring national and local activities that suggest an advanced practice degree and/or higher graduate level expectations are required to meet future competency expectations for the profession. The American Association for Respiratory Care (AARC) is currently involved in a national review of competency expectations for the 2015 and beyond respiratory care provider. The Board is anxious to review the AARC’s 2015 and beyond recommendation. The outcome of this process will certainly have an impact on the educational requirements for respiratory care and may lead to changes in the credentialing

and licensing requirements for the profession.

- Home Medical Equipment Licensure Growth

In 2005, when the home medical equipment-licensing act was enacted, the Board presumed that licensing and certification levels would eventually plateau. The Board considered home medical equipment facility growth in static terms. Now three years later, the Board has a better understanding of the dynamic nature in the home medical equipment industry. Facilities are regularly being opened, closed, purchased, transferred, and moved. In addition, facilities usually start out as licensed facilities and then eventually transition to a certificate of registration as the facility matures and seeks independent accreditation.

The dynamic environment and continued growth in licensure represents a significant opportunity for the Board to educate licensees, government regulators and third party payers about the state's standards for home medical equipment facilities doing business in the state of Ohio. The Board should consider all options to communicate its regulations to all stakeholders. Some of the obvious stakeholders include: (1) Licensees – the Board must continue to stress ongoing compliance and education with its licensed facilities. The Board believes facilities will better comply with standards if they are better informed. The public benefits from well ran, clean, and qualified home medical equipment providers; (2) Consumers – it is highly likely that consumers do not understand the role of the Board in validating the quality of home medical equipment services rendered or the public's ability to file complaints with the agency; and (3) Accrediting Organizations – all accrediting organizations recognized by the Board have entered into cooperative agreements to share information relative to the accreditation status of our registrants or complaints filed by the public. Although these agreements are strong, the Board must do more to regularly enforce the provisions of the agreements and instruct organizations on how to enforce the provisions of these agreements.

The Board also believes more emphasis on developing a business friendly regulatory scheme should be considered. Currently, a new license or certificate of registration is required when an entity moves or transitions to a nationally accredited facility. The Board anticipates that this trend will intensify as facilities seek and obtain national accreditation to continue Medicare participation. Addressing rules to improve the transition from licensing to a certificate of registration and lessening the regulatory requirements for facilities that move from one location to another would promote an Ohio common sense regulatory environment.

Objectives for Next Year

- 1. Development of an Education Data Report that compares employment needs to educational outcomes.**
- 2. Development of an aggregate Home Medical Equipment Data Report.**
- 3. Move toward online, electronic renewal only.**
- 4. Work toward introducing legislation to clean up HME and RCB language.**
- 5. Monitor changes in Medicare and Medicaid reimbursements for home medical equipment, including new competitive bidding requirements for Medicare participation.**

Board Status

- 2009 Licensing Activity

Current Active

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
RCP License Holders	6478	7035	6742	7384
RC Limited Permit Holder	<u>394</u>	<u>383</u>	<u>357</u>	<u>254</u>
Total	6872	7418	7099	7638
HME Licensed Facilities	142	221	145	209
HME Certificate of Registrations	<u>294</u>	<u>378</u>	<u>394</u>	<u>527</u>
Total	436	599	539	736
	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Initial RCP Licenses Issued	394	416	364	504
RC Limited Permits Issued	271	323	349	322
Initial HME Licenses Issued	170	104	63	51
Initial HME Registrations Issued	308	88	81	129
HME Provisional Licenses Issued	23	0	0	0
License Renewal *	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
RCP License Holders	6359	157	6574	226
RC Limited Permit I Holders	275	131	224	229
HME Facility Licenses	270	20	145	54
HME Certificates of Registration	110	7	394	71

* Total is as of June 30, 2009 and includes only renewal received during FY 2009. Revenue from FY 2008 received, but not deposited is not reflected in the renewal totals for FY 2009.

** 2009 data counts only license and permit holders renewing or reinstating their license or permit during FY 2009. This total does not reflect those licenses and permits that are current and active at the time of the report.*

Revenues and Expenditures

Fee Description	Amount Collected
RESPIRATORY CARE LICENSE RENEWAL	\$335,300.00
RESPIRATORY CARE LIMITED PERMIT RENEWAL	\$4,110.00
RESPIRATORY CARE INITIAL LICENSE	\$36,695.00
RESPIRATORY CARE INITIAL LIMITED PERMIT	\$6,500.00
RESPIRATORY CARE LICENSE LATE FEES	\$6,700.00
RESPIRATORY CARE LIMITED PERMIT LATE FEES	\$120.00
HOME MEDICAL EQUIPMENT CERT OF REGISTRATION FEE	\$18,750.00
HOME MEDICAL EQUIPMENT FACILITY LICENSE FEE	\$16,500.00
HOME MEDICAL EQUIPMENT INSPECTION FEE	\$14,000.00
HOME MEDICAL EQUIPMENT CERT OF REG RENEWAL FEE	\$22,680.00
HOME MEDICAL EQUIPMENT FAC LICENSE RENEWAL FEE	\$31,100.00
HOME MEDICAL EQUIPMENT LICENSE LATE FEE	\$1,000.00
HOME MEDICAL EQUIPMENT REGISTRATION LATE FEE	\$1,500.00
RCB MISCELLANEOUS FEES	\$2,239.60
HOME MEDICAL EQUIPMENT MISCELLANEOUS FEES	\$390.00
RESPIRATORY CARE FINES	\$5,775.00
HOME MEDICAL EQUIPMENT FINES	\$4,500.00
Total	\$421,659.60

Statement of Expenses

Expenses	FY 2008	FY 2009
Personal Service (Object Cat. 1; Categories 500 & 510)	\$402,027.96	\$373,222.01
Supplies & Maintenance (Object Cat. 2; Category 520)	\$84,082.13	\$72,282.33
Equipment (Object Cat. 3; Category 530)	\$666.93	\$7,500.00
Subsidies & Shared Rev. (Object Cat. 5; Category 550)	\$0.00	\$0.00
Transfers & Non-Expense (Object Cat.9; Category 595)	\$1,365.00	\$1,550.00
Total	\$488,142.02	\$454,554.34

Expenses are listed as of July 1, 2009 and do not include encumbered expenses paid after the end of the fiscal year.

Investigatory Report and Disciplinary Actions

Adjudication Hearings Held

Respiratory Care

<u>Case Number and Name</u>	<u>Complaint</u>	<u>Disposition</u>
2009ORCB027/Alicia A. Howe	Violating Board Order Conviction of offense involving Moral Turpitude Impairment in the Practice	Summarily Suspended
2008ORCB040/James D. Montgomery	Conviction of felony	Issued License
2009ORCB016/Malcolm R. Toles	Violating provisions of law/rule	Fined
2009ORCB013/Rose M. Stewart	Violating provisions of law/rule	Fined
2009ORCB019/Christine A. Mossor	Violating provisions of law/rule	Fined
2009ORCB025/Jessica K. Orth	Violating provisions of law/rule	Fined
2009ORCB041/Rebecca M. D'Amico	Violating provisions of law/rule	Fined
2009ORCB053/Victoria Shorter	Concealed Material Facts	Stayed Suspension/ Fined

Home Medical Equipment

<u>Case Number and Name</u>	<u>Complaint</u>	<u>Disposition</u>
2008HME119/Nasky & Goldfinger Medical Corporation	Violating provisions of law/rule	Revoked
2008HME119/Walking Aides for Independence	Violating provisions of law/rule	Fined/Cease Order

Consent Agreements Approved

Respiratory Care

<u>Case no./Respondent</u>	<u>Issue</u>	<u>Disposition</u>
2008ORCB039/Steven Hudson	Felony Conviction	Issued License, then placed on two (2) years probation
2008ORCB037/James Caferro	Concealed Material Facts	Reprimanded
2008ORCB031/Jeffrey Merringer	Concealed Material Facts	Stayed Suspension/Probation
2008ORCB036/Timothy Wolfe	Unlicensed Practice	Reprimanded/Fined

2008ORCB043/Kimberly Romes	Concealed Material Facts	Reprimanded/Fined
2009ORCB003/Rhonda Manegold	Violating Board rules	Reprimanded
2009ORCB005/Otis C. Hankton	Violating Board rules	Reprimanded/Fined
2009ORCB006/Michelle Williams	Violating Board rules	Reprimanded/Fined
2009ORCB008/Jennifer Gifford	Violating Board rules	Reprimanded/Fined
2007ORCB072/James Stegmaier	Unprofessional Conduct	Suspended – 60 days
2009ORCB031/Hardwick Gundy	Felony conviction	Reprimanded/Fined
2009ORCB021/Tammy L. Cooper	Felony/moral turpitude conviction	Probation – 2 years
2009ORCB001/Robin Adkins	Concealed Material Facts	Reprimanded
2009ORCB007/Timothy D. Eidel	Unlicensed Practice	Reprimanded/Fined
2009ORCB011/Rhonda L. Pirnstill	Unlicensed Practice	Reprimanded/Fined
2009ORCB012/Vanessa A. Smith	Unlicensed Practice	Reprimanded/Fined
2009ORCB014/Teresa M. Johnson	Unlicensed Practice	Reprimanded/Fined
2009ORCB015/Angela Rokas	Violating Board rules	Reprimanded/Fined
2009ORCB017/Yaw O. Agyekum	Violating Board rules	Reprimanded/Fined
2009ORCB024/Cary J. Gulley	Violating Board rules	Reprimanded/Fined
2009ORCB026/Amy J. Franklin	Unlicensed Practice	Reprimanded/Fined
2009ORCB027/Alicia A. Howe	Violating Board order	Suspended – 6 months /3 yrs. probation
2009ORCB028/Jessica Stephens	Violating Board rules	Reprimanded/Fined
2009ORCB030/Trisha M. Lyons	Concealed Material Facts	Reprimanded/Fined
2009ORCB044/Rebecca J. Harding	Violating Board rules	Reprimanded/Fined
2009ORCB045/Felix Dubaniewicz	Unlicensed Practice	Reprimanded/Fined
2009ORCB047/Kenneth White	Unlicensed Practice	Reprimanded/Fined
2009ORCB024/Nicole M. Hernon	Falsifying records	Reprimanded
2009ORCB004/Gary L. Foreman	Violating Board rules	Reprimanded/Fined
2009ORCB058/Susan D. Yux	Unlicensed Practice	Stayed Suspension/Fined

Home Medical Equipment

<u>Case no./Respondent</u>	<u>Issue</u>	<u>Disposition</u>
2008HME05 Omnicare Respiratory Services-Mason, Ohio	Unlicensed Practice	Reprimanded
2008HME015 McKesson-MediMart, Inc.	Unlicensed Practice	Fined
2008HME016 McKesson-Medi-Net, Inc.	Unlicensed Practice	Reprimanded
2008HME084/Team Post-Op	Unlicensed Practice	Reprimanded
2008HME087/Omnicare of N.W. Ohio	Unlicensed Practice	Reprimanded
2008HME088/Omnicare – Evergreen Pharmaceutical of CA	Unlicensed Practice	Reprimanded
2008HME089/Home Care Pharmacy Cincinnati, OH	Unlicensed Practice	Reprimanded
2008HME090/Home Care Pharmacy Ashland, KY	Unlicensed Practice	Reprimanded
2008HME091/Omnicare – Central OH	Unlicensed Practice	Reprimanded
2008HME092/Royal Care of MI	Unlicensed Practice	Reprimanded
2008HME097/RXO2	Unlicensed Practice	Reprimanded
2008HME108/Home Town Med. Supply	Unlicensed Practice	Reprimanded

2008HME109/Premier Med Equip. Supply	Unlicensed Practice	Reprimanded
2008HME110/Bellevue Home Med. Serv.	Unlicensed Practice	Reprimanded
2008HME111/A.Z. Medical	Unlicensed Practice	Reprimanded
2008HME116/Therapy Support	Unlicensed Practice	Reprimanded
2008HME117/Best Home Medical	Unlicensed Practice	Reprimanded
2008HME118/Robert V. Sibia	Unlicensed Practice	Reprimanded
2009HME005/RS Medical Services	Unlicensed Practice	Reprimanded

Consent agreements will be considered by the Board for any alleged violation of the respiratory care laws or rules. A consent agreement avoids the necessity of holding a hearing while preserving an individuals right to legal counsel. Both the alleged act(s) and resultant action(s) are agreed to by the licensee and the Board. Consent Agreements are considered Orders of the Board under the Revised Code. A complete listing of individuals who have entered into consent agreements with the Board is available on the Board's website.