

North Carolina Respiratory Care Board
April 1, 2004
Meeting Minutes

Members Present:

Joseph Coyle, MD
Mary Lou Fleming
Nancy M. Hall
Margaret A. Mitchell, RRT, RCP
Ralph Webb, RRT, RCP
William Croft, RRT, RCP
Lisa Fox

Others Present:

Floyd Boyer, RRT, RCP –Executive Director
William Shenton –Board Counsel
Jane Carter – Administrative Secretary
Judy Green, RRT, RCP – Investigator

Absent:

Bruce K. Rubin, MEngr, MD
Thomas Goodin, MD

Call to Order: Dr. Coyle called the meeting to order at 10:03 AM.

Conflict of Interest Notice: Dr. Coyle read the North Carolina Board of Ethics' Conflict of Interest Reminder. If there are any conflicts of interest on any votes, Board members should refrain and inform the Chair at that time.

Dr. Coyle reminded the audience that the Board meetings are recorded and are a matter of public record. Comments and questions raised by the audience are recorded and may be part of the minutes.

Approval of Minutes: Dr. Coyle read the minutes from the January 2, 2004 Board meeting. Mr. Webb made a motion to approve the minutes of the meeting as written. It was seconded and carried unanimously.

New Board Members: Dr. Coyle introduced Lisa Fox as a new Board member appointed by Governor Easley as a public member. Dr. Thomas Goodin was introduced as a new Board member appointed by the Speakers of the House, Richard T. Morgan and James B. Black. Dr. Goodin was unable to be present due to illness.

Treasurer's Report: Dr. Coyle presented the first quarter's report. The balance for the quarter shows a deficit of \$27,000, but this is less than what was budgeted. Most of the income for the year comes in the last quarter of the fiscal year since licensure became effective October 1. There are approximately \$136,000 in total assets and \$121,000 in the combined bank accounts.

Executive Director's Report: Since the last Board meeting, Mr. Boyer has completed the following:

- Completed the orientation of new Board members, Dr. Thomas Goodin of Hickory and Ms Lisa Fox of Clemmons.
- Attended the High Country Conference on Respiratory Care in Boone on February 10-12. Mr. Boyer presented a Board update to the group during the banquet.
- Attended the Rules Review Commission meeting on February 19, and spoke briefly to the group concerning the proposed rule changes.
- Received a fax and email from Linda's Lyrics alleging that her copyright of a poem was infringed on in the Board's newsletter Volume 2, Issue 4, Fall 2003. A letter of response was sent and the newsletter was removed from the website.

There were no questions or discussion from the Board. Dr. Coyle recommended that Mr. Boyer proceed with a settlement offer.

- Ms Green completed 61 visits to facilities in western NC and found 5 facilities or individuals out of compliance.
- Mr. Boyer completed 13 visits to facilities in eastern NC and found 3 facilities or individuals out of compliance.
- As of March 31, 2004, 3735 licenses have been issued. There are 3242 Active licenses, 40 Inactive licenses, 92 Provisional licenses, 6 Temporary licenses, 54 pending applicants, 279 expired licenses, 9 practitioners deceased, 8 withdrawn applications, 1 voluntarily surrendered license, 1 revoked license, and 3 denied applications. The Board has issued 104 Respiratory Care Assistant Registrations with 3 pending.

Ethics Committee Report:

Statements of Economic Interest

Mr. Webb read a letter regarding the evaluation statement of economic interest for Lisa Fox from the Board of Ethics to Governor Easley into the minutes.

Mr. Webb read a letter regarding the evaluation statement of economic interest for Dr. Thomas Goodin from the Board of Ethics to the Speakers of the House, Richard T. Morgan and James B. Black, into the minutes.

Practice Committee Report:

Declaratory Ruling: Advanced Practice for RCP's

Dr. Coyle presented a report from the committee's March meeting. The first item of discussion was a request by Scott Prater from Medcenter Air regarding the advanced practice for RCP's doing emergency medical transports. The North Carolina Office of Emergency Medical Services (OEMS) was contacted and a copy of the ruling was presented to them. OEMS responded that they did not have any concerns with the proposed ruling. Following a discussion by the Board and the public, the Practice Committee recommended that RCP's may provide advanced care procedures and administer pharmacologic agents related to the listed procedures under the direct orders of a physician and/or protocols established by a licensed Ambulance Provider. The recommendation was seconded and passed unanimously.

Declaratory Ruling: Revised RCA Ruling

The next request was from several employers and educators regarding the ruling on Respiratory Care Assistants. The nasotracheal suction procedure was removed from the ruling, and the electrocardiogram procedure was qualified. There were also some grammatical changes made in the ruling. Following a discussion by the Board and the public, the Practice Committee recommended the changes in the ruling. It was seconded and passed unanimously.

Requests for Interpretations

A letter was received from Steve Daniels regarding good standing for RCA's. Dr. Coyle stated that the language in the ruling addresses Mr. Daniel's concerns.

There was a request from corporate counsel for Lincare regarding non-traditional RC interventions. The Practice Committee recommended that a letter of response be sent to Lincare stating that LPN's may provide respiratory care services in the home health care environment if they have documented training and documented annual competency reviews, be under the supervision of a RCP or RN who has documented training and competency reviews, and maintain Basic Life Support certification. Following a discussion by the Board, the recommendation was seconded and passed unanimously.

There was a request from Don Grady, RCP of FirstHealth Moore Regional Hospital regarding the cross training of RCP's in non-traditional areas. The Practice Committee recommended that a letter of response be sent to Mr. Grady stating that RCP's may provide the procedures if they have documented training and annual documented competency

reviews in those procedures, policies and guidelines must be maintained by the facility, and the facility must have documented approval from the NC Nursing Board for any traditional nursing procedures provided by the RCP's. Following a discussion by the Board, the recommendation was seconded and passed unanimously. A copy of the letter will also be sent to the NC Nursing Board.

There was a letter from Harold Finn, RCP requesting the Board's interpretation of state statutes and rules concerning if RCP's may transcribe verbal admitting orders from a physician with the physician cosigning the orders post admission. The Practice Committee recommended that a letter of response be sent to Mr. Finn stating that the Board's interpretation is that having RCP's transcribe verbal orders given by a physician is a practice that is consistent with the practice of respiratory care. However the verbal orders must be related to the practice of Respiratory Care. Following a discussion by the Board, the recommendation was seconded and passed unanimously.

Rules Committee Report:

Rules Review Commission

Mr. Webb reported that the following rules were approved by the Rules Review Commission at its February 19, 2004 meeting: 21NCAC 61 .0201, .0204, .0303, .0304, and .0310. These rules became effective on March 1, 2004.

The following rules were objected to by the Rules Review Commission at its February 19, 2004 meeting: 21 NCAC 61 .0205, .0301, .0309, and .0401. After changes were made to these rules, they were approved by the Rules Review Commission at its March 18, 2004 meeting. These rules became effective on April 1, 2004.

The Rules Committee proposed changes to 21 NCAC 61 .0302, License Renewal, to include BLS certification and proof of CE requirement and to delete the statement regarding penalties. Following a discussion by the Board, a motion was made to amend the rule to include a statement on the renewal form stating that the address given by the licensee is the mailing address for all communication from the Board. The motion was seconded and passed unanimously. The Rules Committee made a recommendation that the rule with the amendment be accepted. The recommendation was seconded and passed unanimously.

Polysomnographic Rulings

The committee proposed changes to the two Polysomnographic Declaratory Rulings to incorporate them into one ruling and to add language to note the changes to the BLS requirement. The recommendation to amend the Ruling was seconded and passed unanimously.

HME Industry

The committee discussed the concerns of the HME industry related to the Board's position on the fitting and application of respiratory care equipment and asked Mr. Boyer to contact the Attorney General's office for its interpretation on the rules. Mr. Webb read a letter from Mabel Bullock, the Assistant Attorney General, stating that the Board may interpret the statutes that fitting or applying a C-PAP mask may not be performed by an HME Tech.

Lapse in Practicing Respiratory Care

The committee discussed concerns of licensing individuals who have not practiced respiratory care in a number of years and asked Mr. Boyer to check the policies of other state Boards. Following a discussion by the Board, this issue was referred to the Education committee and Mr. Boyer, with Mr. Shenton's input, to develop a proposal to present at the next Board meeting.

Education Committee:

BSRT Program

Mr. Croft gave an update on the status of the BSRT program. Mr. Croft stated that the BSRT program is not meant to replace the AS programs, but as a way for RCP's to gain advanced practice skills. NC Respiratory Care Educators made a proposal to the UNC System and Mr. Croft took the letter to the Council on Allied Health for NC. Jim Sadler, Associate VP for Planning, UNC General Administrator, recommended that the recommendation be presented to all 16 Allied Health schools, and he would help do so.

National Asthma Certification Board

The committee discussed CE credit for the National Asthma Certification Board. The committee recommended 10 hours of continuing education credit for passing the exam. It was seconded and passed unanimously.

LCD for Respiratory Therapy

The LCD for Respiratory Therapy is basically the same as last year's LMRP and will replace it. It incorporates all of the recommendations made by the Board last year and will become effective on May 4, 2004.

Investigation and Informal Settlement Committee:

Ms Mitchell reported that the committee met on March 31, 2004, to interview 20 individuals for alleged violations of the Respiratory Care Practice Act. Fifteen individuals were interviewed and five individuals did not show up for the interviews. Any resulting disciplinary actions are pending for these individuals and awaiting the closed session of today's Board meeting.

Unfinished Business:

Oxygen Bars

Mr. Boyer gave an update on the Oxygen Bar issue. One Bar is located in Asheville and the other in Concord. A letter from the Board was sent to the executive director of the Board of Pharmacy with our concerns. They referred the Oxygen Bar controversy to a Pharmacy Board committee for its recommendation. There will be a report on this at the next Board meeting.

Oxygen Conserving Devices

Mr. Boyer reported that the Board of Pharmacy's DME Committee agrees with the Board's position statement on oxygen conserving devices and have sent the statement to their legal department for review. There will be a report at the next Board meeting.

New Business:

There was a resolution for a plaque for Dr. MacIntyre for his service to the Board as a founding member. Mr. Croft made a motion to approve the resolution. It was seconded and passed unanimously.

There was a request from the NC Board of Nursing for the Boards definitions of delegation, supervision, direction, etc. They would like a response by April 16, 2004. This was given to the Education Committee and Dr. Rubin for response, The response will be reviewed by Mr. Shenton and sent to the Nursing Board.

Other New Business:

Susan Dyson of the Sheps Center for Health Services Research at UNC Chapel Hill, a research center under the Division of Health Affairs, gave a presentation. She was asked to speak about the possibility of the Board beginning participation in the Health Professions Data and Analysis System and how it might be of benefit to the Board. After the presentation, there was a discussion by the Board and the public.

There was a discussion by the Board regarding the presentation from the Sheps Center. Mr. Croft made a motion to ask Mr. Boyer to talk with other Boards who participate in the Database System and to visit the Sheps Center. The motion was seconded and passed unanimously.

Mr. Green from Hickory, NC, asked for a clarification on free sleep standing clinics. Dr. Coyle answered his questions concerning direct supervision.

Dr. Coyle welcomed and introduced Sgt. Nichol to the Board. He will be present for the 1:00 hearings.

Executive Session:

Mr. Webb made a motion to move into Executive Session. It was seconded and passed unanimously.

Mr. Webb made a motion to return to the General Session. It was seconded and passed unanimously.

General Session:

Hearing for David L. Anglin – License # 3003

Dr. Coyle explained that this is a public hearing which will be taped. If any Board member has a conflict, they should refrain. Neither Mr. Anglin nor any representative was present for the hearing. Mr. Boyer was sworn in as the only witness. Mr. Shenton was the prosecuting attorney. Evidence, as well as exhibits, was presented. Transcripts of depositions obtained from a physician and a pharmacist were presented to the Board. The official depositions were unsealed and entered into evidence as exhibits.

Executive Session:

Mr. Croft made a motion to move into Executive Session. It was seconded and passed unanimously.

After completion of Board deliberation Mr. Webb made a motion to return to the General Session. It was seconded and passed unanimously.

General Session:

The Board recommended summary suspension and permanent revocation of Mr. Anglin's license.

Mr. Webb made a motion to continue the hearing for Terry Lee until July 1, 2004. It was seconded and passed unanimously.

Adjournment:

The meeting was adjourned at 2:50 PM.