

North Carolina Respiratory Care Board
April 2, 2003
Meeting Minutes

Members Present:

Joseph Coyle, MD
Mary Lou Fleming
Charles Mann
Margaret A. Mitchell, RRT, RCP
Neil MacIntyre, MD
Ralph Webb, RRT, RCP
William Croft, RRT, RCP

Others Present:

Floyd Boyer, RRT, RCP
William Shenton –Board Counsel
Jane Carter – Administrative Secretary

Absent:

Nancy Hall
Bruce K. Rubin, MEngr, MD

Call to Order:

Dr. Coyle called the meeting to order at 1:02 PM.

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:

Mrs. Fleming read the minutes from the January 2, 2003 Board meeting. Mr. Mann made a motion to approve and accept the minutes as written. The motion was seconded and it passed unanimously.

Treasurer's Report:

Ms Fleming read the Treasurer's report into the minutes. The current balance in the Board's checking account is \$17,024.52 and the balance in the money market account is \$ 95,005.98. The profit & loss budget vs. actual for the first three months of this year shows that the Board is significantly under budget.

Executive Director's Report:

Since the last Board meeting, Mr. Boyer has completed the following:

- Attended the 17th Annual High Country Conference in Boone, NC on February 12 – 14, 2003.
- Presented NCRCB update to 100 participants at the Northwest AHEC sponsored 17th Annual High Country Conference on February 13, 2003, presented to 35 participants at the NCAMES Winter Conference on February 20, 2003, and presented to 15 participants at

Halifax Medical Center in Rocky Mount on March 28, 2003.

- Visited 4 facilities in response to complaints concerning persons that may be practicing without a license and 2 facilities for complaints alleging a violation of Board rules.
- Received a request from the NC State Personnel Department to evaluate their outdated RCP job descriptions and revise them. Tom Williams of Rex Hospital helped with this task.
- Testified at a Board of Pharmacy hearing on March 31, 2003 concerning a company operating without appropriate pharmacy licenses and having individuals practicing without RCP licenses.

As of March 31, 2003, there have been a total of 3190 licenses issued to applicants. There are 3109 Active licenses, 81 Provisional licenses, 55 pending applications, 24 expired licenses, 4 practitioners deceased, 4 withdrawn applications, and 3 denied applications. The NBRC reports that NC has 4175 CRT's as of March 15, 2003.

Ethics Committee Report: No report.

Practice Committee Report: No report.

Rules Committee Report: Dr. MacIntyre reported that the committee has some proposals to present to the Board for approval. The first set of changes are primarily structural and clarifications that the committee would like for Mr. Boyer to take immediately to the Legislature: 90-648 (10 b) the word "those" should be spelled correctly; 90-652 (1) add a sentence stating the Board at its discretion may make an investigation into the background of applicants to determine their competency, honesty, truthfulness and integrity; 90-653 (3) replacing "as approved by the Commission for Accreditation of Allied Health Educational Programs" with "approved by the Board"; 90-653 (4) replacing "American Heart Association" with "Board"; 90-654 deleting out-dated segments and replacing them with a sentence stating that the Board may grant a temporary license for a period not to exceed 90 days while awaiting official copies of the items from issuing agencies; 90-656 add the word "direct" supervision. Dr. MacIntyre made a recommendation on behalf of the Rules Committee to accept these changes in the statutes and that they be presented to the NC Legislature by Mr. Boyer. It was seconded. After a

discussion by the Board, it was passed unanimously. Dr. MacIntyre made a second proposal on behalf of the Rules Committee. 90-660 to add a fee not to exceed \$20 for official verification of licensure status and a fee not to exceed \$150 for the approval of continuing education programs. Also to add section 90-666 Civil Penalties. This would grant the Board authority to assess civil penalties not in excess of \$1,000 for the violation of any section of this Chapter or the violation of any rules adopted by the Board. All civil penalties collected would be remitted to the General Fund of the State of NC. Mr. Boyer could choose the time to present this proposal to the Legislature during this year's session. Following a discussion by the Board, the motion passed unanimously.

Investigation and Informal Settlement Committee:

Ms Mitchell reported that the committee met on January 15, 2003 and April 2, 2003 to interview 12 individuals.

Unfinished Business:

Declaratory Ruling: Nursing Assistants

The request was from Moses Cone Hospital in Greensboro. The Nursing Assistants do not meet the requirements for exemption from licensure. There was much discussion by the Board and public. Dr. MacIntyre made a motion to notify the Board of Nursing of the ruling and to table it until the July Board meeting. The motion was seconded and passed unanimously.

Position Statement: Unlicensed CRT/RRT's

An individual who is not licensed by the Board and has earned a credential from the NBRC may display that credential on name tags and business cards and may inform the public of the credential when asked or when it is otherwise pertinent. The individual may not imply that he/she is licensed by the Board, use any title or letters to imply that he/she is licensed by the Board, or practice respiratory care in NC. Ms Fleming made a motion to accept the position statement. It was seconded and passed unanimously.

New Business:

Declaratory Ruling: Miracle Mountain HBOT Facility

Miracle Mountain is requesting guidance on 3 issues:

1. Is all administration of oxygen using a hyperbaric chamber included in the meaning of the statutes?
2. May a RCP operate a chamber without a credential for hyperbaric oxygen?
3. Does Miracle Mountain qualify for an exemption by the fact that they have a medical director?

The findings of the ruling are:

1. Hyperbaric oxygen therapy in the treatment of patients does fall under the Practice Act

2. A RCP does not automatically qualify to do hyperbaric therapy and should have the additional credential from the NBDT.
3. The designation of a physician as medical director does not qualify for exemption from the application for the Respiratory Care Practice Act. In order to be exempt from this provision, the physician would be required to provide or operate the service as part of his physician's practice or the relationship of the physician to Miracle Mountain would need to be one in which the physician is directly supervising the operation and fully accountable.

There was much discussion from the public and the Board. Mr. Webb made a motion to review the material provided by the Children's Hyperbaric Center's counsel and to have the opportunity to ask for more information, and then subject to instructions from the Board have the Executive Director and counsel finish the ruling. It was seconded and passed unanimously.

Declaratory Ruling: Conscious Sedation

The request is from the Catawba Valley Medical Center to allow RCP's to administer conscious sedation medications. Since this issue requires interaction from other Boards, it was referred to the Practice Committee to review, to discuss it with other Boards, and to draft a ruling before the next Board meeting.

Declaratory Ruling: EKG Techs

This proposal is from several hospitals to change the Support Technician Ruling to add 12 lead EKG recordings. Columbus County Hospital opposes the proposal. The ruling for Support Techs was for New Hanover Health Network and they support this proposal. There was a discussion from the Board and the public. Mr. Boyer was charged to write a new ruling to address the EKG request for the July Board meeting.

Request for CE Approval

The request from Nash General Hospital is to accept the American Nurses Credentialing Center's Commission on Accreditation CE programs for RCP CE credit. There is also a request from the North Carolina Association of Nurse Anesthetists to approve their CE programs for RCP CE credit. Following a discussion by the Board, Ms Mitchell refrained from voting due to a conflict. Dr. MacIntyre made a motion to accept both requests. It was seconded and passed unanimously.

Request from a Canadian RT

The request is from a Canadian RRT with an Ontario license who has asked for reciprocity. If the changes in the rules are made then the Board will be able to address this request. The Board would need to review the training and testing to determine if it is equivalent before making any decision. The applicant will be informed that changes in that direction are being made.

Request from the American Red Cross

This request is to accept the American Red Cross BLS certification in lieu of the American Heart Association BLS certification. The AHA has approved the Red Cross certification as equivalent. The statutes state “successfully completed the minimal requirements for BCLS as recognized by the AHA” and they have approved Red Cross certification.

LMRP Update

This was issued by the local NC carrier for Medicare. In this policy respiratory therapy to be provided by RCP's requires documentation by the physician that the special skills of a RCP are needed and documentation from the RCP. This would limit the availability of services and access to RCP's, and it would place an added burden on nurses for which they are not presently trained. There was a discussion by the Board and the public. The Medicare Law specifies routine respiratory therapy can be provided by nurses and is paid for under the bed rate and therefore, it is double dipping if a RCP submits another bill. The draft refers to respiratory therapy being provided by “other qualified personnel”. The Respiratory Care Act specifically states that respiratory care can only be provided by a licensed individual. The two laws are in conflict. The Board has drafted a letter to be sent to Mr. Humpert. Recommendation on (2) is to rephrase it. “Implicit in a physician's order for respiratory therapy is the need for the special skills of a respiratory therapist to provide the ordered services. Therefore, additional physician documentation stating this is unnecessary and the requirement should be deleted.” Recommendation on (3) is to rephrase it. “Implicit in a respiratory therapist's note is that the special skills of his/her profession were needed. Therefore, specific documentation of that is unnecessary and the requirement should be deleted.” Number (4) should be added to read “Implicit in the ordering of a respiratory care protocol the special skills of a respiratory therapist are needed. Therefore, specific documentation is unnecessary and the requirement should be deleted.” Dr. MacIntyre made a motion to authorize Mr. Boyer to write the letter as discussed. The members of the Board should be listed on a side bar of the letter. The motion was seconded and passed unanimously.

Other New Business:

The rules state that Board meetings will be held on the first Wednesday of each quarter. This is not convenient for all Board members. Following a discussion by the Board, Mr. Webb made a motion to change the day to the first Thursday of each quarter. It was seconded and passed unanimously.

Mr. Croft presented a procedure to get new graduates licensed quickly. There are 2 options for these students. One is to take the CRT upon graduation and then apply for a permanent license. However, they will not be able to work until they pass the exam and receive their license. The other option is to apply for a Provisional license. Students must obtain a notarized letter of completion on college letterhead signed by the program director and the director of clinical education 15 days prior to successful completion of the program. The application, notarized letter, and fees will be sent to the Board office 10 days prior to graduation. The Board office will verify with the program directors the list of graduating students one day before graduation. Upon graduation, the applicants must request that the college registrar send an official transcript to the Board office. This must be received by the Board office within 15 days of graduation in order to maintain the Provisional license. Mr. Webb made a motion to accept this procedure. It was seconded and passed unanimously.

The Board received a newsletter from the Board of Ethics to keep Boards mindful of tasks and mission.

Executive Session:

At 3:15 PM Dr. MacIntyre made a motion to go into Executive Session. The motion was seconded and approved. The Board went into Executive Session to discuss applicants, disciplinary actions, and personnel matters.

Mr. Webb made a motion to go back into General Session; The motion was seconded and approved.

**General Session:
Adjournment:**

The meeting was adjourned at 4:16 PM.