

North Carolina Respiratory Care Board

Meeting Minutes

April 8, 2010

Members Present:

Timothy Safley, RCP
Sherry Samuels
Dan Grady, RCP
Edward Bratzke, MD
Joseph Coyle, MD
Kimberly Clark RCP
Kimberly Roseman

Others Present:

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

Absent:

Arnold Frazier, MD
Ralph Webb, RRT, RCP

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, indicating that if there are any conflicts of interest on any matters that come before the Board; Board members should refrain from voting 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.

Dr. Coyle reminded the audience to hold their comments or questions until the end of the committee reports and Board member discussion. The Chair will recognize and ask for public comments at that time.

New Board Member:

Dr. Coyle welcomed Dr. Edward Bratzke, MD who was appointed by the President Pro Tem of the Senate. Dr. Bratzke's term expires on October 31, 2012.

- Approval of Minutes:** Dr. Coyle presented the minutes from the January 14, 2010 Board meeting. Dr. Clark made a motion to approve the minutes as written. The motion was seconded and carried unanimously.
- Treasurer's Report:** Mr. Safley reported that as of March 31, 2010, there was \$17,274.86 in the checking account and \$65,363.32 in the money market account making a total of \$82,638.18 in the bank accounts. The Profit & Loss Budget vs Actual shows legal fees are \$21,000 over budget. This is the result of pending lawsuits. Poyner & Spruill have agreed to defer some of the legal fees until October.
- Executive Director's Report:** Mr. Boyer reported on the events that had occurred since the last Board meeting.
- The Practice Committee met on February 19, 2010 and the Rules Committee met on April 7, 2010.
 - The Ethics Committee and the Education Committee have not met.
 - The Board's Investigators have completed eleven investigations. Seven of these investigations were scheduled for interviews with the Board's Investigation and Informal Settlement Committee on April 7, 2010. There are currently three ongoing investigations.
 - As of March 31, 2010: there have been 6197 Respiratory Care Practitioner Licenses applied for. Current Totals are: 4227 Active, 45 Inactive, 0 Temporary, and 35 Provisional. There are currently 66 Respiratory Care Assistant Registrations. There are 39 pending applicants, 1613 expired licenses, 116 failed to complete applications, 35 practitioners deceased, 45 withdrawn applications, 5 voluntarily surrendered licenses, 24 revoked licenses, and 13 denied applications.
- Ethics Committee Report:** Ms Roseman reported that the annual filing deadline for Statements of Economic Interest is April 15. She reminded Board members of the schedule for the Ethics & Lobbying Education Presentations.
- Practice Committee Report:** Dr. Coyle reported that the committee met on February 19 to discuss:
- A request from Terry Smith and Dan Grady of Mission Hospital System to define the role of RCP's in the management of Respiratory Care services. The committee found no specific statement in the Board Rules that specified that managers of Respiratory Care

be licensed and credentialed. The committee felt that this could best be handled by a change in the Rules and referred it to the Rules Committee. The request was a position statement and the committee edited it. Terry Smith thanked the committee. Dr. Coyle asked the Board for comments regarding sending out the position statement in support until the Rules could be changed. It was decided to move this to New Business to allow Board members a chance to read the position statement.

- A request from Judy Hilton, RCP of Valley Nursing and Rehab Center, to determine if it is within the practice of respiratory care for RCP's to start IV's and remove sutures from a new tracheostomy when the sutures were not removed at the hospital where the procedure was performed. An interpretive letter was drafted for the Board to consider. There was a discussion by the Board. It was determined that starting IV's is within the scope of practice. The RCP's must have documented training and annual documented competency reviews in the procedure, and the facility where this procedure is performed must maintain facility approved policies and guidelines for performing this procedure. It was determined that removing sutures from a new tracheostomy, under the order of a physician, when the sutures were not removed at the hospital where the procedure was performed is within the scope of practice of a RCP. The RCP must have documented training and annual documented competency reviews in the procedure. The facility where this procedure is performed must maintain facility approved policies and guidelines for performing this procedure. The committee recommended approval of the letter. The recommendation was passed unanimously.
- A request from Dan Grady, RCP for the Board to endorse the COPD Community Care Model for the Western NC Region. The committee recommended endorsement of the draft resolution. There was a discussion by the Board. Mr. Safley requested that it be sent to Medicare Part A. Dr. Coyle read the resolution to the Public. Mr. Safley made a motion to approve the resolution. The motion was seconded and carried unanimously.

Rules Committee Report:

Mr. Safley reported that the committee met on April 7 to discuss the following proposed rule changes:

- Proposed changes to Rule 21 NCAC 61 .0103 (Definitions). Under (3) add (l) managing the delivery

of respiratory care services through the on-going supervision, teaching and evaluation of respiratory care. The committee recommended approval of the change. The recommendation was passed unanimously.

- Proposed changes to Rule 21 NCAC 61 .0204 (Fees). Under (3) change the renewal fee from sixty-five dollars to seventy-five dollars. Mr. Boyer explained that the Board does not receive any money from the General Assembly. The Board's operations are totally funded from the fees it receives. There was a discussion by the Board and the Public. The increase in fees is necessary because of the increase in legal fees. Dr. Coyle charged Mr. Safley with examining ways to cut exposure and risk in the future and ways to lower fees. The committee recommended approval of the change. The recommendation was seconded and passed unanimously.
- Proposed changes to Rule 21 NCAC 61 .0302 (License Renewal). This request came from the Governor's Office. Add (f) Members of the armed forces whose licenses are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return are granted that same extension of time to pay the license renewal fee and to complete the continuing education requirements prescribed in 21 NCAC 61 .0401. A copy of military orders or the extension approval by the Internal Revenue Service must be furnished to the Board. If approved, continuing education credits acquired during this extended time period shall not be utilized for future renewal purposes. The committee recommended approval of the change. The recommendation was seconded and passed unanimously.
- Proposed changes to Rule 21 NCAC 61 .0401 (Continuing Education Requirements). Section (2) add the Sleep Disorders Specialty (SDS) exam, administered by the NBRC. (h) (1) Change it to: Twenty dollars per approved hour of CE with a maximum of one hundred and fifty dollars per application and to delete (2), (3), and (4). There was a discussion by the Board. The committee recommended approval of the change. The recommendation was seconded and passed unanimously.

Mr. Boyer presented the proposed timeline for the approval of the Rules with the earliest effective date of September

1, 2010.

Education Committee Report:

Dr. Clark reported that the committee has not met, but did have a brief correspondence regarding a request for RCP's to receive continuing education credits for attending the Board meetings. The committee will have further discussion at their next meeting. They will discuss how continuing education relates to attendance at Board meetings and how many credits can be earned. The committee would also take into consideration if there were a request from the Society of Respiratory Care for continuing education.

The AARC has assembled a task force that has been going on for the past couple of years called the 2015 and Beyond Initiative for the Practice of Respiratory Care. They are discussing what the health care needs will be in the future, what the profession of respiratory care may look like during that time, and what can be done to meet that need. The second conference findings will be published in May. Dr. Clark will attend the third conference in July.

Investigation and Informal Settlement Committee:

Ms Samuels reported that the committee met on April 7 and interviewed five individuals. Three individuals did not show. Any disciplinary actions are pending and awaiting the closed session of today's meeting.

Unfinished Business:

Mr. Boyer reported on liability insurance for the Board's legal issues. He requested two quotes, but Paychex declined. He presented a quote from Tri-Sure, a local company. The policy would cover general liability, commercial property insurance, an umbrella policy, terrorism policy, workman compensation, and director/officers/third party liability insurance. The cost would be \$7736.00 per year. Mr. Boyer got a favorable reference on this company. The Board already has workman compensation insurance so that would not be needed in this policy. Mr. Shenton recommended approving a resolution to move forward subject only to getting comments from someone with the State Treasurer's Office that has knowledge of insurance policies for state agencies or boards and to make sure they don't have suggestions for differences in coverage or issues. Dr. Coyle stated that the Board needs to see if there is a deductible. Mr. Shenton will review the policy. Mr. Boyer will ask for a list of state agencies or boards that Tri-Sure covers. Dr. Coyle asked for a motion to get approval to move forward in this price range assuming the mentioned issues are checked out. Following a discussion by the Board, Mr. Safley made a motion to move forward. The motion was seconded and carried unanimously.

Dr. Coyle had asked Mr. Boyer to look at the Board processes to make sure that with what the Board is doing that there aren't any loopholes for things that expose the Board to future legal risks that could be defined. Mr. Boyer stated that the CAC gave him a proposal, but it was too expensive. He asked the State Personnel Department to look at our processes. They stated that the Board doesn't fall under the State Personnel Act. Mr. Boyer will ask other State Boards about this when he attends the NBRC liaison meeting in the fall.

New Business:

There was a request from William Mashburn, RCP of First Health Moore Regional Hospital for the Board to respond to questions concerning RCP's writing orders supported by Protocol. There was a discussion by the Board. Mr. Grady read a statement from CMS, dated October 24, 2008, on the clarification of standing orders. It approved orders without amendments and pre-printed orders. Mr. Mashburn asked for written guidance from the Board. Dr. Coyle directed Mr. Boyer to write a letter stating that the Board is comfortable with the process that is in place, and he will attach the CMS guidelines statement.

Mr. Grady recommended that the Board adopt a position statement regarding the use of respiratory therapy protocols as a standard of care. He read the position statement on respiratory therapy protocols from the AARC. Following a discussion by the Board, it was referred to the Practice Committee to be presented at the next Board meeting.

Dr. Coyle informed Board members of Executive Order No. 55 concerning the appointment to a Board by the Governor. Board members must complete an application when appointed or re-appointed.

Dr. Coyle presented a concern involving students and orders. Terry Smith stated there was a situation involving scanning. Bar code scanning for blood gases has been implemented and very soon medications will be brought into scanning. Students will be limited in what they will be able to do on the floors at hospitals if they don't have a preceptor or educational instructor present. Student documentation must be co-signed. Following a discussion, the issue was referred to the Education Committee.

The Board discussed the position statement for the management of respiratory care departments. The Board tabled the position statement and sent it back to the Practice

Committee.

Dr. Coyle announced that the next Board meeting will be held at 10:00 AM on July 8, 2010 at the Board office.

Dr. Coyle informed Board members that the CAC newsletter is in their packets.

At 12:01 PM, Ms Samuels made a motion to enter into Executive Session. The motion was seconded and carried unanimously.

Executive Session:

Mr. Safley made a motion to enter into Public Session. The motion was seconded and carried unanimously.

Public Session:

Ms Samuels announced the findings of the Board in regard to the matters reported for action by the Investigation and Informal Settlement Committee.

During the Executive Session, the Board voted unanimously to approve the following:

Beth Bizzell, License # 1501. Letter of Concern and \$50 disciplinary cost.

Stephanie King, License # 3425. Request for dismissal was denied. She will be invited to an interview with the Investigation and Informal Settlement Committee on July 7, 2010.

Victor Rios, License # 99. Letter of Concern and \$50 disciplinary cost.

John Crawford, License # 3532. Reprimand, \$100 disciplinary cost, and \$250 civil penalty.

David Coulter, License # 5754. Summary Suspension.

Orlando Rodriguez, License # 6165 pending. Require refresher course which includes passing the CRT self assessment exam.

Buffy Hilton, License # 556. In compliance with her consent order.

Mr. Safley reported that the Board received Board of Pharmacy cease and desist letters for two out-of-state companies which are sending CPAP or Oxygen or both into

North Carolina. The companies received these letters because neither held a valid Board of Pharmacy license. Following a discussion by the Board, a motion was made by Mr. Safley to write a letter of support to the Board of Pharmacy. The motion was seconded and carried unanimously.

Mr. Shenton reported that the Continuing Duty to Report Rule, 21 NCAC 61 .0308 part c, states that the reports required by this rule must be made within 15 days of the occurrence. He recommended adding a phrase to the end stating "but a failure to make a report within fifteen days does not bar the Board from investigating or taking action on the matter when it is reported." Mr. Grady made a motion to accept the added phrase. The motion was seconded and carried unanimously.

Ms Samuels made a motion to adjourn. The motion was seconded and carried unanimously.

Adjournment:

The meeting was adjourned at 1:37 PM.