

**North Carolina Respiratory Care Board
Meeting Minutes
April 9, 2009**

Members Present:

Arnold Frazier, MD
Thomas Goodin, MD
Karl Karlson, MD
William Croft, RRT, RCP
Wayne Beauford, MD
Kimberly Roseman

Others Present:

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

Absent:

Margaret Mitchell, RRT, RCP
Sherry Samuels
Ralph Webb, RRT, RCP
Timothy Safley, RCP

Call to Order:

Dr. Karlson called the meeting to order at 10:00 AM.

Conflict of Interest Notice:

Dr. Karlson 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. Karlson 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 made part of the minutes.

Approval of Minutes:

Dr. Karlson presented the minutes from the January 8, 2009 Board meeting. Mr. Croft made a motion to approve the minutes as written. The motion was seconded and carried unanimously.

Board Appointments:

Dr. Karlson stated that the appointment terms for Mr. Webb, Mr. Croft, Mr. Safley, Dr. Goodin, and Dr. Karlson will expire on October 31, 2009.

Treasurer's Report:

Mr. Boyer reported that as of March 31, 2009, there was \$3597.72 in the checking account and \$75,024.61 in the money market account making a total of \$78,622.33 in the bank accounts. The total liabilities & equity is \$86,747.58. The Profit & Loss statement shows \$30,000 over budgeted income and \$9000 less for budgeted expenses.

Executive Director's Report: Mr. Boyer reported on the events that had occurred since the last Board meeting and provided additional updates [see attached report]:

- Mr. Boyer attended the High Country Conference on Respiratory Care in Boone on February 11-13.
- The Practice Committee met on April 8, 2009. The Rules Committee met on March 16, 2009. The Education Committee has not met. Mr. Croft attended the AARC's Conference, "Educating the Future Respiratory Therapist Workforce-Identifying the Options," held on April 6-8 and will report on this during his Committee report. Any recommendations from the Practice Committee and the Rules Committee will be presented during their respective Committee reports.
- The Board's Investigators have completed 19 visits and/or investigations as a result of complaints received by the Board. The Board's Investigators have completed 14 investigations that were scheduled for interview with the Board's Investigation and Informal Settlement Committee on April 8. There are currently 8 ongoing investigations.
- As of March 31, 2009: there have been 5886 Respiratory Care Practitioner licenses issued. Totals: 4158 Active, 46 Inactive, 0 Temporary, and 42 Provisional. There are currently 92 Respiratory Care Assistant registrations. There are 26 pending applicants, 1393 expired licenses, 31 practitioners deceased, 41 withdrawn applications, 5 voluntarily surrendered licenses, 1 summary suspension, 24 revoked licenses, and 12 denied applications.
- Mr. Boyer noted that Mr. Shenton will report on current litigation during the Executive Session.

Ethics Committee Report: Dr. Goodin reminded the Board members to update their Statement of Economic Interest forms. The deadline for submission of the forms is April 15 and they must be notarized. Mr. Boyer will notify Board members if they are required to take the refresher course.

Practice Committee Report: Dr. Karlson reported that the committee met on April 8 to review the proposed Polysomnography Licensure Bill which is House Bill 819 and Senate Bill 892. At this time, it is unclear if this is a licensure bill or a registration bill. The Bill defines polysomnography and what rules and regulations are applicable to the practice of polysomnography. The committee thought it would be appropriate to have this issue referred to a Study Commission after the legislative session, to allow the various stakeholders to work on a bill better

protecting the public in its regulation. Terry Smith, representing the NC Society of Respiratory Care and the American Association of Respiratory Care, stated that he had received several emails on this bill. He said the AARC would like to support the bill if the general public is protected. Mr. Smith identified the AARC concerns and a copy of its position statement was given to the board members. The bills are assigned to Legislative committees, but they have not been put on the docket as yet. It was noted that the Board needs to move quickly if it would like to make recommendations. The Board will read the packet and discuss it during the New Business portion of the meeting.

Education Committee Report:

Mr. Croft reported on the AARC Conference. There was much conversation about the educational standards for respiratory therapy in 2015 and beyond. The task was to look at overriding themes of respiratory care and to develop objectives to address the needs of respiratory care patients and how to move the profession to that level. The conference had many presentations by very informed speakers giving the participants a feel for what is needed from respiratory therapists. The work done by the subcommittee won't be available for distribution until June 15. There will be another consensus conference in 2010 which will solidify the objectives and determine a direction on how to proceed. The education standards will change in the future. California, Ohio, and North Carolina were the three regulatory boards that were invited to this conference.

Rules Committee Report:

Dr. Frazier reported that the committee met on March 16 to discuss the following:

- Proposed changes to the License Renewal Rule, 21 NCAC 61 .0302. There was a request from the NC Council of State to amend or waive license requirements for Guards and Reservists while deployed. The Committee recommends that the Board's rule not be changed because Board policies allow licensees to request a waiver of continuing education requirements and Board rules allow licensees to place their licenses on inactive status up to 60 months.
- There was a request from Don Huston to establish a common expiration date for RCP licenses. The Committee reviewed data prepared by Board staff on the current expiration dates. The committee recommends that the Board policy be changed to move the expiration dates to the end of the month as licensees renew and to require the licensees to renew

during the month of their expiration. This change will help facilities since they would only need to check for expired licenses during the last of each month instead of frequently during each month. This may also decrease the number of lapsed licenses. There was a discussion by the Board and the Public. Terry Smith, from NCSRC, offered to share an Excel computer program that his facility uses to track license renewals with other facilities. It was noted that it may be possible to post this program on the Board's website. The recommendation to move the expiration date to the end of the month was seconded and carried unanimously.

Investigation and Informal Settlement Committee:

Mr. Boyer reported that the committee met on April 8 and interviewed thirteen individuals. One individual did not show. Any disciplinary actions are pending and awaiting the closed session of today's meeting.

Unfinished Business:

Dr. Karlson presented the Citizen Advocacy Center's invitation to become a member. The annual membership fee is \$275.00. Following a discussion by the Board, Mr. Croft made a motion to join the CAC. The motion was seconded and carried unanimously.

New Business:

Dr. Karlson stated that the next Board meeting will be held on July 9, 2009, at 10:00 AM at the Board office.

Other New Business:

Because of recent reports of non-Respiratory Care personnel having management responsibilities for licensed RCP's, the NCSRC surveyed hospitals throughout the state for information regarding their management structure. Terry Smith and Dan Grady reported that more than 100 hospital Respiratory Care departments responded to this survey and described the results of the survey. They suggested that the Board should recommend that Respiratory Care departments be managed by licensed RCP's. They also suggested a recommendation that the Board adopt a position statement which states that Respiratory Care departments be managed by licensed RCP's. Mr. Smith stated that the goal is to promote the respiratory care profession and share knowledge with other professions. There was a discussion by the Board. The Board is an advocate for public safety but has not received any complaints about Respiratory Care departments being managed by persons who are not licensed RCP's. The Board would need evidence for concerns affecting public safety, health, or welfare. Dan Grady stated that the survey results show that 10 out of 100 hospitals have personnel with minimal or no training in respiratory care who are in a position of managing licensed respiratory therapists. His concern is

having these managers formulating policies. If these managers have direct reports to persons who are licensed RCP's, then it isn't an issue. Lisa Johnson from Rex commented that the word manager needs to be defined. The Practice Committee will look into the standards for managing Respiratory Care departments.

The next issue was House Bill 221 which involves the oversight of licensing boards. Mr. Shenton reported that this is a bill that would amend existing Section 1 of General Statute 120-70.101. It includes a provision that requires the Joint Legislative Administrative Procedure Oversight Committee to conduct regular reviews of the activities of State occupational licensing boards. This Bill was introduced on February 19, 2009 and is scheduled to become effective October 1, 2009. There is a provision for reporting sanctions for non-compliance and a provision that would require a Board to have training within six months of a new member's appointment and then once every two calendar years thereafter. Mr. Boyer reported that Section 3a on page 1 states that the Joint Legislative Administrative Procedure Oversight Committee will review the activities of State Occupational Licensing Boards to determine if the boards are operating in accordance with statutory requirements and if the boards are still necessary to achieve the purposes for which they were created. It also requires boards that have annual budgets over \$50,000 to have an annual audit which the Board has already been doing for several years. Mr. Boyer will keep the Board advised as the Bill progresses.

Dr. Karlson presented House Bill 819 and Senate Bill 892, which is the proposed Polysomnography Practice Act and House Bill 333 regarding Certified Professional Midwives Licensure. If enacted, House Bill 333 would refer the issue of licensing nurse midwives to the North Carolina Midwifery Joint Committee.

Dr. Karlson explained that in House Bill 819 and Senate Bill 892 the delineation between licensure and the standards of practice is unclear and that oversight is lacking if this is a licensure bill. Mr. Boyer told Board members that there are comments from the AARC, a position statement from the American College of Chest Physicians, a policy statement from Iowa Medical Boards, and a letter from the president of the Academy of Sleep Medicine included in the information packet. This is a Registration Bill to register polysomnographers under the Secretary of State. There is a \$50.00 annual filing fee and it includes the definition of the practice of polysomnography, Mr. Boyer reported that it does

not contain a provision for enforcement. The Board supports licensure of polysomnographers, but not this Bill. Mr. Shenton stated that page 3 of the proposed Bill has exemption and unlawful acts sections. Mr. Croft made a motion to recommend that the Board propose that the Legislature convene a study commission to look at the Bill. The motion was seconded and carried unanimously. Dr. Frazier referred to Section 2 on page 4 which states that the Medical Board will identify the standards of physician supervision of persons registered to practice as registered polysomnographic technologists.

Terry Smith mentioned a concern from Dave Fuller at Park Ridge Hospital, who would like the expiration date for RCA's to be extended to 30 days after graduation to allow more time for students to get their Provisional Licenses. Following a discussion by the Board, it was decided to have the Education Committee address this concern. The Board staff will provide the information to the committee.

Terry Smith stated that Mr. Boyer received a letter on April 3 from a concerned therapist in a small hospital regarding access to medications since they have been moved to the pharmacy. Mr. Boyer made a suggestion that the NCSRC conduct a study and bring the information back to the Practice Committee along with the impact that it is having on patients.

Dr. Beauford made a motion to enter into Executive Session to discuss disciplinary matters. It was seconded and carried unanimously.

Executive Session:

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

Public Session:

Hearing for Floyd D. Smith – License # 1677

Neither Mr. Smith nor any one representing him was present at the start of the hearing. Mr. Shenton, Counsel for the Board, called Mr. Boyer, the Board's Executive Director, as a witness for the Board, and Board Exhibit 1, consisting of copies of material from Mr. Smith's file was introduced.

The Board audio taped the Hearing and will maintain an audio recording of the Hearing, as well as, a copy of the Exhibit that was introduced. At the conclusion of the hearing, and while still under oath, Mr. Boyer checked the Board offices and he stated that neither Mr. Smith nor anyone representing him was present.

Dr. Goodin made a motion to enter into Executive Session. The motion was seconded and carried unanimously.

Executive Session:

Mr. Croft made a motion to enter into Public Session to deliberate the case. The motion was seconded and carried unanimously.

Public Session:

Mr. Boyer 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:

Floyd D. Smith, RCP # 1677. Permanent Revocation.

Cathy R. Johnson, RCP # 4034. Dismiss

Richard D. Krauszer, License # 5830 Pending. Approve application.

Tasaha D. McKinney, RCP # 5268. Letter of Concern

Alvin Nalupara, RCP # 4479. Letter of Concern

Larry A. Davis II, RCP # 5261. Reprimand, \$250 Civil Penalty and \$250 Disciplinary Costs. Continuing Education Audit for 3 years.

Christy L. McAllister, RCP # 4752. Letter of Concern

Todd J. Chuntz, RCP # 220. Dismiss

Kelvin A Davis, RCP # 5156. Dismiss

James M. Gordon, RCP # 5620. Summary suspension

Michelle L. McElreath, License # 5866 Pending. Approve application

Shirley B. Lowery. License # 4751. Probation for 12 months, Random Drug Testing, Quarterly Supervisor Reports, \$250 Civil Penalty and \$100 Disciplinary Costs.

Craig A. Ditmars, RCP # 2701. Approve application with conditions

Laurie B. Andrade, RCP # 2169. Letter of Concern

Sheila N. Godfrey, RCP # 1591. Invite to July Committee Interviews.

Expungements:

- Virginia F. Shabow, RCP# 4871. Approved.
- Velma L. Langford, RCP # 889. Approved.
- Gary A. Trimby, RCP # 1117. Approved.
- Kevin K. McArdle, RCP # 2155. Approved.
- Benika L. King, RCP# 4278. Approved.
- Joseph B. F. Gilbert, RCP # 3282 Expired. Approved.

Adjournment:

Mr. Croft made a motion to adjourn the meeting. The motion was seconded and carried unanimously. The meeting was adjourned at 2:05 PM.