

North Carolina Respiratory Care Board

Meeting Minutes January 10, 2008

Members Present:

Arnold Frazier, MD
Sherry Samuels
Margaret A. Mitchell, RRT, RCP
Thomas Goodin, MD
Karl Karlson, MD
Ralph Webb, RRT, RCP
William Croft, RRT, RCP
Kenya Wright

Others Present:

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

Absent:

Timothy Safley, RCP
Wayne Beauford, MD

Call to Order:

Mr. Webb called the meeting to order at 8:37 AM.

Conflict of Interest Notice:

Mr. Webb 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.

Mr. Webb 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.

Introductions of New Board Members:

Mr. Webb introduced Dr. Arnold Frazier to the Board. He was appointed by the Medical Society.

Mr. Webb introduced Ms Kenya Wright to the Board. She was appointed by the Governor to complete the term of Ms. Fox as a Public Member.

Election of Officers:

Mr. Croft nominated Mr. Webb to serve as Chairman. The nomination was seconded and passed unanimously. Ms Mitchell nominated Dr. Karlson for Vice Chairman. The nomination was seconded and passed unanimously. Ms Mitchell nominated Ms Samuels for Secretary Treasurer. The nomination was seconded and passed unanimously.

Committee Appointments: Mr. Webb made a recommendation to appoint Ms Wright to the Ethics Committee and Dr. Frazier to the Rules Committee. There was no objection by the Board.

Approval of Minutes: Mr. Webb presented the minutes from the October 11, 2007 Board meeting. Mr. Croft made a correction to the minutes. On page 3 under the Sleep Technology Subcommittee Report, "BSRT" should be "BRPT." Mr. Croft made a motion to approve the minutes with the correction. The motion was seconded and carried unanimously.

Treasurer's Report: Ms Samuels reported that as of December 31, 2007, the checking account balance was -\$3098.79. This was due to a transfer for payroll not being processed during the holidays. This was corrected. There is \$109,183.48 in the money market account. Total assets are \$106,084.69.

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

- Moved into the new offices on November 26, 2007.
- Attended the Statewide/Capital/General Government Subcommittee meeting on December 11, 2007 for consultation concerning the increase in fees approved by SL2007-418 and proposed by 21 NCAC 61 .0204. The subcommittee recommended the approval of the request and forwarded the recommendation to the Legislative Commission on Governmental Operations which met on December 12, 2007.
- The Practice Committee's Ad Hoc Home Care Committee met on November 14, 2007. The Sleep Committee met on December 20, 2007. The Education Committee met on December 20, 2007. Any recommendations from these committees will be presented during their respective reports.
- Mr. Shenton will report on the ongoing litigation during the executive session.
- The Board's Investigators have completed 49 visits and/or investigations to check for compliance with Board Statutes and Rules or as a result of complaints received by the Board. Thirteen (13) facilities and/or individuals were found to be out of compliance. The Board's Investigators have completed twelve (12) investigations that were scheduled for interview with the Board's Investigation and Informal Settlement Committee on January 9, 2008. There are currently four (4) ongoing investigations.
- As of December 31, 2007: there have been 5461 Respiratory Care Practitioner Licenses issued. Totals:

3943 Active, 45 Inactive, 8 Temporary, and 68 Provisional. There are currently 106 Respiratory Care Assistant Registrations. There are 37 pending applicants, 83 failed to complete applications, 1186 expired licenses, 25 practitioners deceased, 30 withdrawn applications, 6 voluntarily surrendered licenses, 1 summary suspension, 21 revoked licenses, and 8 denied applications.

Ethics Committee Report: Dr. Goodin reported that the Ethics Commission's newsletter is included in the Board's packet. Dr. Frazier and Ms Wright will need to attend a required Ethics educational meeting in their area. The Statement of Economic Interest must be completed by all Board members by April.

Practice Committee Report: Dr. Karlson reported that the committee has not met since the last Board meeting. The Ad Hoc on Home Care Committee, appointed by Dr. Coyle at the October 11, 2007 Board Meeting, has met and is still working on language for a Position Statement or Declaratory Ruling concerning CPAP setups by non RCP's and the Watch-PAT 100 and other in-home sleep studies. The proposed Position Statement or Declaratory Ruling will be reviewed by the Practice Committee and introduced at the next Board Meeting.

Sleep Technology Subcommittee Report: Mr. Croft reported that the subcommittee met on December 20, 2007 to discuss the draft polysomnography licensure Bill for possible support from the Board. The subcommittee is asking the Board to review the draft for future discussion.

The subcommittee discussed changes to the NC Polysomnography Competency Requirements Document. They defined six months of training as 1000 hours and twelve months of training as 2000 hours. The committee recommended approval of the revised document. The recommendation was passed unanimously.

Mr. Croft reported that CMS had proposed rule changes to allow for in home sleep studies.

Education Committee Report: Mr. Croft reported that the committee met on December 20, 2007, and discussed the status of the BSRT program in Charlotte, communication needs so RCP's can get email alerts regarding updates of the website, refresher course rules, polysomnography education, and the push for no smoking on each community college campus.

There was a discussion by the Board regarding the Friday Report concerning a sleep lab being under investigation for

billing for sleep studies being performed by non licensed or registered individuals.

Rules Committee Report:

Mr. Webb reported that a Public Hearing was held on November 15, 2007 to allow public comment on the proposed changes to Board Rules 21 NCAC 61.0201, 21 NCAC 61.0204, and 21 NCAC 61.0305. Two individuals were in attendance. There were no concerns noted. The comment period ended on December 31, 2007, and no written comments were received. Mr. Webb presented the timeline. The effective date for approval of the proposed rules is March 1, 2008. The Committee recommended that the proposed rule changes be adopted. The recommendation passed unanimously.

Investigation and Informal Settlement Committee:

Ms Samuels reported that the committee met on January 9, 2008 and interviewed four (4) individuals. Seven (7) individuals did not show. Any disciplinary actions are pending and awaiting the closed session of today's meeting.

Unfinished Business:

There was a discussion regarding CMS's proposed rule changes. Mr. Shenton stated that the Board does have the authority to adopt by reference rules or standards adopted by other some other organization or agency.

Ms Mitchell reported that the Hospital Association would like for the Board to adopt the AARC's position on sleep studies. The Hospital Association wants home studies to have the same quality as in-lab studies. There was a discussion by the Board. Mr. Croft made a motion to rescind the competency requirements approved under the Sleep Technology Subcommittee Report until the proposed CMS rules are enacted and reviewed. The motion was seconded and passed unanimously.

New Business:

Mr. Webb reported that there is a nationwide AARC Conference on the future of Respiratory Care to be held on March 3, 4, and 5. Mr. Webb will represent the Board.

The next Board meeting will be on April 10, 2008 at 9:30AM.

Other New Business:

Mr. Webb entertained a motion to enter into Executive Session to discuss the settlement regarding Kites Medical, Angelique Thompson's appeal, and disciplinary actions resulting from the Investigation and Informal Settlement Committee. It was seconded and passed unanimously.

Executive Session:

Ms. Samuels made a motion to enter into Public Session. The motion was seconded and carried unanimously.

General Session:

Hearing for John L. Crawford – License # 3532

Mr. Joe Booth, attorney for Mr. Crawford, introduced himself to the Board.

Mr. Shenton, Counsel for the Board, gave his opening statement. He called Mr. Boyer, the Board's Executive Director, as a witness for the Board. Mr. Boyer was sworn in. Mr. Shenton introduced exhibits which were accepted by the Board.

Mr. Booth cross-examined Mr. Boyer.

Mr. Booth gave his opening statement and then called Mr. Crawford as a witness. Mr. Crawford was sworn in. Mr. Booth introduced exhibits which were accepted by the Board.

Mr. Shenton cross-examined Mr. Crawford.

Mr. Booth made a closing statement.

The Board audio taped the Hearing and will maintain an audio recording of the Hearing, as well as, copies of the Exhibits that were introduced.

Mr. Webb closed the hearing and moved the Board into Executive Session.

Executive Session:

Dr. Karlson made a motion to return to Public Session to announce the findings of the Hearing and Disciplinary actions. The motion was seconded and carried unanimously.

General Session:

Mr. Webb announced that the license of John L. Crawford will be reinstated with the following conditions: 24 months Probation, Substance Abuse Counseling and follow any plan of treatment, Quarterly supervisor reports, continue AA with reports from sponsor, random drug screening and \$1200 Disciplinary Costs.

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:

Julene Greene, RCP # 2403. License will not be renewed without Board Approval.

Virginia Shabow, RCP # 4871. Reprimand, \$175 disciplinary cost, and \$250 civil penalty to be paid by renewal date.

Sharon MacDonald, RCP # 5369 Pending. Application denied.

Christopher Carpenter, RCP 5443 Temporary. Application approved.

Amy Thomas, RCP # 3793. Continue investigation, interview at next IISC meeting.

Sarah Myers, RCP # 5008. Appears to be in compliance, will come back in April.

Sheena Taylor, RCP # 5266. Revocation.

Megan McIntyre, RCP # 4835. Revocation.

Bob Thompson, RCP # 5440 Pending. Will be rescheduled for April meeting.

Peggy Guiler, RCP # 3602. Reprimand, \$100 disciplinary cost, and \$250 civil penalty.

Adjournment:

Dr. Karlson made a motion to adjourn. The motion was seconded and passed unanimously. The meeting was adjourned at 3:03 PM.