

North Carolina Respiratory Care Board

Meeting Minutes January 8, 2009

Members Present:

Arnold Frazier, MD
Timothy Safley, RCP
Sherry Samuels
Margaret A. Mitchell, RRT, RCP
Thomas Goodin, MD
Karl Karlson, MD
Ralph Webb, RRT, RCP
William Croft, RRT, RCP
Kimberly Roseman

Others Present:

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

Absent:

Wayne Beauford, MD

Call to Order: Mr. Webb called the meeting to order at 10:05 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.

New Board Member: Mr. Webb introduced Ms Kimberly Roseman to the Board. She was appointed by the Governor to the unexpired term of Ms Kenya Wright. Ms Roseman's term will expire on October 31, 2011.

Ms Samuels has been reappointed by the Governor and her term will expire on October 31, 2011.

Election of Officers: Mr. Webb asked for nominations for Chair. Mr. Croft nominated Mr. Webb. The nomination was seconded and carried unanimously.

Dr. Goodin nominated Dr. Karlson for Vice Chair. The nomination was seconded and carried unanimously.

Ms Mitchell nominated Ms Samuels for Secretary. The nomination was seconded and carried unanimously.

Ms Mitchell nominated Ms Samuels for Treasurer. The nomination was seconded and carried unanimously.

Committee Appointments:

Mr. Webb made the following recommendations:

Ethics Committee: Dr. Tom Goodin - Chair, Kim Roseman, Bill Croft, and Floyd Boyer (ex officio)

Rules Committee: Tim Safley - Chair, Dr. Arnold Frazier, Sherry Samuels, and Floyd Boyer (ex officio)

Investigation and Informal Settlement Committee: Sherry Samuels - Chair, Tim Safley, Peggy Mitchell, Floyd Boyer (ex officio), and Judy Green (ex officio)

Practice Committee: Dr. Karl Karlson - Chair, Ralph Webb, Wayne Beauford, and Floyd Boyer (ex officio)

Education Committee: Bill Croft - Chair, Ralph Webb, Bob Campbell, and Floyd Boyer (ex officio)

There were no objections by the Board.

Approval of Minutes:

Mr. Webb presented the minutes from the October 9, 2008 Board meeting. Mr. Croft made a correction to the Practice Committee Report. He abstained from voting on the request from the Hospital Association to endorse a Position Statement on Polysomnography. The recommendation to approve the Position Statement passed with 8 votes. Ms Samuels made a motion to approve the minutes as corrected. The motion was seconded and carried unanimously.

Treasurer's Report:

Ms Samuels reported that as of December 31, 2008, there was \$22,516.23 in the checking account and \$94,872.96 in the money market account making a total of \$117,389.19 in the bank accounts. She also presented the Profit & Loss vs Actual Budget.

Ms Samuels presented a request from the Governor to reduce the budget. There was a discussion by the Board regarding the fact that the Board is not funded by the State. Mr. Shenton will review the Governor's request and advise the Board.

Executive Director's Report:

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

- Mr. Webb and Mr. Boyer attended the Mountain Air Conference held on October 17, 2008, in Asheville and presented lectures on Legislative Processes and Regulatory Issues.
- The Practice Committee met on January 7, 2009. The Sleep Technology Committee met on December 29, 2008. The Education Committee and the Rules Committee have not met. All recommendations from the Practice Committee and the Sleep Technology Committee will be presented during the Practice Committee report.
- Mr. Shenton will report on current litigation during the Executive Session.
- The Board's Investigators have completed 24 visits and/or investigations to check for compliance with Board Statutes and Rules or 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 January 7, 2009. There are currently 6 ongoing investigations.
- As of December 31, 2008: there have been 5844 Respiratory Care Practitioner Licenses issued. Totals: 4137 Active, 45 Inactive, 0 Temporary, and 53 Provisional. There are currently 85 Respiratory Care Assistant Registrations. There are 33 pending applicants, 1377 expired licenses, 31 practitioners deceased, 40 withdrawn applications, 5 voluntarily surrendered licenses, 3 summary suspensions, 1 suspension, 21 revoked licenses, and 11 denied applications.

Ethics Committee Report: There was no report.

Practice Committee Report: Dr. Karlson reported that the Committee met on January 7 to discuss the following:

- There was a request from Wendy Yates of Respiroics to allow RCP's licensed in other states to perform competency evaluations of North Carolina licensed RCP's without being licensed in North Carolina. The Committee recommended sending a letter to Ms Yates stating that "As long as the Respiroics employees are not performing and/or practicing Respiratory Care in North Carolina as defined by the North Carolina Respiratory Care Practice Act and the North Carolina

Respiratory Care Board Rules, and are only verifying the competence of RCP's licensed in the state of North Carolina whom Respirationics has contracted with to perform periodic patent assessments in North Carolina, there is no restriction by North Carolina and the Respirationics employees do not need to apply for a RCP license". Following a discussion by the Board, Dr. Karlson made a motion to accept the recommendation of the Committee. The motion was seconded and carried unanimously.

- There was a request from Brian Stearns, RCP from Central Piedmont Community College, to interpret if Respiratory Care Assistants registered with the Board may take verbal orders from physicians. There was a discussion by the Board and Public. Mr. Croft made a motion to respond to Mr. Stearns stating that the Board supports the scope of practice in all hospitals in the state of North Carolina that only licensed individuals may take verbal orders from physicians. The motion was seconded and carried unanimously.
- There was a request from Terry Smith, President of the North Carolina Society for Respiratory Care, for the Board to discuss concerns about Respiratory Care Departments not having RCP Directors in North Carolina. There was a discussion by the Board and Public, and there is currently a survey being done. It was decided that there is no stance that the Board can take on this concern.
- Dr. Karlson presented an information email memo from Kimberly Ake, of Resmed, informing the Board that internal controls have been put in place to make sure that non-licensed individuals don't apply positive airway pressure devices to patients.
- There was a request from the Sleep Technology Subcommittee to approve a revised Declaratory Ruling regarding Polysomnographic Technologists, Technicians, and Trainees. The revision added the phrase "who is credentialed as a RPSGT or SDS, or eligible to take the RPSGT or SDS exam" to paragraphs 4 and 5 on page 4 of the Declaratory Ruling. The Committee recommended approval of the revision. Following a discussion by the Board and Public, it was decided to remove "readily available by telephone and" from the second paragraph on page 4. Mr. Safley made a motion to accept the revision with the removal of the phrase from paragraph 2 on page 4. The motion was seconded and carried unanimously.

Education Committee Report:

There was no report.

Rules Committee Report:

There was no report.

Investigation and Informal Settlement Committee:

Ms Samuels reported that the committee met on January 7, 2009, and interviewed eight individuals. Six individuals did not show. Any disciplinary actions are pending and awaiting the closed session of today's meeting.

Unfinished Business:

There was none.

New Business:

There was a request from the State Auditor to enact Rules to offer relief to Guard and Reservists in order to maintain their licenses while on deployment. This request was referred to the Rules Committee for action and for a report at the next Board Meeting.

Mr. Webb presented an anonymous letter, dated December 5, 2008, that was addressed to all Board Members, Mrs. Boyer, and Mr. Green. Upon legal counsel's advice, Mr. Webb interviewed Mr. Boyer and Ms Green independently. Both individuals denied any romantic relationship. Mr. Webb made a motion that no further action be taken and to await legal counsel's recommendation. The motion was seconded and carried unanimously.

Mr. Webb distributed UPS packages, which were sent anonymously, to all Board Members. They contained a document showing that Mr. Boyer had been charged with speeding and DUI. This is a matter of public record and at this time the charges have not been settled in court.

Terry Smith, of Mission Hospital, reported that a large volume of inhalers are not being sent home with patients. There was a discussion by the Board. Mr. Smith will present information at the next Board Meeting.

Mr. Webb announced that the next Board Meeting will be on April 9, 2009 at 10:00AM at the Board Office.

Other New Business:

Mr. Webb presented an invitation from The Citizen Advocacy Center for the Board to become a member. Following a discussion, the Board decided to look at the newsletter and to discuss this at the next Board Meeting.

Mr. Webb presented information from the AARC concerning the Board endorsing the Uniform Reporting Manual.

Mr. Webb asked the Board to review the draft of DN 08-4 Uniform Emergency Volunteer Health Practitioners Act and to forward any comments or concerns to the Board's Counsel for review.

Mr. Webb presented information from the NBRC on the new Sleep Disorders Specialty Exam.

Mr. Webb made a motion to take a short break and then enter into Executive Session. The motion was seconded and carried unanimously.

Public Session:

Mr. Webb stated that the Board went into Executive Session in which no discussion took place and now are entering into Public Session for Hearings.

Hearing for Leslie Gray – License # 3170

Ms Gray was not present and no one representing her was present. Mr. Shenton, Counsel for the Board, called Mr. Boyer, the Board's Executive Director, and Ms Judy Green, the Board's Investigator, as witnesses for the Board.

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.

Hearing for Samuel Howard – License # 5057

Mr. Howard was not present and no one representing him was present. Mr. Shenton, Counsel for the Board, called Mr. Boyer, the Board's Executive Director, and Ms Judy Green, the Board's Investigator, as witnesses for the Board.

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

Executive Session:

Ms Samuels 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:

Tonya Dolence, License # 5181 Pending. Invite back to the next interview in April 2009.

Brandy Jenkins, RCP # 1716. Probation for 12 months, quarterly reports from supervisor and drug counselor, random drug and ETOH screens at her cost, proof of AA attendance, \$250 discipline cost, and \$250 civil penalty.

Tera Beshears, RCP # 5061. Continue suspension for 3 months, \$250 discipline cost, and \$250 civil penalty.

Shirley Lowery, RCP # 4751. Suspend license from January 8, 2009 until May 18, 2009, and invite to the next interview in April 2009.

Warren Roy, RCP # 610. Letter of Concern.

Christina Swinton, RCA # 707 Pending. Approve.

Gerald Legere, RCP # 423. Letter of Concern.

Danielle Just, RCP # 5835 Pending. Approve.

Richard Krauser, RCP # 5830 Pending. Invite to the next interview in April 2009.

Laurie Andre, RCP # 2169. Ms Green to hand deliver the invitation to the next interview in April 2009.

Floyd Smith, RCP # 1677. Summary Suspension.

Dwight Wells, RCP # 2323. Reprimand, \$250 discipline cost, \$250 civil penalty, 2 hours of CE to be completed within one week, and audit for 3 years.

Sheila Godfrey, RCP # 1591. Ms Green to hand deliver the invitation to the next interview in April 2009.

Antonio Pulido, RCP # 1869. Reprimand, \$250 discipline cost, \$250 civil penalty, 12 CE's to be completed within 30 days, and audit for 3 years.

Expungements:

- Brandy Jenkins, RCP # 1716. Denied.
- LaTonya Richardson, RCP # 4828. Approved.
- Lewis Bell, RCP # 3193. Approved.
- Robert White IV, RCP # 1325. Hold.

Revocation:

- Leslie Gray, RCP # 3170. Permanent Revocation.
- Samuel Howard, RCP # 5057. Permanent Revocation.

Mr. Webb reported that the Board voted to authorize Counsel to proceed with the motion for reconsideration of the appeal of Angelique Thompson.

Dr. Karlson made a motion to adjourn. The motion was seconded and carried unanimously.

Adjournment:

The meeting was adjourned at 2:44 PM.