

# North Carolina Respiratory Care Board

## Meeting Minutes July 13, 2006

### **Members Present:**

Joseph Coyle, MD  
Mary Lou Fleming  
Sherry Samuels  
Margaret A. Mitchell, RRT, RCP  
Thomas Goodin, MD  
Bruce K. Rubin, MEngr, MD  
Ralph Webb, RRT, RCP  
William Croft, RRT, RCP  
Wayne Beauford, MD

### **Others Present:**

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

### **Absent:**

Lisa Fox

### **Call to Order:**

Dr. Coyle called the meeting to order at 9:36 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.

### **Approval of Minutes:**

Dr. Coyle presented the minutes from the April 13, 2006 Board meeting. Dr. Goodin made a motion to approve the minutes as written. The motion was seconded and carried unanimously.

### **Treasurer's Report:**

Ms Fleming reported that there is \$24,023.51 in the checking account, \$95,293.37 in the money market, and the total assets are \$119,316.88. The total liabilities and equity are \$124,708.17. Profit and Loss Budget vs. Actual shows the net income for FY 2005-2006 is \$4408.44.

### **Executive Director's Report:**

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

- Attended the 20<sup>th</sup> Annual High Country Conference on February 7-10, 2006.

- Presented a Respiratory Care Licensure lecture to the graduating students at Fayetteville Technical Community College on May 5, 2006.
- Presented a Respiratory Care Licensure Update at the Greensboro AHEC Respiratory Care Seminar on June 13, 2006.
- The Education Committee and the Rules Committee met on June 20, 2006. The Practice Committee met on June 26, 2006. The Sleep Technology Subcommittee met on July 5, 2006. Any recommendations from these committees will be presented during their respective reports.
- Met with Lindy Faulker, CPA, on June 28, 2006 to discuss the financial audit for fiscal year 2005 – 2006.
- Asked Tom Williams, NCRCB – NCSRC liaison, to attend the Task Force on Ethics and Pandemic Influenza Planning meeting held on June 7, 2006 representing the Board and the Society for Respiratory Care. Mr. Williams will give a report under New Business.
- The Board's Investigators have completed 60 visits and/or investigations to check for compliance with Board Statutes and Rules or as a result of complaints received by the Board. 24 facilities and/or individuals were found to be out of compliance. The Board's Investigators have completed 24 investigations that were scheduled for interview with the Board's Investigation and Informal Settlement Committee on July 11 and 12, 2006. There are currently 7 ongoing investigations.
- As of June 30, 2006: there have been 4893 Respiratory Care Practitioner Licenses issued. Totals: 3783 Active, 42 Inactive, 1 Temporary, and 92 Provisional. There are currently 45 Respiratory Care Assistant Registrations. There are 91 pending applicants, 817 expired licenses, 20 practitioners deceased, 22 withdrawn application, 4 voluntarily surrendered licenses, 14 revoked licenses, and 7 denied applications.

**Ethics Committee Report:**

Dr. Goodin requested that the Board members read the May and June newsletters from the NC Board of Ethics. He reminded Board members to complete the Statement of Economic Interest. House Bill 1844, an Ethics Bill, has passed the House and is in the Senate Judiciary Committee.

**Practice Committee Report:**

Dr. Rubin reported that the committee:

- Discussed the Draft Position Statement on Continuous Positive Airway Pressure Devices which had been tabled at the last Board meeting. Two representatives from the Pharmacy Board also attended the meeting. Since there were no comments submitted by Board members or the Public, the committee recommends approval of the Position Statement. Following a discussion by the Board, it was passed unanimously.
- Considered a request from Les Foss, Mission Hospital, to draft a position statement regarding patients bringing home CPAP units into hospitals. The committee supports patients being able to bring their devices into hospitals as it would be an opportunity to evaluate how they are applying their devices as well as an opportunity to check and recondition the device. However, the committee recognizes potential problems with home devices being used in hospitals for a period of time greater than two weeks. The committee feels that it would be inappropriate to issue a declaratory ruling. It recommends that the Education Committee provide guidelines to help Respiratory Care Departments develop their own policies in accordance with their hospital's policy. Following a discussion by the Board, Dr. Coyle charged the Education Committee with providing some guidance which would be posted on the website.
- Discussed a request from John Chapman, RCP at Halifax Regional, to interpret the Respiratory Care Practice Act in reference to RCP's being allowed to write verbal orders from physicians for procedures other than those related to the practice of respiratory care. The committee recommends that Mr. Boyer draft a letter to Mr. Chapman stating that "The Board has in the past interpreted the Practice Act to allow for RCP's to perform NG tube placements if approved by the facility's Medical staff and Nursing administration and the RCP has documented training and competency. The RCP may take and write verbal orders for the acts described in the Practice Act including those tasks or procedures approved by the Board that RCP's perform in their scope of practice. A RCP may not transcribe and take verbal orders for any medical procedure or practice that is not part of their routine practice of respiratory care and this includes taking a verbal order on behalf of another non-RCP health care provider." The committee strongly opposes RCP's transcribing and taking verbal orders for any medical procedure or

practice that is not part of their routine practice of respiratory care. Following a discussion by the Board, the statement was approved unanimously.

**Sleep Technology  
Subcommittee Report:**

Mr. Croft reported that the committee met on July 5, 2006 and presented:

- The plan for the Polysomnographic Trainee Course which will take place on September 8, 2006 in Asheville. The list of speakers is being developed.
- The committee also discussed the possibility of licensing Polysomnography Technologists. It is in favor of this possibility.

**Rules Committee Report:**

Mr. Webb reported that the committee met on June 20, 2006 to discuss changes to 21 NCAC 61 .0103 and 21 NCAC 61 .0401.

- The timeline for the approval of proposed rules was presented.
- 21 NCAC 61 .0103 regards definitions of activities for the practice of respiratory care. The changes are a clarification as suggested by the Rules Review Commission. The committee recommends approval of the changes. The recommendation was approved unanimously.
- 21 NCAC 61 0.401 regards continuing education requirements. The committee recommends tabling the issue for further consideration by the committee. There was a discussion by the Board and the Public. Board Chair tabled the proposal until the October Board meeting.

The committee recommended that the Board consider several changes to the Statute:

- Recommendations for a maximum increase in fees was presented: \$50 for the application fee, \$200 for license fee, \$100 for renewal fee, \$100 for late renewal, and \$70 for Temporary or Provisional licenses.
- Recommends adding language for Limited Licensure to license individuals that provide limited respiratory care procedures, e.g. Polysomnographic Technologists.
- Other changes that may be determined by the Board.

It was decided that these issues will be discussed at a future Board meeting.

**Education Committee Report:**

Mr. Croft reported the committee met on June 20, 2006 and discussed the following:

- UNC Charlotte is in the process of developing the BSRT program.
- RCP Refresher Course needs a cut score to be established for the self-assessment CRT exam.
- PAP Titration course has been established and will be approved for 8 hours of CE credit.
- The declaratory ruling regarding Respiratory Care Assistants (RCA) must be re-evaluated each year. It will be discussed in detail at the next committee meeting. The committee wants to clarify the term competency evaluation. There is competency in clinic and lab and some schools define competency differently. The committee recommends adding “which includes laboratory and clinical” to page 2 of the ruling. This will give students two evaluations from the school. They will receive the third evaluation from the facility when they begin work. Ms Mitchell recommended an additional change that adds a statement that before the school signs the section on the RCA application they give and explain the Ruling to the student. The following statement to be added to the RCA application under Section B: “The student has read and understands the Policy regarding RCA’s.” Following a discussion by the Board and Public, there was a unanimous vote to add the language to the ruling and application form.

**Investigation and Informal Settlement Committee:**

Ms. Mitchell reported that the committee met on July 11 and 12, 2006 and interviewed 13 individuals. Eight individuals did not show. Any disciplinary actions are pending and awaiting the Executive Session of today’s meeting.

**Unfinished Business:**

There was none.

**New Business:**

- Tom Williams reported on the June 7<sup>th</sup> meeting of the Task Force on Ethic and Pandemic Influenza Planning. The purpose is to provide an overall framework for the public health response to an influenza pandemic in NC. The panel was asked to discuss licensure requirements, ethical guidelines, and what happens if a RCP chooses not to work. The meeting did begin to address the issue and how the wording should be stated as a reference for professional organizations. This will be presented in the Task Force’s final published document. There was a discussion by the

Board and the Public. The Ethics Committee will begin to work on a position statement.

- House Bill 1133 has made General Assembly buildings smoke free.
- House Bill 1330 authorizing Anesthesiologist Assistants to be licensed has passed both the House and Senate and is now in the House for concurrence.
- Mr. Croft reported that the NC Allied Health Council will have a meeting on July 24, 2006 in Chapel Hill. He will represent the Community Colleges.
- Ms Fleming would like for the Board to write a letter of concern to be sent to Congressmen regarding oxygen concentrators. There was a discussion by the Board and the Public, after which Ms. Fleming agreed to bring materials to the next meeting for the Board to review.

**Other New Business:**

Dr. Coyle asked for authorization for an audit. The cost would be \$3500. Dr. Goodin made a motion to authorize the audit. It was seconded and carried unanimously.

Dr. Coyle announced that the next Board meeting would be at 9:30 AM on October 12.

**Executive Session:**

Ms Fleming made a motion at 10:50 AM to enter into Executive Session to discuss the Executive Director's contract. The motion was seconded and carried unanimously. During the Executive Session the Board voted unanimously to renew the Executive Director's contract with a 3.5 % increase in salary.

**General Session:**

The Board returned to General Session at 12:05 PM after a lunch break. Dr. Coyle explained that this is a public hearing which will be recorded. If any Board member has a conflict, they should recuse themselves from hearing the case.

**Hearing for Nichole L. Arnold – License # 4426**

Dr. Beauford recused himself from participation in this case since he is the medical director of the facility where Ms. Arnold applied for employment.

Ms. Arnold was not present and no one representing her was present. Mr. Shenton, Counsel for the Board, called Mr. Boyer, the Board's Executive Director, as a witness 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.

**Executive Session:** At 12:22 PM, Dr. Rubin made a motion to enter into Executive Session to deliberate. The motion was seconded and passed unanimously.

**General Session:** The Board returned to General Session at 12.28 PM to announce the findings of the Board in regard to the hearing involving Nichole Arnold. During the Executive Session the Board voted unanimously with Dr. Beaufort abstaining, to let stand the previous sanction approved by the Board in regards to Ms. Arnold's license.

**Executive Session:** At 12:30 PM, Dr. Rubin made a motion to enter into Executive Session for the purpose of reviewing recommendations from the Investigation and Informal Settlement Committee. The motion was seconded and passed unanimously.

**General Session:** The Board returned to General Session at 1:50 PM to announce 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:

Peter McGuinness, RCP # 3870. Reprimand, \$250 civil penalty, \$100 disciplinary cost and Board Rules Test for practicing respiratory care without a license.

Arthur Butts, RCP # 4180. Summary Suspension for failure to disclose a prior conviction on his application for licensure.

Kimberly Childress, RCP # 3171. 30 day suspension stayed for 6 months, \$250 civil penalty and \$250 disciplinary cost for unprofessional conduct.

Karen Covington, RCP # 1066. Approved her application to practice respiratory care.

Howard Maddox, RCP # 4086. Reprimand, \$250 civil penalty and \$100 disciplinary cost for failing to create and maintain respiratory care records.

Laurie Collins, RCP # 4724. Approved her application to practice respiratory care.

Cheryl Davis, RCP # 4053. Probation for 12 months, \$250

disciplinary cost and quarterly supervisor reports for felony conviction.

Stacy Tennant, RCP # 4190. Summary Suspension for willfully making or filing a false report or record and procuring a license by fraudulent misrepresentation (Bad Check).

Mark Teasley, RCP # 846. Summary Suspension for being unable to deliver respiratory care with reasonable skill and safety.

Donica Laney, RCP # 2728. 30 day suspension stayed for 12 months, \$250 civil penalty and \$100 disciplinary cost and quarterly supervisor reports for willfully making or filing a false report or record.

Glen Garvin, RCP # None. \$250 civil penalty for practicing respiratory care without a license.

**Adjournment:**

The meeting was adjourned at 1:55 PM.