

North Carolina Respiratory Care Board

Meeting Minutes October 14, 2010

Members Present:

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

Others Present:

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

Absent:

Call to Order:

Dr. Coyle called the meeting to order at 10:00 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 introduced William Kiger. He was appointed by the President Pro Tem of the Senate. His term will expire on June 30, 2013. Dr. Coyle read the Statement of Economic Interest letter from the State Ethics Commission for Mr. Kiger.

Auditor's Report:

Lindy Faulconer of Koonce, Wooten and Haywood, LLP presented the audit report for the years ending June 30, 2009 and June 30, 2010 and a letter. The operating revenue in 2010 was down due to a decrease in license renewals, and the operating expenses were up due to an increase in legal fees. The audit is required to consider the internal controls, but is not required to issue an opinion on them. There is no

change from the prior year. The Board has review procedures for checks and balances. The letter is required communication between the auditor and the Board.

Approval of Minutes:

Dr. Coyle presented the minutes from the July 8, 2010 Board meeting. Dr. Bratzke 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 September 30, 2010, there was \$55,912.53 in the checking account and \$55,462.61 in the money market account making a total of \$111,375.14 in the bank accounts. The total liabilities and equity is \$117,678.04. The Profit & Loss vs Actual shows a total income of \$185,470.00 and a net income of \$41,079.28. There are no outstanding charges and insurance is in place.

Executive Director's Report:

Mr. Boyer reported on the events that had occurred since the last Board meeting.

- The Practice Committee and the Education Committee met on September 17, 2010.
- The Rules Committee met on October 13, 2010 to discuss a proposed change to Rule 21 NCAC 61 .0302.
- The Ethics Committee has not met.
- Mr. Boyer attended the Rules Review Commission meeting held on August 19, 2010. The Commission approved the proposed changes to Board Rules 21 NCAC 61 .0103 (definitions), 21 NCAC 61 .0302 (license renewal), 21 NCAC 61 .0308 (continuing duty to report), and 21 NCAC 61 .0401 (continuing education requirements). The proposed Rule 21 NCAC 61 .0204, to increase renewal fees, must be reviewed by the Joint Legislative Commission on Governmental Operations. This Commission will meet on October 19, 2010.
- The Board had its annual audit performed by Koonce, Wooten and Haywood, LLP on August 21 – 23, 2010.
- Dr. Coyle and Mr. Boyer attended the annual NBRC Licensure Liaison meeting held at the NBRC offices on August 27 – 28, 2010.
- The Board's Investigators have completed seventeen investigations. Eight individuals were scheduled for interviews with the Board's Investigation and Informal Settlement Committee on October 13, 2010. There are currently three ongoing investigations.
- As of September 30, 2010: there have been 6440

Respiratory Care Practitioner Licenses applied for. Current totals: 4348 Active, 46 Inactive, 0 Temporary, and 45 Provisional. There are currently 16 Respiratory Care Assistant Registrations. There are 37 pending applicants, 1720 expired licenses, 116 failed to complete, 37 practitioners deceased, 47 withdrawn applications, 5 voluntarily surrendered licenses, 26 revoked licenses, and 13 denied applications.

- The four approved rules are posted on the website and were effective September 1, 2010.

Ethics Committee Report: Ms Roseman stated there was no report.

Practice Committee Report: Dr. Coyle reported that the committee met on September 17, 2010 to review the following:

- Discussed a request from Brian McGinnis of Catawba Valley Medical Group to interpret if Medical Assistants may perform in-office screening spirometry. Since this is performed under the direct supervision of a licensed physician, the committee recommended approval of a proposed interpretive letter with conditions. The recommendation passed unanimously.
- Discussed a request from Alex Brendel, RRT of Carilio Clinic Children's Hospital, to interpret the Practice Act to determine if a RCP license is required for interstate transport between Virginia and North Carolina. The committee recommended approval of a Position Statement which contains six conditions for transport: the out-of-state facility is responsible for the maintenance and operation of any vehicle or equipment that is used, each staff member of the out-of-state facility must follow appropriate procedures, there is a formal transfer of responsibility at the time of discharge, the care is strictly in transport, staff is licensed in the state of origin, and they must take the most direct route. The recommendation passed unanimously.
- Discussed a request from Charles Kimball, RCP of CarolinaEast Medical Center, whether RCP's may take orders from Nurse Practitioners and Physician Assistants. The committee recommended the Board take no action and refer the matter to the NC Medical Board and Board of Nursing. The Respiratory Care Practice Act does not prohibit PA's and FNP's from writing respiratory care orders. The RCP should question an order that he/she finds inappropriate and refer the matter to his/her Medical Director. There was

a discussion by the Board.

- Discussed a request from Dan Grady, RCP of Mission Hospitals, to adopt a Position Statement, "Delivery of Respiratory Therapy Services in Skilled Nursing Facilities Providing Ventilator and/or High Acuity Respiratory Care." The committee recommended the Board take no action at this time and refer the matter to the NC Division of Health Services Regulation for review.
- Discussed a proposed Position Statement, "Respiratory Care Equipment for Home Care." The committee recommended the Board take no action at this time and refer the matter to the NC Board of Pharmacy for review.
- Discussed a request from Terry Smith, RCP of Mission Hospitals, to interpret if RCP's may perform allergy testing. The committee recommended approval of a proposed interpretive letter. The facility must have written policies and procedures. The RCP's must complete a skin testing course provided by the AARC and the EPA, have documented training and supervision by a physician, and annual competency reviews. The recommendation passed unanimously.
- Discussed a request from Terry Smith, RCP of Mission Hospitals, to interpret if RCP's may remove chest tubes. The committee recommended denial of the request since it isn't appropriate to the scope of practice. The recommendation passed unanimously.
- Discussed a request from Terry Smith, RCP of Mission Hospitals, to review their policy on Morphine Nebulizer Treatments. The committee recommended approval of a proposed interpretive letter. The recommendation passed unanimously.
- Discussed a request from Dan Grady, RCP of Mission Hospitals, to approve a Position Statement concerning Ventilator Adjustments. The committee recommended the Board table the matter and asked Mr. Grady to submit more documentation. Mr. Grady will send out a survey to hospital managers and educators to determine how much of a problem this is. There needs to be appropriate documentation. There was a discussion by the Board and the Public.
- Reviewed information from the Medical Board concerning physician supervision of polysomnographers.

**Education Committee
Report:**

Dr. Clark reported that the committee met on September 17, 2010 to review the following:

- Reviewed the Respiratory Care Assistant Declaratory

Ruling in response to the Board Chair's charge to increase compliance with the ruling. The committee recommended to revise the application and registration letter instead of revising the ruling. This would limit the scope of RCA's and restrict them to non-critical care areas only. The card must be carried by the RCA whenever he/she is performing their duties, and the approved tasks are listed on the card. The Program Director, the Respiratory Care Department Director, and the RCA must sign the application stating that the student understands that he/she is limited to performing only the Board approved tasks in non-critical care areas under the direct supervision of a licensed RCP. The recommendation passed unanimously.

- Discussed the AARC Conference: 2015 and Beyond. The AARC commissioned a task force to look at the respiratory care profession now and what it will need to look like in the future to meet the needs of patients. Recommendations made during the third conference held in July 2010 will be presented to the AARC Board in December. Since it is unclear what the AARC Board will do with the recommendations, the committee decided to take no action at this time. The committee did discuss methods to move towards the requirement of a BSRT degree and the RRT credential by 2020. Dr. Coyle recused himself from this issue. There was a discussion by the Board and the Public. Mr. Grady volunteered to get data from hospitals concerning their future needs. The committee will continue to discuss the matter and make recommendations to the Board in the future.

The committee made a recommendation to the Rules Committee to require RCP's to maintain their NBRC credentials in order to maintain their RCP license in North Carolina. The highest credential would have to be maintained. There was a discussion by the Board and the Public.

- Discussed a request from Sharon McPhee, RCP of Mission Health Care System, to approve continuing education credit for ACLS Instructor certification. The committee made a recommendation to deny the request since the RCP receives ACLS certification along with the Instructor certification, which counts as 5 CE's. The recommendation passed unanimously.
- Discussed a request from Melinda Shuler, RCP of Mission Health Care System, to approve continuing education credit for completion of the Essentials for

Healthy Home Practitioner Course and certification as a Healthy Home Practitioner. The committee recommended approval for 12 CE's. The recommendation passed unanimously.

Rules Committee Report:

Mr. Safley reported that the committee met on August 13, 2010. The following Rules were approved by the Rules Review Commission at its August 19, 2010 meeting and were effective September 1, 2010:

- 21 NCAC 61 .0103 (Definitions) added (l) managing the clinical delivery of respiratory care services through the on-going supervision, teaching and evaluation of respiratory care.
- 21 NCAC 61 .0302 (License Renewal) added (f) members of the armed forces whose licenses are in good standing and to whom GS 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, but may be used for the current renewal.
- 21 NCAC 61 .0308 (Continuing Duty to Report) added to (c) but a failure to make a report within 15 days does not bar the Board from investigating or taking action on the matter when it is reported.
- 21 NCAC 61 .0401 (Continuing Education Requirements) added to (2) the Sleep disorders Specialty (SDS) exam, administered by the NBRC; and changed (h) twenty dollars (\$20.00) per approved hour of CE with a maximum of one hundred and fifty dollars (\$150.00) per application.

Mr. Boyer stated that on October 19 he will appear before the Joint Legislative Commission on Governmental Affairs to explain why the Board is requesting renewal fees to be changed from \$65.00 to \$75.00 and the result of how much money the private sector will have to incur. Then it will go to the Rules Review Commission and if it is passed, it will be effective December 1, 2010.

The committee recommended adding the proposed

amendment to 21 NCAC 61 .0302 (License Renewal).
(d) The RCP shall maintain current respiratory care credentials as issued by the National Board for Respiratory Care and shall provide proof of the current respiratory care credentials. This requirement would be posted on the website and added to the renewal postcard notice. The expiration date for credentials will be on the renewal form. The random audit will require proof of the credential. The recommendation was passed unanimously.

Investigation and Informal Settlement Committee:

Ms Samuels reported that the committee met on October 13, 2010 and interviewed seven individuals. One interview was continued until the next meeting. Any disciplinary actions are pending and awaiting the closed session of today's meeting.

Unfinished Business:

There was a letter from the Attorney General's Office concerning Nursing Assistant II's providing nebulizer treatments. The Board received a complaint about a RCP in a Long Term Care Facility supervising and allowing NA II's to provide nebulizer treatments under supervision. Mr. Shenton had to recuse himself so the matter was sent to the Attorney General's Office. The response to the issue is that Respiratory Care Practitioners may not supervise a NA II in providing nebulizer treatments. There was a discussion by the Board and the Public. Mr. Shenton stated that the Board could send a Declaratory Ruling request to the Nursing Board. This was referred to the Practice Committee.

New Business:

Mr. Boyer received emails from Vianna Zimbel and Mary Lou Fleming asking if the NCRCB will allow RCP contracting for DMEPOS companies to be in compliance with recent CMS rule changes. This will be referred to the Practice Committee.

Other New Business:

Dr. Coyle announced that the next Board meeting will be held on January 13, 2011 at 10:00 AM at the Board office.

Dr. Coyle presented a plaque to Dr. Frazier and thanked him for his service to the Board.

Mr. Grady 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:

Steven Ferebee, License # 1844. To be continued.

T. Bradley Hiatt, License # 4277. Letter of Concern, disciplinary cost \$100.

Albert Wojtyna, License # 6396 pending. Grant Provisional license, require orientation and competency documentation by the hiring facility, and complete 20 CE's in clinical respiratory care.

Gwendolyn Gilliam, License # 2199. Letter of Concern, disciplinary cost \$100.

Lisa Clark, License # 4146. Letter of Concern, disciplinary cost \$100.

Myra Hudson, License # 1442. Dismissed.

Sedric Williams, License # 6256. Continue until April.

Donnie Puckett, License # 2122. Dismissed.

Expungement Requests:

Charlotte Freeman, License # 203. Approved.

Peter McGuinness, License # 3870. Approved.

Emanuel Castro, Revoked License # 2393. Send petition to reinstate.

Adjournment:

Mr. Grady made a motion to adjourn. The motion was seconded and carried unanimously. The meeting was adjourned at 1:18 PM.