

# North Carolina Respiratory Care Board

## Meeting Minutes

October 9, 2008

### **Members Present:**

Arnold Frazier, MD  
Timothy Safley, RCP  
Sherry Samuels  
Thomas Goodin, MD  
Karl Karlson, MD  
Ralph Webb, RRT, RCP  
William Croft, RRT, RCP  
Wayne Beauford, MD  
Kenya Wright

### **Others Present:**

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

### **Absent:**

Margaret A. Mitchell, RRT, RCP

### **Call to Order:**

Mr. Webb called the meeting to order at 10:00 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.

### **Approval of Minutes:**

Mr. Webb presented the minutes from the July 10, 2008 Board meeting. Dr. Frazier made a motion to approve the minutes as written. The motion was seconded and carried unanimously.

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

Mr. Lindy Faulconer from Koonce, Wooten & Haywood, LLP presented the audit report and letter.

Ms Samuels reported that as of September 30, 2008, there was \$61,137.92 in the checking account and \$94,611.00 in the money market account making a total of \$155,748.92 in the bank accounts. She also presented the Profit & Loss vs Actual budget.

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

- Mr. Webb and Mr. Boyer attended the annual NBRC Licensure Liaison Meeting held on September 12 - 13, 2008 in Kansas City. The following documents and updates were presented: the AARC State Government Affairs Report, the Respiratory Therapy Federal and State 2007 Update, the NBRC Update, the Policy Statement on Diagnostic Testing and Treatment of Sleep Related Disorders that was adopted by the Iowa Boards for Medicine, Nursing and Respiratory Care on March 13, 2008, and the Fiscal Impact report for New Mexico for creating a Polysomnography Practice Board.
- The NBRC will launch the Specialty Examination for Respiratory Therapists performing Sleep Disorders Testing at the AARC International Conference in December 2008.
- The Practice Committee met on October 8, 2008. The Education Committee and the Rules Committee have not met. All recommendations from the Practice Committee will be presented during its 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. Fifteen facilities and/or individuals are alleged to be out of compliance. The Board's Investigators have completed 15 investigations that were scheduled for interview with the Board's Investigation and Informal Settlement Committee on October 8, 2008. There are currently four ongoing investigations.
- As of September 30, 2008: there have been 5813 Respiratory Care Practitioner Licenses issued. Totals: 4123 Active, 44 Inactive, 1 Temporary, and 59 Provisional. There are currently 77 Respiratory Care Assistant Registrations. There are 50 pending applicants, 1346 expired licenses, 30 practitioners deceased, 36 withdrawn applications, 5 voluntarily surrendered licenses, 1 summary suspension, 21 revoked licenses, and 10 denied applications.

**Ethics Committee Report:** There was no report.

**Practice Committee Report:**

Dr. Karlson reported that the Committee met on October 8 to discuss the following:

- There was a request from the Hospital Association to endorse an AARC proposed Position Statement on Polysomnography. Following a discussion by the Board, the Public, and the Board's Counsel, the committee recommended approval of a revised Position Statement. The recommendation passed with 8 votes, Mr. Croft abstained.
- There was a request from Wendy Yates of Respiroics to allow RCP's licensed in other states to perform orientation and competency evaluations of North Carolina licensed RCP's without being licensed in North Carolina. The committee recommended getting information from other states regarding how they handle this and to bring that information back to the next Board meeting. There was a discussion by the Board with concerns about whether the evaluating RCP would be practicing respiratory care without a North Carolina license. If during the course of the competency evaluation, the RCP commented specifically on patient related decisions or gave opinions or advice, this would constitute practicing respiratory care. The Board agreed with the recommendation of the committee to obtain more information.
- There was a request from Cindy Inman, RCP of CMC Pineville to exempt staff member Chris Howard, RCP from the requirement of a RRT to administer adenosine and dobutamine during cardiac stress testing. Dr. Karlson presented a Declaratory Ruling which would allow Mr. Howard to be exempt from the RRT requirement. The committee recommended approval of the ruling. Dr. Frazier abstained from the discussion since he is a CMC employee. Following a discussion by the Board, Mr. Safley made a motion to allow Mr. Howard to administer adenosine and dobutamine during cardiac stress testing. The motion was seconded. Four Board members voted in favor of the motion and two Board members voted in opposition of the motion. Dr. Frazier, Ms Samuels, and Ms Wright abstained. Mr. Boyer will contact Ms Inman regarding the Board's concerns.
- There was a request from Heather Anthony, RCP of Howells Care Center to interpret the appropriateness of administering nebulized atropine on patents with copious secretions. The committee felt that it didn't

have enough information to comment so more information will be obtained and brought to the committee for consideration.

- There was a request from Rebecca Williams, RCP of Forsyth Medical Center concerning home care ventilators. Following a discussion by the Board, Dr. Frazier made a motion not to take a position on the issue. It was seconded and passed unanimously.
- There was a position statement from the AARC concerning Inhaled Medication Administration Schedules. The committee recommended endorsing the position statement. The recommendation passed unanimously.

**Education Committee Report:**

Mr. Croft stated that the NBRC is revoking credentials if the therapists don't appropriately document their credential. The NBRC will pursue individuals who use credentials illegally and will inform Boards. Mr. Croft stated that education on this should be done up front instead of after the fact. This information will be added to the website.

**Rules Committee Report:**

There was no report.

**Investigation and Informal Settlement Committee:**

Ms Samuels reported that the committee met on October 8, 2008 and interviewed eleven individuals. Four 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:**

Mr. Webb presented a letter from Kight's Medical Corporation regarding the Executive Director's failure to remove from the website the most recent position statement concerning the provision of respiratory care and respiratory equipment in the home. Mr. Boyer explained that this was an unintentional oversight and that the statement had been removed from the website as soon as this was brought to his attention. Mr. Boyer apologized to the Board and Mr. Kight for the oversight.

**Other New Business:**

Mr. Webb presented a letter from Jackie Roush, RRT, RPSGT regarding licensure for Polysomnographers. Following a discussion by the Board, it was decided that Mr. Boyer should write her a thank you letter for her concern. The Board will stay abreast if the bill is re-introduced.

Mr. Webb presented a letter from Mr. Kight of Kight's Medical Corporation, and there was discussion of the letter, including

a brief statement from Mr. Kight about the letter. There was further discussion of the letter and during that discussion, Mr. Croft entered into the minutes the Respiratory Care Scope of Practice, the definition of respiratory care, and the role of the RCP in the provision of respiratory care services in hospitals and at alternate sites' scope of practice. During the discussion, Mr. Shenton focused on the remedy suggested in Mr. Kight's letter which proposed that the term "respiratory care practitioner" should not be used any longer. Mr. Shenton pointed out that this is a term that was enacted as part of the Respiratory Care Practice Act and that the Board does not have the authority to change the terminology adopted by the General Assembly. Mr. Shenton also addressed the concerns expressed in the letter which reference a "minimum standard of competency," and explained that his interpretation of this was not a statement by the General Assembly that only very minimal standards should be enforced but rather a statement that part of the mission of the Board, under its charge from the General Assembly, is to establish the minimum standard of competency that would apply to all individuals across the Board.

Next, there was a discussion of a concern that Mr. Kight had expressed earlier in the meeting concerning the composition of the Board. He indicated that he had a concern because four members of the Board are respiratory care practitioners and referred to General Statute § 90-649 which states that two members of the Board shall be respiratory care practitioners. Mr. Shenton also addressed this point and noted that he did not view this as a statement of the maximum number of RCP's who could serve on the Board but rather a minimum requirement. He noted that in the past, two different trade associations, The North Carolina Hospital Association and NCAMES, each had determined to designate an RCP as their representative and he indicated that he did not view this as a violation of the statute. He also noted that the two public members currently serving on the Board are not RCP's.

Dr. Goodin made a motion to enter into Executive Session to discuss pending litigation and the results from the Investigation and Informal Settlement Committee. It was seconded and carried unanimously.

**Executive Session:**

Mr. Safley made a motion to enter into Public Session. It was seconded and carried unanimously.

**Public Session:**

**Hearing for Gregory Hidalgo – License # 4990**

Mr. Hidalgo was not present and no one representing him 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.

Mr. Safley made a motion to revoke the license of Mr. Gregory Hidalgo. It was seconded and carried unanimously.

Ms Samuels made a motion to enter into Executive Session to discuss pending litigation and the results from the Investigation and Informal Settlement Committee. The motion was seconded and carried unanimously.

**Executive Session:**

Mr. Safley made a motion to enter into Public Session. It 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:

Donna Gibson, RCP # 4687. Letter of Concern.

Jeffrey Martin, RCP # 861. Reprimand, \$200 disciplinary cost, and \$250 civil penalty.

Kara Arnath, RCP # 2636. Dismissed.

Rhonda Vaughn, RCP # 1448. Probation 12 months, random drug screens, quarterly reports from immediate supervisor, reports from EAP, \$250 discipline cost, and \$150 civil penalty to be paid before her next renewal.

Craig Hawkins, RCP # 3292. Probation 24 months, random drug screens, quarterly reports from immediate supervisor, continue treatment, documentation of written plan for educating the public by October 1, 2009, \$1000 discipline cost, and \$500 civil penalty to be paid by the end of probation period.

Samuel Howard, RCP # 5007. Summary Suspension.

Frank Campbell, Jr., RCP # 3998. Probation 12 months, quarterly reports from Ohio supervisor, continue AA, random

drug screens if he returns to NC during probation period, \$250 disciplinary cost, and \$250 civil penalty.

Sarah Meyers, RCP # 5008. Probation has been satisfied.

Wayne Shinkle, Jr., RCP # 5563. Application denied.

Christy McAllister, RCP # 4752. Reprimand, provide evidence of 12 CE's for '07-'08, provide evidence of CE's for the next 3 years, \$100 disciplinary cost, and \$250 civil penalty.

Shirley Lowery, RCP # 4751. Invite to January 2009 interview.

Herman Wallace, RCP # 4473. Reprimand, provide evidence of CE's for the next 3 years, \$100 disciplinary cost, and \$250 civil penalty.

Leslie Gray, RCP # 3170. Summary Suspension and inform SC Board.

Andrew Almond, RCP # 978. Probation has been satisfied.

Brian Dellinger, RCP # 1789 pending. Approve application.

Gary Baker, RCP # 1240. Expungement.

Dave DeCady, RCP # 117 expired. Expungement.

Mr. Webb stated that the next Board meeting will be on January 8, 2009 at 10:00 AM.

Dr. Beauford made a motion to adjourn. It was seconded and carried unanimously.

**Adjournment:**

The meeting was adjourned at 2:08 PM.