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## **OHIO RESPIRATORY CARE BOARD**

77 SOUTH HIGH STREET, 16<sup>TH</sup> FLOOR

COLUMBUS, OHIO 43215-6108

## OFFICIAL BOARD MEETING MINUTES OF APRIL 18, 2012

### Regular Business Meeting

#### Members in attendance (Exhibit A):

Marc Mays, R.R.T., R.C.P., President

Scott Pettinichi, R.R.T., R.C.P.

Robert Cohn, M.D.

Carol Gilligan, HME Member

Joel Marx, HME Member

Kenneth Walz, J.D., R.R.T., R.C.P.

Robert Slabodnick, MEd, R.R.T., R.C.P.

Sandra Stabile Harwood, J.D.

Steven A. Pavlak, M.S., R.R.T., R.C.P.

#### Staff in attendance:

Christopher H. Logsdon, Executive Director

Anthony Isom, Investigator (arrived at 3:00 p.m.)

#### Others in Attendance:

Michelle T. Sutter, Assistant Attorney General

#### Agenda item #1: NOTE ON STANDING COMMITTEE MEETINGS

The Board's Home Medical Equipment Committee met at 9:00 a.m. in room 1920, 19<sup>th</sup> Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. Official minutes of the Board's Home Medical Equipment Committee were prepared and are maintained separate of this journal.

The Board's Scope of Practice Committee met prior to regular business at 9:30 a.m. in room 1918, 19<sup>th</sup> Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. Official minutes of the Board's Scope of Practice Committee were prepared and are maintained separate of this journal.

The Board's Rule Committee met prior to regular business at 10:00 a.m. in room 1918, 19<sup>th</sup> Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. These official minutes reflect the break taken for the Rules Committee. Office minutes of the Board's Rule Committee were prepared and are maintained separate of this journal.

**Agenda item #2: CALL MEETING TO ORDER**

**Agenda item 2.a: Approval of Board Meeting Agenda (Exhibit B)**

The proposed meeting agenda was mailed in advance of the meeting.

Motion #1: Mr. Walz moved to approve the meeting agenda for April 18, 2012. Ms. Gilligan seconded the motion.  
Discussion: None. Motion carried: 9 - 0.

Having approved the agenda, Mr. Mays asks the members to turn their attention to agenda item #2.

**Agenda item 2.b: Approval of Prior Meeting Minutes – February 8, 2012 (Exhibit C)**

The prior meeting minutes were mailed in advance of the meeting. Mr. Mays inquired if there were any changes or corrections to the minutes.

Motion #2: Mr. Walz moved to approve the February 8, 2012 meeting minutes. Dr. Cohn seconded the motion.  
Discussion: Mr. Marx noted a typo on Page 5. Mr. Mays inquired if Mr. Walz would accept an amendment to the main motion by accepting the correction. Hearing no objections, Mr. Mays called the original question. Motion carried: 6 – yes, 3 – abstained (Harwood, Pavlak, and Slabodnick). Minutes were approved as corrected.

**Agenda item #3: OFFICER AND STAFF REPORTS**

**Agenda item 3.a: President's Report (Exhibit D)**

Mr. Mays filed a written report. The following was reviewed:

1. Mr. Mays introduced the Board's new members: Mr. Robert Slabodnick and Mr. Steven Pavlak. Both Mr. Slabodnick and Mr. Pavlak gave a brief review of their qualifications.
2. Mr. Mays reviewed the provision of ORC 3.17, which requires members to attend 3/5 of all regularly scheduled meetings.

Following this, Mr. Mays asked the membership to consider entering executive session for the purpose of discussing the continued appointment/employment of a public employee.

Motion #3: Mr. Pettinichi moved to enter Executive Session pursuant to ORC 121.22 (G)(1) to consider the ongoing employment/appointment of a public employee. Mr. Walz seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Scott Pettinichi -	Yes
Carol Gilligan -	Yes	Kenneth Walz -	Yes
Robert Cohn, M.D. -	Yes	Robert Slabodnick -	Yes
Sandra Stabile Harwood -	Yes	Steven Pavlak -	Yes
Joel Marx -	Yes		

Motion carried.

The Board entered executive session at 1:17 p.m. and returned to regular, public session at 1:48 p.m. All eight attending Board Members were present during Executive Session. All other persons in attendance were excused. At 1:32 p.m. Mr. Logsdon was asked to join the Executive Session. After executive session, the following motions were made:

Motion #4: Mr. Walz moved to approve the President's Report. Mr. Slabodnick seconded the motion. Discussion: None. Motion carried: 9-0.

Motion #5: Ms. Gilligan moved to approve the Executive Director's annual performance review and to continue his appointment as the Executive Director of the Ohio Respiratory Care Board. Ms. Harwood seconded the motion. Discussion: None. Motion carried: 9 – 0.

Mr. Mays proposed moving the Board's August meeting to Cleveland, Ohio. General discussion followed.

Motion #6: Ms. Gilligan moved to have the Board staff explore having the Board's August 2012 meeting in Cleveland, Ohio. Ms. Harwood seconded the motion. Discussion: None. Motion carried: 9 – 0.

### **Agenda item 3.b: Executive Director's Report (Exhibit E)**

Mr. Logsdon filed a written report. The following was reviewed:

1. Mr. Logsdon reported that FY 2012 was nearly complete and the board was operating within its budget allocations. He reported that the cost of fringe benefits had recently increased, a cost not considered in the original budget. Mr. Logsdon stated that the Board could seek a Controlling Board request to increase its appropriation, if the Board authorized to action.
2. Mr. Logsdon reported that he had completed a review of the costs to increase a .8 FTE position to a full FTE position, reporting that it was cost prohibitive at this time.
3. Mr. Logsdon reviewed the current disbursements and revenue collections.
4. Mr. Logsdon briefed the Board members on the 2012 renewal activities, noting that online renewals accounted for approximately 95% of the current activity. Mr. Logsdon reported that the vast majority liked the online process, reporting that continuing education reporting was complex, but more logical than previous years.
5. Mr. Logsdon updated the Board members on the following bills: H.B.2, H.B. 169, H.B. 367, H.B. 399, S.B. 59, S.B. 123, and S.B. 228.
6. Mr. Logsdon gave a brief summary on the number of credentialed license holders managed by the agency.
7. Mr. Logsdon briefed the Board on his travel schedule since the last Board meeting and his upcoming schedule.
8. Last, Mr. Logsdon gave an overview of the Rules Drafting/Stakeholders Meetings he conducted on OAC 4761-5-01.

Motion #7: Dr. Cohn moved to authorize the Executive Director to consider a Controlling Board filing should it be needed to meet the Board's financial obligations. Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 9 – 0.

Motion #8: Mr. Marx moved to approve the Executive Director's report. Dr. Cohn seconded the motion. Discussion: None. Motion carried 9-0.

### **Agenda item 3.c: HME Manager's Report (Exhibit F)**

Ms. Tatum filed a written report, but was not present to review the report. Mr. Logsdon was asked to give the report on her behalf. Mr. Logsdon gave a summary of the number of HME licenses and certificate of registration issued since the last meeting, the number of inspections scheduled, and the current license/certificate of registration renewal activities.

Motion #9: Mr. Walz moved to approve the HME Manger's report. Mr. Pettinichi seconded the motion. Discussion: None. Motion carried: 9 – 0.

**Agenda item #4 BOARD COMMITTEE REPORTS**

**Agenda item 4.a: Scope of Practice Committee Report**

Dr. Cohn reported that the Scope of Practice Committee met at approximately 9:30 a.m. to review an inquiry filed by Kathleen Deakins. The inquiry asked if respiratory therapists could administer vitamin K injections to newborns to prevent blood clotting and if respiratory therapists could administer erythromycin eye drops to prevent eye infections in infants. After consideration of the inquiry, the Committee moved to recommend adoption of the draft response prepared by board staff, which finds that the procedures are not within the scope of respiratory care practice.

**Agenda item 4.b: HME Committee Report**

Mr. Marx reported that the HME Committee met at approximately 9:00 a.m. He reported that the committee reviewed the list of new HME licenses and certificates of registration issued since the last board meeting. The Committee also had the opportunity to review the inspection report prepared by the Board's HME Manager. Mr. Marx stated that the Committee spent considerable time discussing the Center for Medicare/Medicaid program's competitive bidding process.

**Agenda item 4.c: Rules Committee Report**

Ms. Harwood reported that the Rules Committee met to review the draft proposed rules prepared by the Executive Director based upon the input of stakeholder group meetings over the past three month. She reported that considerable time was spent on proposed draft rule 4761-5-01. She stated that the Executive Director has noted a number of recommended amendments and a new draft will be filed with the Board at the next Board meeting in June. The Rules Committee, she stated, also reviewed proposed amendments to OAC 4761-5-04, OAC 4761-8-01, OAC 4761-5-06, and OAC 4761:1-10-03. The Committee provided recommended changes to the Executive Director and the Committee at its next meeting will review the re-drafts.

Motion #10: Mr. Walz moved to approve the HME Committee report. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 9 – 0.

Motion #11: Mr. Pettinichi moved to approve the Scope of Practice Committee report. Mr. Walz seconded the motion. Discussion: None. Motion carried: 9 – 0.

Motion #12: Mr. Walz moved to approve the Rules Committee report. Mr. Pettinichi seconded the motion. Discussion: None. Motion carried: 9 – 0.

At 2:40 p.m., following committee reports, Dr. Cohn was excused from the meeting.

**Agenda item #5: PROBABLE REVIEW COMMITTEE REPORT**

Motion #13: Mr. Marx moved to enter Executive Session for the purpose of discussing proposed disciplinary action against licensees under R.C. 121.22(G)(3) and involves matters that are required to be kept confidential under R.C. 149.43(A)(2) and R.C. 4761.031 and 4752.08 (B). Mr. Pettinichi seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Scott Pettinichi -	Yes
Carol Gilligan -	Yes	Kenneth Walz -	Yes

Robert Slabodnick - Yes Sandra Stabile Harwood - Yes  
Steven Pavlak - Yes Joel Marx - Yes

Motion carried.

The Board entered executive session at 2:43p.m. and returned to regular, public session at 3:10 p.m. Eight Board members were present during executive session. Mr. Walz departed session at returned at 2:45 p.m. and re-joined executive session at 2:49 p.m.. Mr. Isom, Mr. Logsdon, and Ms. Sutter were present during Executive Session.

*\*Names and identifying information was redacted from discussion and proposed notices of opportunity for hearing during the course of executive session deliberation and the public meeting. Matters were referred to only by case number in documentation and referenced by case number verbally. Identifying information based upon the correlating case number was added during the writing of the minutes after approval of the proposed notices of opportunity for hearing through a motion on the record during public session.*

#### **Agenda item 5.b: Approval of Opportunity for Hearing Notices (Exhibit G - L)**

Motion #14: Mr. Marx moved to issue an opportunity for hearing notice as presented to the Board in the matters of:

##### **RCB Opportunity for Hearing Notices**

<u>Exh. #</u>	<u>Case no. /Respondent</u>	<u>Allegation</u>	<u>ORC Code</u>
G.	2011ORCB086 (Natalie Dixon, RCP.4583)	Violation of Order	ORC 4761.09(A) (2)
H.	2012ORCB042(Brittany D. Beckman, Lic. No. N/A)	Conviction of offense of moral turpitude	OCR 4761.09 (A)(1)
I.	2012ORCB043(Tizazu F. Arega, RCP.1474)	Conviction of felony	OCR 4761.09 (A)(1)
J.	2012ORCB044 (Summer P. Peplow, RCP.10472)	Impairment	ORC 4761.09 (A)(8)

##### **HME Opportunity for Hearing Notices**

<u>Exh. #</u>	<u>Case no. /Respondent</u>	<u>Allegation</u>	<u>ORC Code</u>
K.	2012HME015 (Technical Gas Products, Inc., HMEL.11473)	Unlicensed practice	ORC 4752.09(A) (1)
L.	2012HME017 (Columbus Clinical Services, HMEL.11455)	Violation of practice std. Material misrepresentation	ORC 4752.09(A) (1) ORC 4752.09 (A)(3)

Ms. Harwood seconded the motion. Discussion: None. Motion carried: 7 – yes, 1 – abstained (Mr. Marx).

#### **Agenda item 5.c: Consent Agreement Approval (Exhibit M)**

*\*Names and identifying information was redacted from discussion and proposed consent agreements during the course of executive session deliberation and the meeting. Matters were referred to only by case number in documentation and referenced by case number verbally. Identifying information based upon the correlating case number was added during the writing of the minutes after approval of the proposed consent agreements through a motion on the record during public session.*

Motion #15: Mr. Marx moved to approve the consent agreement between the Board and the following cases:

RCB Agreements

<u>Exh. #</u>	<u>Case no. /Respondent</u>	<u>Violation</u>	<u>Action</u>
M.	Case #2012ORCB032(Victor R. Watts, Lic. No. N/A)	Unlicensed Practice	Reprimand and Fine

Ms. Harwood seconded the motion. Discussion: None. Motion carried: 8 – yes.

**Agenda item #6: NEW BUSINESS**

**Agenda item 6.a: Application ratification for Respiratory Care Licenses and Limited Permits (Exhibit N)**

Motion #16: Ms. Gilligan moved to ratify respiratory care professional licenses and limited permits issued on the following dates:

Limited Permits issued on: February 2, 2012, February 9, 2012, February 16, 2012, February 21, 2012, February 23, 2012, March 1, 2012, March 8, 2012, March 15, 2012, March 22, 2012, March 29, 2012, and April 5, 2012.

Respiratory Care Professional Licenses issued on: February 2, 2012, February 9, 2012, February 16, 2012, February 23, 2012, March 1, 2012, March 8, 2012, March 15, 2012, March 22, 2012, March 29, 2012, and April 5, 2012.

Mr. Slabodnick seconded the motion. Discussion: None. Motion carried: 8 - 0.

**Agenda item 6.b: Application ratification for Home Medical Equipment Licenses and Certificates of Registration (Exhibit O)**

Motion #17: Mr. Marx moved to ratify HME licenses and certificates of registration issued on the following dates:

HME License issued on January 3, 2012, February 2, 2012, February 6, 2012, February 16, 2012, February 29, 2012, March 7, 2012, March 8, 2012, March 14, 2012, and March 16, 2012.

HME Certificates of Registration issued on February 6, 2012, February 7, 2012, February 10, 2012, February 14, 2012, February 16, 2012, February 22, 2012, February 23, 2012, February 28, 2012, February 29, 2012, March 2, 2012, March 7, 2012, March 9, 2012, March 14, 2012, March 16, 2012, March 20, 2012, March 21, 2012, March 26, 2012, March 27, 2012, and March 29, 2012.

Mr. Pettinichi seconded the motion. Discussion: None. Motion carried: 8 – 0.

**Agenda item 6.c: NBRC amendment to Examination Requirements Workforce Report and Recommendations (Exhibit P and Q respectively)**

Mr. Logsdon explained that the NBRC had stated a desire to have their response to the Examination Requirements Workforce Report and Recommendations amended to the report.

Motion #18: Ms. Gilligan moved the approve the following addendums to the official report and recommendation filed by the Ohio Examination Workgroup (journalized on October 12, 2011):

1. Nation Board for Respiratory Care, Inc. (NBRC) addendum prepared for the Ohio Respiratory Care Board (Exhibit P).

2. F. Herbert Douce Addendum to the Ohio Examination Requirements Report (Exhibit Q).

Mr. Slabodnick seconded the motion. Discussion: None. Motion carried: 8 – 0.

**Agenda item 6.d: Resolution to File Rules (Exhibit R)**

The Board reviewed the motion to file rules and based upon the progress of the Rules Committee. After consideration, the Board moved to file only one rule.

Motion #19: Mr. Walz moved to approve resolution #19 to enable the Board's Executive Director to file proposed amended rule OAC 4761:1-14-02. Mr. Marx seconded the motion. Discussion: None. Motion carried: 8 – 0.

**Agenda item 6.e: Officer Elections**

Members were provided ballots for the position of President, Secretary and Hearing Officer.

President

Mr. Marx moved to nominate Marc Mays to be Board President for the coming year. Mr. Pettinichi seconded the nomination. Hearing no other nominations, Mr. Mays called the question on the nomination. Ballot count : 8 - yes, Mr. Mays was elected as President of the Ohio Respiratory Care Board for the term beginning April 18, 2012 and ending on the April meeting date in 2013, or as deemed by his term of appointment.

Secretary

Mr. Mays moved to nominate Sandra Stabile Harwood for Secretary of the Board for the coming year. Ms. Harwood asked to address the Board. She informed the Board that her term of appointment would end following the regular business meeting. Ms. Gilligan stated that Ms. Harwood was eligible for reappointment. Mr. Mays stated that he could always hold another election in June if Ms. Harwood is not reappointed. Ms. Gilligan seconded the nomination. Hearing no other nomination, Mr. Mays called the question on the nomination. Ballot count: 8 – Yes. Ms. Harwood was elected as Secretary of the Ohio Respiratory Care Board for the term beginning April 18, 2012 and ending on the April meeting date in 2013, or as deemed by her term of appointment.

Hearing Officer

Mr. Marx moved to nominate Kenneth Walz for Hearing Officer of the Board for the coming year. Ms. Gilligan seconded the nomination. Hearing no other nomination, Mr. Mays called the question on the nomination. Ballot count: 8 – Yes. Mr. Walz was elected as Hearing Officer of the Ohio Respiratory Care Board for the term beginning April 18, 2012 and ending on the April meeting date in 2013.

Mr. Mays stated that Dr. Cohn would be appointed as the Vice-President of the Board. Mr. Mays appointed Ms. Harwood to chair the Rules Committee, Dr. Cohn to chair the Scope of Practice Committee, Mr. Slabodnick to chair the Education Committee, and Mr. Marx to chair the HME Committee. Additionally, Mr. Mays appointed Ms. Gilligan as the HME representative on the Probable Review Committee and stated he would evaluate the appointment of Mr. Pettinichi as the Respiratory Care representative to the Probable Review Committee.

**Agenda item #11: OPEN FORUM**

No appearances for Open Forum

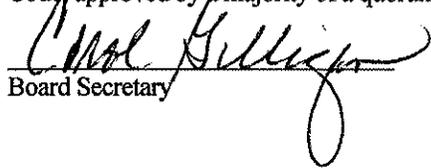
**Agenda item #12: FOR THE GOOD OF THE BOARD**

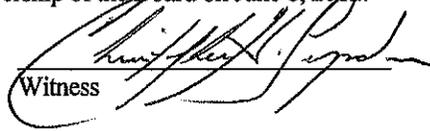
Nothing presented.

**Agenda item #12: ADJOURNMENT**

Hearing no objection, Mr. Mays adjourned the meeting at 4:10 p.m...

Board President's Certification: These are a true account of the proceedings in accordance with Section 121.11 of the Ohio Revised Code, approved by a majority of a quorum of the membership of the Board on June 6, 2012.

  
Board Secretary

  
Witness