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OHIO RESPIRATORY CARE BOARD

77 SOUTH HIGH STREET, 16TH FLOOR

COLUMBUS, OHIO 43215-6108

OFFICIAL BOARD MEETING MINUTES OF DECEMBER 11 & 12, 2007

Agenda items #1: CALL MEETING TO ORDER

Presiding: Marc Mays, President, called the meeting to order on December 11, 2007 at 1:05 p.m. in room South A, 31st Floor of the Vern Riffe Building for Government and the Arts, 77 South High Street, Columbus, OH, 43215 for the purpose of holding a regular board meeting. Present were Marc Mays, President, Robert Cohn, M.D., Vice President, Anita Adams, R.R.T., R.C.P., Susan Ciarlariello, R.R.T., R.C.P., Dana Rinehart, Public Member, Joel Marx, Carol Gilligan, Margaret Traband, M.Ed., RRT, and Eugene Andrews, R.R.T., R.C.P. Mr. Mays noted for the record that a quorum of the members of the board was present and that business could be conducted.

Members in attendance (Exhibit A):

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

Robert Cohn, M.D., Vice President

Susan Ciarlariello, R.R.T., R.C.P.

Anita Adams R.R.T., R.C.P.

Dana Rinehart, Public Member

Carol Gilligan, HME Provider Member

Eugene Andrews, R.R.T., R.C.P.

Margaret Traband, M.Ed., RRT, RCP

Joel Marx, HME Provider Member

Staff in attendance:

Christopher H. Logsdon, Executive Director

Jason McLean, Investigator

Others in Attendance:

Melinda Snyder Osgood, Assistant Attorney General

Steve DeGenaro

NOTE ON COMMITTEE MEETINGS

The Board's Rules Committee, Home Medical Equipment Committee, and Scope of Practice Committee met prior to the regular business meeting. Official minutes of the committee meeting were taken and are maintained separate of this journal. Committee Chairperson will give a Committee Report during the course of the business meeting.

Recognition of Robert Cohn, M.D. on AARC Fellowship Award

Prior to the start of the regular Board meeting, Mr. Mays asked Ms. Ciarlariello to recognize Dr. Cohn and present comments on his achievements that led to his recent award by the American Association for Respiratory Care (AARC) as a National Fellow.

Ms. Ciarlariello first acknowledged Dr. Cohn as a dear friend and then informed the Board that he just graduated from the Kellogg School of Business with his Masters Degree in Business. She then informed the Board that in the same week he completed his education, he was awarded the AARC national fellowship. Ms. Ciarlariello stated that the fellowship award is the association's most prestigious award, recognizing individuals that have contributed most to the advancement of the practice of respiratory care. Ms. Ciarlariello reviewed Dr. Cohn's long list of accomplishment, including a lengthy list of research papers. She stated that he has held the position of "Physician Member" on the Board longer than any predecessors have and he has rarely missed a meeting. Ms. Ciarlariello presented him with his AARC fellowship pin, which accepted on his behalf.

Regular Business Meeting

Agenda item 1.1: Approval of Board Meeting Agenda (Exhibit B)

The proposed meeting agenda was mailed in advance of the meeting. Mr. Mays inquired if there were any amendments to the business agenda. Mr. Logsdon stated the hearing schedule for December 12, 2007 had greatly diminished. He informed the Board that only two cases were on the schedule. Mr. Mays called the question on approval of the meeting agenda.

Motion #1: Mr. Rinehart moved to approve the meeting agenda. Mr. Andrews seconded the motion. Discussion: None. Motion carried: 9-0.

Agenda item 1.2: Approval of previous Board Meeting Minutes

Draft meeting minutes from the previous Board meeting on October 16, 2007, were provided to members in advance of the meeting for review.

Mr. Mays asked the membership if they had the opportunity to review the minutes. All answered affirmatively. Ms. Ciarlariello stated there were two non-substantive typographical errors on page 9 and page 10. Mr. Logsdon located the errors and informed the Board that they would be corrected.

Motion #2: Mr. Rinehart moved to approve the meeting minutes from October 16, 2007, as corrected. Ms. Traband seconded the motion. Discussion: None. Motion carried: 9-0.

Agenda item #2: OFFICER AND STAFF REPORTS

Agenda item 2.1: President's Report

Mr. Mays asked the membership to consider a motion to enter executive session for the purpose of discussing performance of an employee of the Board.

Motion #3: Ms. Traband moved to enter executive session pursuant to ORC 121.22 to deliberating the performance and appointment of a public employee. Ms. Adams seconded the motion. Discussion: None. Roll call vote:

Susan M. Ciarlariello -	Yes	Anita Adams -	Yes
Dana Rinehart -	Yes	Marc Mays -	Yes
Robert Cohn -	Yes	Eugene Andrews-	Yes
Carol Gilligan -	Yes	Joel Marx -	Yes
Margaret Traband -	Yes		

Motion carried.

The Board entered executive session at 1:20 p.m. All members were present in executive session. Visitors and staff were dismissed. The Board returned to public session at 1:32 p.m.

Mr. Mays informed Mr. Logsdon that the Board met and reviewed the content of his performance evaluation. Mr. Mays stated that he would review those contents later with him, but that a few members wished to speak on record.

Dr. Cohn stated that the one of the principles he learned in Business School was to surround oneself with people that you respect more than they respect you. Dr. Cohn stated Mr. Logsdon is one of these types of people.

Ms. Gilligan informed Mr. Logsdon that she has enjoyed working with him. He is a critical thinker, has wonderful listening skills and is always focused on the affairs of the Board.

Ms. Traband stated that Mr. Logsdon's accessibility is an asset to the students and general practitioners of the state. She stated that Mr. Logsdon is always available to assist and address questions.

Ms. Ciarlariello recognized that Mr. Logsdon had a very difficult year, but that he took ownership of the issues and saw the projects through to the end. She stated he is an intense worker and that the Board's lack of audit finding proves his contribution.

Ms. Adams thanked Mr. Logsdon making it easy to learn the responsibilities and duties of Board membership.

Mr. Andrews stated that Mr. Logsdon's performance is historic. He has not changed over the years. Mr. Andrews stated that he knows how difficult the prior year has been on him and believes a lesser person would have resigned.

Last, Mr. Rinehart stated Mr. Logsdon has leadership qualities that will make it difficult for the State of Ohio to retain him. He stated integrity is a tremendous advantage to the State of Ohio, but that he would be surprised if the system could keep him.

Mr. Logsdon addressed the Board, stating that great board members and staff keep him in the job. He stated that working with members who are engaged in the process, who show up with the expertise, and fill the responsibilities of the role make doing the job easier and more rewarding. He stated that he often wondered why anyone would want to be a Board member and take on such a burden, but he stated he is thankful there are people that desire the role. He thanked his Board for being such members.

Agenda item 2.2: Executive Director's Report (Exhibit C)

Mr. Logsdon filed a written report. A verbal review of his report was provided.

1. Mr. Logsdon presented the FY 2008, 2nd Quarter financial activity report. He reported that FY 2008 budget balances are currently in "the black." Reports for monitoring the budget through the Ohio Administrative Knowledge system (OAKs) are improving and that he is able to better reconcile internal expenditure records to the state system. Mr. Logsdon reminded the members that he will likely move up schedule for filing a Controlling Board request (CBR). He stated that the Board would be seeking at least \$8,000 to cover the cost of banking services. He reminded the Board that FY 2007 encumbrances were not completed as requested and the Board had to expend FY 2008 funds for prior year expenditures. Mr. Logsdon stated that he believes the Board must file the request sooner based upon his sense that the Office of Budget and Management may become more conservative with their support of CBRs toward the end of the fiscal year. Mr. Logsdon provided an overview of current expenses and revenue intake since the start of the fiscal year on July 1, 2007.

2. Mr. Logsdon gave a general program update. He reported on the number of licenses and limited permits issued in FY 2007 and the number issued since 07/01/2007. Mr. Logsdon reported that the number of HME licenses and certificates of registration were higher than originally expected when ORC 4752 came into effect. Also, Mr. Logsdon reported that the swing from licenses to certificates of registration, as anticipated, has not occurred in significant number. Licensees, he stated, may be working toward accreditation, but have not sought a certificate of registration. The HME Manager, he stated, has mailed out advisory notices on obtaining a certificate of registration after accreditation and she is planning on mailing another before the end of the year.

3. Mr. Logsdon discuss the current planning for the 2008 renewal season.

4. Mr. Logsdon discussed an opportunity to secure additional office storage space. He stated the space will cost approximately \$1,500. He stated that the cost of storing records offsite may be more depending upon the number of times staff need to access inactive records.

5. Mr. Logsdon gave an update on investigation records retention activities. He stated that he and the investigator have been working on records retention of old investigation records. To date, the review has disposed of applicable records through the year 2000. The full review, in accordance with the board's retention schedule, will not exceed fiscal year 2003.

6. Mr. Logsdon gave an update on legislative activity currently of interest to the Board, including a meeting he held with Representative Hughes and Collier concerning the Board's proposed amendments to ORC 4752.

Ethics Training

Mr. Logsdon presented a training program on the Ohio Ethics Law and Governor Strickland's Executive Order #1 on receiving and reporting gifts. Mr. Logsdon stated that he was not a qualified trainer and recommended that all questions concerning the presented material be directed to the Ohio Ethics Commission or the Governor's staff. Mr. Logsdon stated that he was using material provided by Governor Strickland's office to review the provisions of Ohio Ethics Law and the Governor's recommendations on receipt of gifts.

Last, Mr. Logsdon gave the Board an update on the AARC International Congress. He reported that he attended 22 lectures during the four-day event. A course summary was provided for each.

Agenda item 2.3: HME Manager's Report (Exhibit D)

Ms. Marcia Tatum, although not in attendance, filed a written report. A verbal review of her report was provided.

1. Ms. Tatum informed the Board that the agency Director has approved 8 HME Certificates of Registration and 6 HME licenses since the Board's last meeting in October. She reported that there were 11 pending new applications.

2. Ms. Tatum reported that the office has scheduled 29 inspections since the last meeting and 15 of these inspections have been completed.

3. Ms. Tatum provided an update on the revenue intake since July 1, 2007.

4. Last, Ms. Tatum reported on the status of several ongoing projects. .

Agenda item #3: BOARD COMMITTEE REPORT

Agenda item 3.1: Rules Committee Report – Susan Ciarlariello

Ms. Ciarlariello reported that the committee reviewed two groups of rules in compliance with ORC 119.032. The first group was the current rule text for rules 4761-1-01 through rule 4761-8-02, 4761-9-01, and 4761-9-03. These rule, she stated, consisted of exactly one half of the total number rules managed by the Ohio Respiratory Care Board for the practice of respiratory care. All rules must be reviewed and filed with JCARR prior to July 2008. The second group of rules reviewed, Ms. Ciarlariello informed the Board, represented rules that staff re-drafted. Each rule was thoroughly reviewed for potential changes.

The changes recommended are:

4761-2-03: provides language that identifies electronically imaged records as the official record if the original is destroyed in accordance with the records retention schedule.

4761-4-01: grammatical error corrected.

4761-4-02: change removes the participation of a non-board member educator on the education committee and inserts language allowing the Board to consider a service contract for the same services.

The Committee reworded the draft to include specific responsibilities of the contractor.

4761-5-01: change amends the term “acceptable employment” to “regular” employment. The staff also recommends adding language to distinguish applicants from states that require no continuing education.

4761-5-04: change allows the Board to accept electronic license verifications from validated state websites as proof of licensure.

4761-6-01: change removes language relating to the issuance of limited permits under division (B)(1)(b) of section 4761.05 of the ORC.

Afterwards, Ms. Ciarlariello reported that the committee discussed the term “regular employment” contained in draft rule 4761-5-01. The committee recommended that the term be defined. Suggestion included 25 hour/week for no less than 52 weeks during a three-year period. The committee adopted this suggestion. Ms. Ciarlariello stated that the committee also expressed concern with rule 4761-4-01. She stated the Board has raised concerns that this policy gives blanket approval to all CoARC schools and quality of a school cannot be guaranteed. The committee tabled the matter for further debate.

Agenda item 3.2: Scope of Practice Committee Report – Robert Cohn, M.D.

Dr. Cohn reported that the Scope of Practice Committee met and considered three scope of practice inquiries:

The committee considered three scopes of practice inquiries:

A. Maureen Weber - Abbott Point of Care, Inc

Inquiry: If a Respiratory Therapist were drawing and testing blood for gases (ABG analysis) and the i-STAT cartridge which they were using to test the gases contained other analytes, such as electrolytes, lactate, hemoglobin, hematocrit, and glucose, would there be any reason that they (the respiratory care professionals) would not be able to perform the testing under the Ohio scope of practice for the profession?

Dr Cohn reported that the committee believes the scope of practice for respiratory care provides some latitude in the type of analyses that can be performed with drawn blood, if the data obtain is related data. The committee is recommending that the practice could be within the scope of practice if the data is related to other cardiopulmonary parameters.

B. Greg Stang – Flower Hospital

The Scope of Practice Committee reviewed Mr. Stang’s inquiry in depth, but determined that the issue is beyond the jurisdictional scope of the Board. The Committee chose to advise Mr. Stang about the Board’s jurisdiction and allow him to determine the next course of action.

C. Edward Vishnevetsky, J.D., M.H.A.

Inquiry:

- (1) Would an unlicensed repair service, working on behalf of an HME supplier, need to obtain a license from the Ohio Respiratory Care Board to perform repair or replacement services?
- (2) Would it matter if the repair company bills the insurance company, including Medicare?

Dr. Cohn stated that the committee reviewed the issue of whether the patient or the insurance company is immaterial to the question. The determined that repairing HME equipment does constitute HME service as it is defined under section 4752.01 of the Revised Code. The committee concluded that the service would not be licensable if the provider was acting as an agent of a licensed facility and did not bill the patient or the patient’s insurance.

Agenda item 3.3: HME Committee Report – Joel Marx

Mr. Marx reported that the committee had a very busy agenda and did not complete all of the items on the agenda. Some, he stated, will be reviewed as new business.

Re-Inspection of licensed HME facilities

The committee reviewed the Board's policy on re-inspection of facilities. The HME Manager was directed to send a 2nd reminder notice to inspected facilities at 60 days prior to the due date of the inspection response and final letter just prior to the due date.

The committee then reviewed five HME facilities being considered for re-inspection based upon the unsatisfactory rating assigned by the HME inspector.

The first facilities considered was determined to be a non-response issue, not an inspection ratings issue. The committee directed that it be defer to the PRC committee.

We Care Medical, LLC – The committee noted that the facility missed three standards and had not responded. The committee recommended re-inspection of the facility.

Provident Medical Equipment – The committee recommended that Ms. Tatum send a follow-up letter and re-inspect facility after response is received.

RX02 – The committee recommended to re-inspect facility after response is received.

ABC Mobility of NE Ohio – The committee recommended to wait for an inspection response; no action taken.

Next, the committee reviewed recognition of HME Accrediting Organizations under OAC 4761:1-4-01 for:

- Board for Orthotist/Prosthetist Certification – (BOC)
- Healthcare Quality Association on Accreditation (HQAA)

Mr. Marx stated that he researched Medicare guidelines to determine if deemed status is only for certain categories of HME Services. Mr. Marx could not clearly determine if Medicare deems a company for all equipment categories or only a limited group of HME.

Discussion:

BOC

The committee found that BOC accredited a broad category of HME services. The committee moved to recommend recognition of BOC to the board.

HQAA

The committee moved to recommend recognition of HQAA.

Discussion: Dr. Cohn inquired if the committee's recommendation was in anyway influenced by the comments of Steve DeGenaro, one of the Board's contract inspectors and working with the HQAA organization. Mr. Marx stated that the committee was not persuaded. The Board discussed the issue of "conflict of interest" in depth as it related to the board's inspectors and their personal jobs in the accrediting business. The inspectors, Mr. Marx noted, were not full time employees of the Board and the Board cannot deny them a right to earn a living.

The last matter considered by the committee was: Is a company exempted because it only provides HME to a nursing home? The committee considered the advice of legal staff and considered the definitions of Manufacturer, Wholesaler, Home as the terms are used under the exceptions listed in ORC 4752.02. The committee discussed the difference between wholesale and retail business. HT committee determined that if a patient is billed by the facility, then it is retail and licensable. If the nursing home is the consumer and it is billed by the facility, then it is wholesale and exempt.

The Board took a break from 2:55 p.m. to 3:02 p.m.

Agenda item #4: PROBABLE REVIEW COMMITTEE REPORT

Motion #4: Ms. Ciarlariello moved to enter executive session pursuant to Revised Code Section 121.22, for the purpose of considering the investigation of charges or complaints against licensees or regulated individuals under the board's jurisdiction. Ms. Adams seconded the motion. Discussion: None. Roll Call vote:

Susan M. Ciarlariello -	Yes	Anita Adams -	Yes
Dana Rinehart -	Yes	Joel Marx -	Yes
Robert Cohn -	Yes	Eugene Andrews-	Yes
Margaret Traband -	Yes	Marc Mays -	Yes
Carol Gilligan -	Yes		

Motion carried.

The board entered executive session at 3:03 p.m. and returned to regular, public session at 3:13 p.m. All voting members of the board, Ms. Snyder Osgood, Ms. Tatum, Mr. Logsdon, and Mr. McLean were present during executive session.

**Names and identifying information was redacted from discussion and proposed notices during the course of executive session deliberation. Matters were referred to only by case number. Identifying information was added during the writing of the minutes based upon the correlating case number.*

Agenda item 4.1 to 4.4: Approval of Opportunity for Hearing Notices

Motion #5 Mr. Rinehart moved to:

- A. to issue an opportunity for hearing notice as presented to the Board in the matters of :
1. Case # 2008ORCB16 (Jennifer Bryan) for allegedly violating Section 4761.09 (A)(2) of the Revised Code.
 2. Case # 2008ORCB19 (Roberta M. VonGunten) for allegedly violating Sections 4761.06 and 4761.09 (A)(2) of the Revised Code.
- B. to issue an opportunity for hearing notice to the following for violations of Section 4752.02 (A) and 4752.09 (A)(1) of the Ohio Revised Code:

	Facility Name	Case No.
1	Carefirst of Fort Wayne, Inc.	2008HME035
2	M & J Medical Supply LLC	2008HME038

3	New Visions Medical Equipment, Inc.	2008HME039
4	Pure Oxygen Services	2008HME040
5	Electric Mobility Corporation	2008HME041
6	Tri-State Medical & Bariatric Solutions, Inc.	2008HME042
7	Independence Technology	2008HME044
8	Advanced Technologies Inc.	2008HME048
9	Broadfield Services	2008HME050
10	Mahoning Medical Equipment Inc.	2008HME052
11	Keesling Rehab Systems	2008HME055
12	Orthotic & Prosthetic Solutions	2008HME056
13	Wright Care Home Medical Supply, Inc.	2008HME057
14	Premier Medical Supplies, Inc.	2008HME058
15	Valley Home Care LLC	2008HME060
16	Alley Healthcare Inc.	2008HME061
17	BOK Medical Service	2008HME062
18	Cousins Medical Supplies, Inc.	2008HME063
19	Free's Medical, Inc.	2008HME064
20	Hartman Respiratory Care	2008HME065
21	Kathco Medical Supply	2008HME066
22	Medical Shoppe Inc.	2008HME067
23	The Oxygen Store, Inc.	2008HME068
24	North Canton Medical Foundation	2008HME006
25	L & L Medical Services	2008HME007
26	The Medical Sales Group Inc.	2007HME015
27	PSS World Medical, Inc.	2007HME010
28	Columbus Sleep Consultants	2007HME004
29	Virtue Medical Supply Company, LLC	2008HME011
30	Pack Medical, Inc.	2008HME069
31	Physician Diagnostics Sleep Technology Specialists	2008HME070
32	Center for Research in Sleep Disorders	2008HME017
33	McKesson Medical-Surgical Medi Mart, Inc.	2008HME015
34	McKesson Medical - Surgical MediNet, Inc.	2008HME016
35	Canfield Medical Supply	2008HME012
36	InfuSystem, Inc.	2008HME026
37	Med-Ox Concentrators	2008HME074
38	Link-Up Health Services & DME	2008HME075
39	Orbit Medical of Columbus, Inc.	2008HME010
40	Kornegor Medical Equipment LTD.	2008HME032
41	Lincare Inc., America's Best Medical Equipment	2008HME081

C. to issue an opportunity for hearing notice to the following for violations of Section 4752.08 (C) and 4752.09 (A)(1) of the Ohio Revised Code:

	Facility Name	Case No.
1	Patriot Products, Inc.	2008HME076
2	The Drug Store Pharmacy	2008HME078
3	Pulmonary Solutions, Inc.	2008HME079

D. to close the following cases as unfounded or non-jurisdictional:

1. 2008HME008
2. 2008HME013
3. 2008HME014
4. 2008HME022
5. 2008HME023
6. 2008HME032
7. 2008HME036
8. 2008HME037
9. 2008HME043
10. 2008HME045
11. 2008HME046
12. 2008HME047
13. 2008HME049
14. 2008HME051
15. 2008HME053
16. 2008HME054
17. 2008HME059
18. 2008HME071
19. 2008HME072
20. 2008HME073
21. 2006RCB020
22. 2008RCB012
23. 2007HME018
24. 2008HME028
25. 2008HME080

E. to issue letters of concern to cases 2008HME025 and 2008HME034.

Agenda item 4.3 Approval of Consent Agreements (Exhibit E collective)

F. to approve consent agreements between the Ohio Respiratory Care Board and the following persons respectively:

1. Kelli Hilton
2. Tara Roy
3. Winston Cooper
4. Melissa Robbins
5. Lorin Collins
6. Nicholas Mallas
7. Victoria Grayson
8. Sleep Right, S.G., LLC

G. to withdraw opportunity for hearing notices in the matters of:

1. Jessica Orth

H. to withdraw and reissue an amended hearing notice in the matter of:

1. E & R. Medical, case #2007HME024

2. Docs Prescription Pharmacy, Inc., case #2007HME023

Ms. Adams seconded the motion. Discussion: Mr. Mays stated that the Board's minutes shall serve as the official journal of proceedings in this matter and that the Board's President shall sign the Original Consent Agreement, which shall constitute the Order of the Board in each of the aforementioned. The Consent Agreements shall be enter upon the official Journal of these proceeding as an exhibit to this record (Exhibit D collective). Motion carried: 7 – yes, 2- abstained (Mays and Marx)

Agenda item 4.5: Probation compliance report

Mr. McLean gave a brief update on two persons currently on probation. He reported that Ignatius Frataioli has passed the NBRC entry-level examination as requested. A consent agreement is being prepared and will be provided to Mr. Frataioli for consideration. He reported that Ms. Theresa Green met all of her probationary requirements and according to the agreement her probation is completed.

Motion #6: Ms. Ciarlariello moved to approve the HME, Rules, and Scope of Practice Committee report. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 9-0.

Agenda item #5: OLD BUSINESS

Agenda item 5.1: Adoption of position statement on NBRC credentialing policy
(Exhibit F)

The Board considered a draft position statement on the National Board for Respiratory Care's (NBRC) credentialing policy. The statement recognized the NBRC policy as a separate and distinct requirement unrelated to the obligations and requirements for licensed respiratory therapists in the State of Ohio. The statement clearly states that the NBRC policy has no effect on licensing in the State of Ohio. Mr. Andrews inquired about the use of a NBRC credential that is lapsed or revoked pursuant to the NBRC policy. Ms. Traband, a former President of the NBRC, stated that NBRC policy fulfills requirements of the NBRC's accreditation. If a credential is lapsed or revoked the individual is required to cease using the credential, because it is a registered trademark of the NBRC. Ms. Traband stated that her concern was the potential flood of credential use complaints the Board will receive. Mr. Logsdon agreed, stating that individuals will not differentiate between the NBRC and the Board.

Motion #7: Ms. Adams moved to adopt the position state on NBRC credentialing policy. Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 9-0.

Agenda item 5.2: Approval of accrediting organizations (Exhibit G)

The Board considered two applications for recognition as accrediting organizations for the purpose of issuing certificates of registration under OAC 4761:1-4-01. The HME committee recommended that the Board approve recognition of the Board of Orthotist/Prosthetist Certification (BOC) and the Health Quality Association on Accreditation (HQAA). Dr. Cohn inquired if the testimony given by Mr. DeGenaro supporting the recognition of HQAA had any weight in the Committee's decision to recommend approval. Mr. Marx stated that Mr. DeGenaro's testimony was heard, but the decision to recommend recognition is based upon the documentation filed by the organization, not the testimony of Mr. DeGenaro.

Motion #8: Ms. Traband moved to recognize the Board of Orthotist/Prosthetist Certification (BOC) and the Health Quality Association on Accreditation (HQAA) pursuant to OAC 4761:1-4-01. Mr. Marx seconded the motion. Discussion: None. Motion carried: 9-0.

Agenda item #6: NEW BUSINESS

Agenda item 6.1: Application ratification for licenses and limited permits
(Exhibit H collective)

Lists of licenses and limited permits issued since the Board's October 16, 2007, meeting pursuant to Rule 4761-2-02 of the Ohio Administrative Code were mailed to members in advance of the meeting.

Motion #9: Mr. Rinehart moved to place upon the minutes of the December 11, 2007 meeting, the names of respiratory therapists and limited permit applicants who met the qualifications for their respective authorization, pursuant to Sections 4761.04 and 4761.05 of the Revised Code and associated rules there under, and who were issued a license or limited permit by the Executive Director of the Board on the following dates: October 25, 2007, November 8, 2007, November 21, 2007, and December 6, 2007 and to place upon the minutes the names of Home Medical Equipment facility applicants who met the qualifications for their respective authorization, pursuant to Sections 4752.05 and 4752.12 of the Revised Code and associated rules there under, and who were issued a license or Certificate of Registration by the Home Medical Equipment Committee of the Board on the following dates: October 17, 2007, November 2, 2007, November 5, 2007, November 7, 2007, November 14, 2007, November 16, 2007, November 19, 2007, November 27, 2007, and November 29, 2007. Ms. Traband seconded the motion. Discussion: Ms. Traband noted that the Miami-Jacobs program had one person on the list of respiratory care licenses issued. She informed the Board that this was the first licensee from the new program. Motion carried: 9-0.

Agenda item 6.2: HME Renewal fees

The Board considered new 2008 renewal fees for HME certificate of registration holders and licensees. Mr. Logsdon provided the Board with an analysis of the agency's HME expense requirements for FY 2009/2010. He explained that the recommended fees were based upon an estimate of the number of potential license and certificate of registration renewals in 2008.

Motion #10: Mr. Rinehart moved to approve \$400.00 for HME certificate of registration renewal and \$650.00 for HME license renewal for the 2008 renewal period. Ms. Adams seconded the motion. Discussion: None. Motion carried: 9-0.

Agenda item 6.3: Approval of 2008 RCB and HME Renewal applications (Exhibit I collective)

Draft 2008 HME and RCB renewal applications were provided to the Board for consideration. The members were given an opportunity to review the forms, question staff and make recommendations for changes.

Mr. Marx recommended that the HME certificate of registration renewal form be updated to include all accrediting organizations recognized by the board.

Motion #11: Ms. Traband moved to approve the renewal applications with changes recommended by Mr. Marx. Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 9-0.

Agenda item 6.4: Future meeting dates

The membership reviewed proposed future meeting dates. An issue concerning the December 2008 meeting was discussed. Mr. Logsdon will try to reschedule. Meeting dates will be posted on the website.

Agenda item #7: OPEN FORUM

No one appeared.

Agenda item #8: FOR THE GOOD OF THE BOARD

None.

Agenda item #9: ADJOURNMENT

Hearing no further matters, the meeting adjourned the meeting at 3:40 p.m.

Day 2, December 12, 2007

Presiding: Marc Mays, President, called the meeting to order on December 12, 2007 at 9:05 a.m. in room South A, 31st Floor of the Vern Riffe Building for Government and the Arts, 77 South High Street, Columbus, OH, 43215 for holding a regular board meeting. Present were Marc Mays, President Robert Cohn, M.D., Vice President, Anita Adams, R.R.T., R.C.P., , Dana Rinehart, Public Member, Joel Marx, and Carol Gilligan. Ms. Ciarlariello, Ms. Traband and Mr. Andrews were excused from the meeting. Mr. Mays noted for the record that a quorum of the members of the board was present and that business could be conducted.

Mr. Mays reviewed the hearing schedule for the day. He stated that the Dawn Long hearing was continued until February 2008. He reported that the Board approved consent agreements for Tara Roy, Melissa Robbins, and Lorin Collins. These hearings will be removed from the schedule. H reported that the staff has requested revisions to hearing notices mailed to E & R Medical and Doc's Prescription Pharmacy and that the hearings will be scheduled in accordance with Chapter 119 of the Revised Code. The two hearing on the schedule for the day are Karen Ohe and Home Choice Healthcare, Inc.

Agenda item 1.1: Hearing in the Matter of Karen Ohe

The matter of Karen Ohe came before the following members of the Ohio Respiratory Care Board on December 12, 2007 at approximately 9:05 a.m. in room South A, 31st Floor of the Vern Riffe Building for Government and the Arts, 77 South High Street, Columbus, OH, 43215. Present were Marc Mays, President, Robert Cohn, M.D., Vice President, Anita Adams, R.R.T., R.C.P., Dana Rinehart, Public Member, Joel Marx, and Carol Gilligan. Mr. Andrews, Ms. Ciarlariello, and Ms. Traband were excused. Mr. Mays noted for the record that a quorum of the members of the board was present and that business could be conducted. Marc Mays, R.R.T., R.C.P. recused himself from the proceedings based upon his role as the Board liaison to the Investigatory Probable Review Committee. Melinda Snyder Osgood, Assistant Attorney General, represented the state of Ohio. Ms. Ohe appeared with legal counsel: Mark A. Humbert, Attorney at Law, 1014 Vine Street, Suite 1919, Kroger Building, Cincinnati, Ohio 45202. Heidi L. Funderburk was the Court Reporter, Deposition Specialists, Inc., 35 East Gay Street, Suite 300, Columbus, Ohio 43215.

Preliminary matters: Ms. Snyder Osgood stated that Ms. Ohe's counsel, Mr. Humbert, has reviewed the State of Ohio's Exhibits and agrees to stipulate to their admissibility. Mr. Rinehart asked Mr. Humbert if he had any objections to the admission of State's Exhibits A through G, inclusive. Mr. Humbert stated no. Mr. Rinehart admitted the State's Exhibits.

Each party gave a brief opening statement. Following the open statements, Ms. Snyder Osgood presented her case in chief.

Ms. Snyder Osgood called the following witness as on cross-examination:

1. Karen Ohe

State's Exhibits admitted:

- A Notice of Opportunity for Hearing dated October 16, 2007, sent to Karen A. Ohe by Certified Mail/Return Receipt #70042510000173526278 and a sign return receipt.
- B. Letter dated October 20, 2007, from Karen Ohe requesting a hearing.
- C - Hearing Scheduling letter dated October 25, 2007, mailed to Karen Ohe by regular mail.
- D (1) - Application for Initial License/Limited Permit filed by Karen A. Ohe on October 1, 2007.
- D (2) - Certified Journal Entry, Case #B-0306542-C, Hamilton County, Ohio, Court of Common Pleas, dated February 26, 2004 and Certified Journal Entry of Discharge, Case #B-0306542 - C-7 and #B-0306542 - C-8, Hamilton County, Ohio, Court of Common Pleas, dated September 7, 2006.
- D(3) - Letter from Karen A. Ohe to the Ohio Respiratory Care Board dated October 5, 2007.
- E - Letter from Louis H. Katz, Attorney at Law to Karen A. Ohe, dated July 21, 2004.
- F - Letters of reference:
 - Letter from Thomas J. Stormer, Director of Clinical Education, Cincinnati Respiratory Care Program, dated September 12, 2007.
 - Letter from Tom Miller, A.H.&A Properties, L.L.C., dated August 9, 2006.
 - Letter from Jim Flottemesch, A. Flottemesch and Son, Inc., dated September 20, 2007.
- G - Official student college transcript for Karen A. Ohe, dated September 26, 2007.

Members of the Board asked Ms. Ohe several questions. The State rested.

Following the State's case, Mr. Humbert presented his case-in-chief. He called the following witness for the respondent:

1. Karen A. Ohe.

Mr. Humbert moved for the admission of Respondent's Exhibits A through F. Mr. Rinehart inquired if the state objected to the admission of the respondent's exhibits. Ms. Snyder Osgood did not object. Mr. Rinehart admitted the Respondent's Exhibits.

Respondent's Exhibits admitted:

- A - Letter from Debra J. Lierl, Program Chair, Respiratory Care, EMT, Paramedic, Cincinnati State Technical and Community College, dated September 28, 2007.
- B - Letter from Thomas J. Stormer, Director of Clinical Education, Respiratory Care, Cincinnati State Technical and Community College, dated September 12, 2007.
- C - Cincinnati Respiratory Care Program, Cincinnati State Campus, Performance Evaluation for Karen Ohe.
- D - Unofficial student transcript for Karen A. Ohe, dated September 26, 2007 and Ohio Respiratory Care Board, Verification of Education forms.
- E - Letter from Tom Miller, A.H.&A Properties, L.L.C., dated August 9, 2006.
- F - Letter from Jim Flottesch, A. Flottesch and Son, Inc., dated September 20, 2007 and Hamilton County Probation Department receipt for Karen Ohe.

Each party gave a brief closing statement. The hearing concluded at 9:45 a.m.

Motion #1: Ms. Adams moved to enter executive session pursuant to Revised Code Section 121.22, for the purpose of considering the investigation of charges or complaints against licensees or regulated individuals under the board's jurisdiction. Dr. Cohn seconded the motion. Discussion: None. Roll Call vote:

Susan M. Ciarlariello -	Yes	Anita Adams -	Yes
Dana Rinehart -	Yes	Robert Cohn -	Yes
Joel Marx-	Yes	Marc Mays -	Abstained

Motion carried.

The board entered executive session at 9:45 a.m. and returned to regular, public session at 10:00 a.m. All voting members of the board and Christopher H. Logsdon were present during executive session. Mr. Mays was excused.

The Board took a break from 10:02 a.m. to 10:12 a.m.

Agenda item 1.1: Findings, Conclusions of Law and Order in the Matter of Karen A. Ohe (Exhibit J)

Motion #2: Dr. Cohn moved that the Board finds that the allegations contained in Counts 1 of the Opportunity for hearing in the matter of Karen A. Ohe is TRUE. Based upon the findings of the Board, which shall be listed in the Board's final Order, the Board concludes:

- A. Ms. Ohe was issued an Opportunity for Hearing Notice in compliance with Chapter 119. of the Revised Code.
- B. Ms. Ohe answered "YES" to question #3 on her initial application for respiratory care licensure in the State of Ohio, dated October 1, 2007. In response, Ms. Ohe reported that she had been convicted of the following:

1. On or about February 26, 2004, Ms. Ohe was convicted in the Hamilton County Court of Common Pleas, Hamilton, Ohio, case #B 0306542-C, of RECEIVING STOLEN PROPERTY, in violation of Ohio Revised Code, Section 2913.51 (A), a Felony of the Fifth degree, and FORGERY, in violation of Ohio Revised Code, Section 2913.31 (A), a Felony of the Fifth degree.

C. Mitigating and Aggravating Facts:

The board found both aggravating and mitigating facts in this matter that were considered. Ms. Ohe's conviction demonstrates she engaged in willful misconduct with selfish motives. However, Ms. Ohe made a full and voluntary disclosure of her convictions and provided the Board with a written narrative of events leading to her conviction before the Ohio Respiratory Care Board. In addition, the Board took notice of her remorse for her actions.

D. Ohio Revised Code § 4761.09 states in pertinent part:

- (A) The Ohio respiratory care board may refuse to issue or renew a license or a limited permit, may issue a reprimand, may suspend or permanently revoke a license or limited permit, or may place a license or limited permit holder on probation, on any of the following grounds: ***
 - (1) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense involving moral turpitude or of a felony, in which case a certified copy of the court record shall be conclusive evidence of the matter; ***

E. Pursuant to Section 4761.09 of the Ohio Revised Code, it is within the Board's discretion to refuse to issue a limited permit or after issuance of a limited permit may issue a reprimand, may suspend or permanently revoke a limited permit, or may place a limited permit holder on probation based upon the Board's finding that Ms. Ohe was convicted of a felony. The Board finds by a preponderance of the evidence that Count 1 of the Board's Opportunity for Hearing Notice is TRUE.

F. The imposition of a disciplinary action under Section 4761.09 of the Revised Code is discretionary, not mandatory. In consideration of the facts in this case the board concludes that although the State of Ohio has proven its case, the decision to impose a sanction is modified by the mitigation introduced.

In consideration of these findings and conclusions, Ms. Ohe is hereby issues a limited permit to provide respiratory care in the State of Ohio under the supervision of a licensed respiratory care professional.

Ms. Gilligan seconded the motion. Discussion: Mr. Rinehart stated that Ms. Ohe's conviction is serious because it creates a public trust dilemma. The Board's concern, he stated, is public safety and the provision of competent care to the 11,000,000 citizens of the State of Ohio. Mr. Rinehart stated that he would support the motion of the Board, but sternly warned Ms. Ohe that the Board would review any future violations of Ohio law. No further discussion. Motion carried: 5 – yes, 1 – abstained.

Mr. Mays stated that the Board's minutes shall serve as the official journal of proceedings in this matter and that the Board's President shall sign the Original Oder, which shall constitute the Order of the Board in the matter of Karen Ohe. TheOrder shall be entered upon the official Journal of these proceeding as an exhibit to this record (Exhibit H).

At 10:15 a.m. Ms. Adams requested to be excused for a family emergency. Mr. Mays granted the request. Having no quorum to consider the matter of Home Choice Healthcare, Mr. Mays granted a continuance in the matter.

Having no other business, the meeting adjourned at 10:17 a.m.

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Ohio Respiratory Care Board
Meeting Minutes
December 11 & 12, 2007

Secretary'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 February 12, 2008.

Secretary

Witness