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OHIO RESPIRATORY CARE BOARD

77 SOUTH HIGH STREET, 16TH FLOOR

COLUMBUS, OHIO 43215-6108

OFFICIAL BOARD MEETING MINUTES OF MARCH 8, 2007

Committee Meetings

The board's Scope of Practice and Education Committees met between 10:00 a.m. and 1:00 p.m. The Home Medical Equipment (HME) Committee was scheduled to meet, but did not have a quorum to conduct business. HME committee members in attendance reviewed the committee business and deferred discussion and action to the full board. Minutes for each committee were taken (**Exhibit A**).

Regular Business Meeting

Agenda items #1: CALL MEETING TO ORDER

Presiding: Marc Mays, R.R.T., R.C.P., and President, called the meeting to order on March 8, 2007 at 1:10 p.m. in room East B, 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, R.R.T., R.C.P., President, Anita Adams, R.R.T., R.C.P., Susan Ciarlariello, R.R.T., R.C.P., Robert Cohn, M.D., Dana Rinehart, Public Member and Eugene Andrews, R.R.T., R.C.P. Ms. Margaret Traband, Ms. Carol Gilligan, and Mr. Joel Marx excused. 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

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

Robert Cohn, M.D.

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

Dana Rinehart, Public Member

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

Staff in attendance:

Christopher H. Logsdon, Executive Director

Jason McLean, Investigator

Donna Turner, HME Coordinator

Others in Attendance:

Melinda Snyder Osgood, Assistant Attorney General

Laura R. Evans, OSRC Legislative Chair

John Servick, OSRC Legislative Co-Chair

F. Herbert Douce

Don Sabol, Section Chief, ODJFS

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

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

Motion #1: Mr. Rinehart moved to adopt the meeting agenda. Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 6-0.

Agenda item 1.2: Approval of previous Board Meeting Minutes

Draft meeting minutes from the previous Board meeting on December 5, 2006, were provided to members in advance of the meeting for review.

Motion #2: Mr. Rinehart moved to approve the meeting minutes from December 5, 2006. Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 6-0.

Agenda item #2: OFFICER AND STAFF REPORTS

Agenda item 2.1: President's Report (Exhibit C)

Mr. Mays filed a written report. He verbally reviewed the following:

- Board member appointments for 2007
- Financial disclosure requirements for members

Discussion: Members discussed issuing a recommendation to Governor Strickland supporting members seeking reappointment to the Board.

Motion #3: Mr. Rinehart moved to support the reappointment of Dr. Cohn and Mr. Mays to the Ohio Respiratory Care Board and to issue a letter of recommendation to Governor Strickland. Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 4 – Yes, 2 abstained (Cohn and Mays).

Following his report, Mr. Mays asked the Board to go into executive session for the purpose of deliberating the performance and appointment of a public employee.

Motion #4: Dr. Cohn 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

Motion carried.

The Board entered executive session at 1:20 p.m. All members were present in executive session. Visitors and staff were dismissed. At 1:30 p.m., the board requested Mr. Logsdon's appearance in executive session. The Board returned to public session at 1:35 p.m.

Motion #5: Dr. Cohn moved to approve the Executive Director's performance review. Ms. Adams seconded the motion. Discussion: Members thanked Mr. Logsdon for his work on behalf of the agency. No further discussion. Motion carried: 6-0.

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

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

FY 2007, Financial Report

Mr. Logsdon reviewed the Board's budget status for FY 2007, reporting the Board will be completing the 3rd fiscal quarter at the end of March. He reported that a review of the Board's current and future expenditures indicates the agency will complete the year within the parameters of the current allocation. A list of all expenditures to-date, a summary of total disbursements, encumbered funds, and budget fund balances were provided for review.

Next, Mr. Logsdon gave a program status report for both the respiratory care and HME licensing. He reported that the agency mailed 433 limited permit renewal applications and discussed the agencies new policy on canceling permit authorizations once a new prevailing authorization was issued. He reported that the agency had completed 318 total continuing education audits, resulting in 16 opportunity for hearing notices for failure to comply. Last, he reported that all current applications files had been scanned and data reconciliation was the only remaining obstacle to developing a live system link with the imaged files.

The HME program, he reported, is undergoing a full review. Implemented changes thus far include workflow redesign, file and work product tracking, new inspection report procedures, initial application review and approval process updates, revised forms, new controls on the issuance of licenses and certificates of registration, the development of a self-evaluation process for HME providers and a companion exception form, and five new or revised rules. He also reported an HME strategic planning meeting was scheduled for March 16, 2007, in Mansfield, Ohio.

A full report on license totals for the year and revenue intake was provided.

A report on pending or imminent legislation was discussed.

Last, Mr. Logsdon discussed travel and meetings attended since the Board's last meeting in December 2006.

Personnel matters:

Motion #5: Ms. Ciarlariello moved to enter executive session pursuant to ORC 121.22 to consider the employment of a public employee. Mr. Andrews 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

Motion carried.

The Board entered executive session at 1:54 p.m. All members and Mr. Logsdon were present in executive session. Visitors and staff were dismissed. The Board returned to public session at 2:00 p.m. No action taken after executive session.

Agenda item 2.3: HME Coordinator's Report (Exhibit E)

Ms. Turner filed a written report. A verbal review of her report was provided.

Ms. Turner issued a report on the number of HME licenses and certificates of registration issued since the last meeting. She stated she would be requesting ratification of the action under new business.

Ms. Turner reviewed several form revisions, including a new self-evaluation form for HME providers. Ms. Turner reported that she is constructing a database of all providers that filed a notice of exception prior to the effective date of licensure. An evaluation form and affidavit of exception would be mailed to each facility and repeated on a periodic basis.

Ms. Turner reported that contract inspector would complete approximately 100 inspections by June 30. A quality control meeting is being arranged with inspectors.

Ms. Turner reported that procedure changes and prioritization of workload has allowed her to review incoming inspector reports quicker, allowing for faster turnaround on findings reports. She also reported that she had began using the elicensing system to track inspections as enforcement issues. Ms. Turner reviewed the new check-off procedure for inspection report and response analysis. A form was developed to track progress through the review process, including a final check-off for the Executive Director who could refer a review to the HME committee.

Ms. Turner informed the Board that a complete audit of the elicensing system had been completed. It resulted in a number of updates and data corrections. Efforts are now focusing on paper files.

Last, Ms. Turner noted that the Board's website is being updated to include all of the forms approved at today's meeting.

Motion #6: Mr. Rinehart moved to approve the officer and staff reports. Mr. Andrews seconded the motion. Discussion: None. Motion carried: 6-0.

Agenda item 2.4: Assistant Attorney General's Report

No report

Agenda item #3: BOARD COMMITTEE REPORT

Agenda item 3.1: HME Committee Report

Mr. Andrews informed the Board that the HME Committee to not have a forum to conduct official business. Members present to discuss items on the agenda, but took no action. The members reviewed a matter concerning licensing applications from alleged non-HME facilities. Staff reported receiving applications from billing firms and HME members did not believe the applicants qualified for a license. Mr. Logsdon recommended issuing a request to have the applicants attend a board meeting for an interview by the HME Committee. Members agreed.

Mr. Andrews informed the Board that the HME members reviewed the new form revisions and the new exception to licensure evaluation form. The members present recommended approval of the forms to implement the procedure immediately.

Motion #7: Mr. Andrews moved to approve invite Optibill and Ontime Billing to the Board's next business meeting. Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 6-0.

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

Dr. Cohn gave a verbal report.

Dr. Cohn stated that the Scope of Practice Committee met to review a single inquiry filed by Fred Oehler, HME Services, Inc. Mr. Oehler asked if a physician order was required to perform an assessment on a new home care patient and if a physician order was required to titrate oxygen settings when employing an oxygen conservation device. Dr. Cohn stated that the Committee concluded that an order is not needed to perform an assessment if the assessor is a licensed professional, because it is a fundamental skill all respiratory care providers are expected to employ when caring for patients. As for the conservation device, the Committee, did not believe a physician order was required if the physician order stated an optimal oxyhemoglobin saturation percentage for the patient among other factors.

Agenda item 3.3: Education Committee Report – Susan Ciarlariello

Ms. Ciarlariello reported that the Education Committee reviewed the 2006 Ohio Education Report presented by F. Herbert Douce. The report is not quite complete, but the information provided continues to demonstrate concern that only 50% of Ohio graduates are taking and passing the advanced practice (RRT) examination offered by the National Board for Respiratory Care, Inc. The study found that the number of students enrolled has dramatically risen, as did student retention and graduation rate. The effect of the three new schools is not completely known, but Miami-Jacobs enrollment alone has resulted in a significant change in the students currently enrolled in respiratory care programs.

Motion #8: Ms. Adams moved to approve the Board Committee reports. Mr. Andrews seconded the motion. Discussion: None. Motion carried: 6-0.

Agenda item #4: PROBABLE REVIEW COMMITTEE REPORT

Motion #9: 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. Mr. Andrews 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

Motion carried.

The board entered executive session at 2:30 p.m. and returned to regular, public session at 3:05 p.m. All voting members of the board, Ms. Snyder Osgood, Mr. Logsdon, Ms. Turner 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.*

Mr. Rinehart was excused at 3:05 p.m.

Motion #10: Dr. Cohn moved to approve the following charges and issue opportunity for hearing notices:

- a. Case # 2007ORCB054 (Ivan R. Bennett) for allegedly violating Section 4761.09 (A)(2) of the Revised Code.
- b. Case # 2006ORCB035 (Sheeryl Spaulding-Jones) for allegedly violating Section 4761.09 (A)(6) and (A)(7) of the Revised Code.
- c. Case # 2007ORCB044 (Melvin C. McDowell) for allegedly violating Section 4761.09 (A)(2) of the Revised Code.
- d. Case # 2007ORCB049 (Jeffery S. Jones) for allegedly violating Section 4761.09 (A)(2) of the Revised Code.
- e. Case # 2007ORCB050 (Jason E. Deem) for allegedly violating Section 4761.09 (A)(2) of the Revised Code.
- f. Cases # 2007ORCB058-71 for allegedly violating Section 4761.09 (A)(2) of the Revised Code. Respectively by case number: Rebecca G. Barnhart, Dawn C. Borgerding, Janice E. Drake, Richard F. Eschete, Kelli Hilton, Andrea J. Mouat, Keisha L. Nance, Jessica L. Orth, Jeffery S. Pattel, Carol. Pierce, John M. Porter, Tamela L. Sanders, Robert D. Schlatt, and Dana D. Watts.
- g. Case # 2007ORCB051 (Bonnie L. Bilko) for allegedly violating Section 4761.09 (A)(1) and (4) of the Revised Code.
- h. Case # 2007ORCB043 (Sandra S. Richmond) for allegedly violating Section 4761.09 (A)(2) of the Revised Code and rule 4761-10-01 (I) of the Administrative Code.

Ms. Adams seconded the motion. Discussion: None. Motion carried: 5-0.

Motion #11: Ms. Ciarlariello moved to approve the following consent agreements:

<u>Case:</u>	<u>Respondent:</u>
2006ORCB025	Roderick Burke
2006ORCB040	David LeDoux
2006ORCB045	Tameacko Parmis
2007ORCB030	David Cassel
2007ORCB036	Karen Jagers
2007ORCB045	Ronald Roby
2007ORCB047	Linda Duey
2007ORCB048	Linda Duda
2007HME005	Capital Sleep Medicine
2007HME006	Marquis Mobility
2007HME007	Easy Access Mobility
2007HME009	MPL Homecare
2007HME011	ABC Mobility
2007HME012	A&A Medical Supplies
2007HME014	Smith Home Medical Equipment
2007HME016	Sportopedic Medicine Shoppe
2007HME017	THI Advantage, Inc.

Mr. Andrews seconded the motion. Discussion: None. Motion carried: 5-0.

Motion #12: Ms. Adams moved to approve the following case closures:

	<u>Case #</u>	<u>Reason</u>
a.	2006ORCB005	Compliance met
b.	2006ORCB019	Unfounded
c.	2006ORCB024	Unfounded
d.	2007ORCB046	Nonjurisdictional
e.	2007ORCB053	Nonjurisdictional

Dr. Cohn seconded the motion. Discussion: None. Motion carried: 5-0.

Motion #13: Dr. Cohn moved to approve the active investigative case report. Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 5-0.

Motion #14: Mr. Andrews moved to approve the following hearing notice withdrawals:

	<u>Case #</u>	<u>Respondent</u>
a.	2007HME08	Matria Healthcare
b.	2007ORCB041	Aisha Floyd

Ms. Adams seconded the motion. Discussion: None. Motion carried: 5-0.

Agenda item #5: NEW BUSINESS

Agenda item 5.6: Approval of resolution to recognize ODJFS HME coding

Mr. Mays decided to discuss agenda item 5.6, because a representative from ODJFS had been waiting.

Mr. Logsdon introduced the issue stating that the Ohio Department of Job and Family Services (ODJFS) has amended their reimbursement codes to include any new items identified by the Ohio Respiratory Care Board as home medical equipment and any new definitions of existing items already listed by ODJFS as requiring a license or certificate of registration to sell, rent, maintain, deliver, or install. Mr. Logsdon explained that ODJFS has aligned their reimbursement coding with the Board rules. Mr. Logsdon stated that ODJFS was in attendance to seek the Board's recognition of the list.

Mr. Sabol, ODJFS, stated that the department is asking the Board to review the new reimbursement code list to determine if the codes correlate to the Board's home medical equipment definitions. Mr. Logsdon reported that the staff had reviewed the new codes and found that they appear to correlate with the Board's rule defining home medical equipment. Mr. Andrews inquired about how the Board's recognition of ODJFS' codes would be used. Mr. Sabol stated that the codes would listed as "requiring licensure" to receive payment.

Motion #15: Dr. Cohn moved the following resolution:

WHEREAS, the Ohio Respiratory Care Board is authorized the regulate the practice of Home Medical Equipment facilities seeking to sell, deliver, install, maintain, replace or demonstrate Home Medical Equipment in the State of Ohio; and

WHEREAS, the Ohio Respiratory Care Board has defined Home Medical Equipment under rule 4761:1-3-02 of the Ohio Administrative Code; and

WHEREAS, a license or certificate of registration is required for each Home Medical Equipment facilities seeking to sell, deliver, install, maintain, replace or demonstrate Home Medical Equipment in the State of Ohio; and

WHEREAS, the Ohio Department of Jobs and Family Services, Ohio Medicaid Program and the Ohio Respiratory Care Board have reviewed rule 4761:1-3-02 of the Ohio Administrative Code and identified all associated Ohio Medicaid DME Procedure Codes.

BE IT RESOLVED that:

The Ohio Respiratory Care Board hereby concurs with the Ohio Department of Job and Family Services, Ohio Medicaid Program's policy requiring a license or certificate of registration to sell or rent items identified by the Ohio Department of Job and Family Services, Ohio Medicaid Program in the Ohio Medicaid DME Procedure Codes. The Ohio Respiratory Care Board has reviewed amendments to the Ohio Medicaid DME Procedure Codes (attached hereto as Addendum A) and determine that specific codes correlate to OAC rule 4761:1-3-02.

Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 5-0.

Agenda item 5.1: Application ratification for licenses and limited permits
(Exhibit F collective)

Lists of licenses and limited permits issued since the Board's December 5, 2006, meeting pursuant to Rule 4761-2-02 of the Ohio Administrative Code were mailed to members in advance of the meeting.

Motion #15: Mr. Andrews moved to place upon the minutes of the March 8, 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: December 7, 2006, December 21, 2006, January 4, 2007, January 18, 2007, January 19, 2007, February 1, 2007, February 15, 2007, and February 28, 2007. Ms. Adams seconded the motion. Discussion: None. Motion carried: 5-0.

Agenda item 5.2: Application ratification for HME licenses and Certificates of
Registration (Exhibit G collective)

Motion #16: Mr. Andrews moved to place upon the minutes of the March 8, 2007 meeting, 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: December 21, 2006, December 22, 2006, January 4, 2007, January 18, 2007, February 1, 2007, and February 15, 2007. Dr. Cohn seconded the motion. Discussion: None. Motion carried: 5-0.

Agenda item 5.3: Approval of draft rules (Exhibit H collective)

Mr. Logsdon introduced six draft new and amended rules.

Motion #17: Ms. Adams moved to approve the draft rules. Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 5-0.

Agenda item 5.4: Resolution authorizing filing of draft rules

Motion #18: Ms. Adams moved the following resolution:

BE IT RESOLVED that:

- (1) The Ohio Respiratory Care Board hereby authorized the Executive Director to file the following rules:

To file new rules:

- 4761:1-5-03: Failure to file a complete application for a license.
4761:1-6-04: Failure to file a complete application for a certificate of registration.

To file amended rules:

- 4761-5-04: License application procedures
4761-6-01: Limited permit application procedures
4761-7-04: Supervision
4761-8-01: Renewal of license or permits.
4761-9-02: General RCCE requirements and reporting mechanism.
4761-9-04: Ohio respiratory care law and professional ethics course criteria.
4761-9-05: Approved sources of RCCE
4761:1-6-03: License and certificate of registration issuance and display
4761:1-8-01: Fees
4761:1-8-03: Inspection Fees

Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 5-0.

Agenda item 5.5: Approval of new HME certificates and HME/RCB forms (Exhibit I collective)

The Board reviewed a number of forms filed by staff for authorization to use as standard forms.

Motion #19: Ms. Adams moved to adopt the following forms for standardized use:

- a. Revised HME license and certificate of registration wall certificate.
- b. Revised HME license and certificate of registration initial applications
- c. Revised HME license and certificate of registration initial applications
- d. New HME self evaluation form
- e. New Affidavit of exception form
- f. Revised RCB Verification of Education form

Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 5-0.

Agenda item 5.7: Mechanical ventilation guidelines

Discussion only. The members discussed a proposal presented by staff to approach the Ohio Department of Health (ODH) for the purpose of developing mechanical ventilation standards for long-term care nursing facilities. The board stated their belief that ODH standards in long-term care facilities focus primarily on nursing and not on respiratory care services offered by respiratory care providers. The greatest need for standardized practice guidelines is for mechanical ventilation. By consensus, the members directed staff to begin a process of discussing the matter with ODH.

Agenda item 5.8: Discussion on the definition of "Gross Misconduct"

The matter was tabled.

Agenda item 5.9: Discussion on legislative changes to ORC 4761.09 (A)(8)

Discussion only. The members discussed the possibility of seeking an amendment to ORC section 4761.09 (A)(8). The standard for finding a licensee impaired in practice is high, requiring the impairment to be to the extent a professional cannot practice at an acceptable level of competency. Staff states that the standard is difficult to meet due to the acceptable level of competency language. Members agreed that the standard was high and recommended adding the issue to the Board's legislative agenda.

Agenda item #6: OLD BUSINESS

Agenda item 6.1: St. Augustine Manor

St. Augustine Manor filed a request asking the Board to recognize their organization as an exception from requiring an HME license or certificate of registration under ORC 4752. The Board directed staff to mail the organization a new self-evaluation form and an affidavit of exception.

Agenda item 6.2: Posting information on drop foot stimulators and bone growth stimulators.

Staff updated the board on the posting of drop foot stimulators and bone growth stimulators on the agencies website as recognized HME under OAC 4761:1-3-02.

Agenda item #7: OPEN FORUM

No one appeared.

Agenda item #7: FOR THE GOOD OF THE BOARD

Mr. Logsdon presented some corrections to past meeting minutes.

Mr. Andrews Move to amend

1. 4-11-06 meeting minutes, motion #11, page 10: CardioSom, LLC, should read Mansfield, Ohio.
2. 6-19-06 meeting minutes, motion #15, page 10: CardioSom, LLC, Dublin, Ohio, should read "contingent approval," add Hightower Medical and Nationwide Medical to list of approved HME licenses/certificates of registration.
3. 12-13-05 meeting minutes, motion #10, page 7: add Optioncare, Milford, Ohio to list of approved HME licenses/certificates of registration.
4. 10-17-05 meeting minutes, motion #13, page 8, to identify all facilities issued licenses/certificates of registration on 9/19/05.

Ms. Adams seconded the motion. Discussion: None. Motion carried: 5-0.

Agenda item #8: ADJOURNMENT

Ms. Ciarlariello moved to adjourn. Ms. Adams seconded the motion. Discussion: None. Motion carried: 5-0.

The meeting adjourned at 4:30 p.m.

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 April 17, 2007.

Secretary

Witness