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OHIO RESPIRATORY CARE BOARD

77 SOUTH HIGH STREET, 16TH FLOOR

COLUMBUS, OHIO 43215-6108

OFFICIAL BOARD MEETING MINUTES OF June 9, 2009

NOTE ON COMMITTEE MEETINGS

The Board's Rules, Home Medical Equipment, Scope of Practice and Education Committees met prior to the regular business meeting.

The Rules Committee met at 9:10 a.m. in room West B&C, 31st floor, Vern Riffe Center for the Government and Arts. The Education Committee met at 9:10 a.m. in the Board office on the 16th floor, Vern Riffe Center for the Government and Arts. The Home Medical Equipment Committee met at 10:00 a.m. in room West B&C, 31st floor, Vern Riffe Center for the Government and Arts. The Scope of Practice Committee met at 10:10 a.m. in the Board office on the 16th floor, Vern Riffe Center for the Government and Arts. Official minutes of the committee meetings were taken and are maintained separate of this journal. Committee Chairpersons for each committee gave a report during the course of the regular business meeting.

ETHICS TRAINING FOR BOARD MEMBERS

Ethics training for Board members was conducted in room West B&C, 31st floor, Vern Riffe Center for the Government and Arts from 11:10 a.m. to 1:10 p.m. Ms. Marcia Tatum was the course instructor and facilitator using the Ohio Ethic Law DVD produced by the Ohio Ethics Commission.

June 9, 2009

Agenda items #1: CALL MEETING TO ORDER

Presiding: Marc Mays, President, called the meeting to order on June 9, 2009 at 1:15 p.m. in room West B&C, 31st floor of the Vern Riffe Building for Government and the Arts, 77 S. High Street, Columbus, Ohio. Present were Marc Mays, R.R.T., R.C.P., President, Susan M. Ciarlariello, R.R.T., R.C.P., Carol Gilligan, HME member, Joel Marx, HME member, Robert Cohn M.D., Esther L. Kester, R.R.T., R.C.P., Darrell L. Heckman, J.D., Public Member, Ken Walz, J.D., R.R.T, R.C.P. and Anita Adams, M.B.A, 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

E. Lucille Kester, R.R.T., R.C.P.

Joel Marx, HME Provider Member, Secretary

Carol Gilligan, HME Provider Member

Robert Cohn, M.D.

Darrell L. Heckman, J.D.

Susan Ciarlariello, M.B.A, R.R.T, R.C.P

Anita Adams, M.B.A, R.C.P

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

Staff in attendance:

Christopher H. Logsdon, Executive Director

Anthony Isom, Investigator

Marcia Tatum, HME Manager (arrived at 2:45 p.m.)

Others in Attendance:

Yvonne Tertel, Assistant Attorney General

Victoria Shorter

Mr. Mays informed the Board members that the first order of business on the agenda is an administrative hearing in the matter of Victoria Shorter. Mr. Mays stated that Ms. Shorter had just arrived and was meeting with the Board's counsel, Ms. Tertel. For the sake of time, Mr. Mays stated that he would proceed with the regular business meeting agenda and break to conduct the hearing once parties were ready to proceed.

Agenda item 2.1: 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 that Committee Reports were inadvertently left off the agenda. In addition, Mr. Logsdon asked if a consideration to file draft rules could be added to the new business agenda. He recommended adding Committee Reports to the agenda following Officer and Staff Reports. Hearing no objection, Mr. Mays stated the agenda would be amended. He called the question on the amended agenda.

Motion #1: Ms. Kester moved to approve the amended meeting agenda for June 9, 2009. Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 9 - 0.

Agenda item 2.2: Approval of previous Board Meeting Minutes

Mr. Mays asked the membership if they had the opportunity to review the minutes. All answered affirmatively. Mr. Mays asked if there was a motion to approve the minutes.

Motion #2: Ms. Gilligan moved to approve the meeting minutes from April 14 & 15, 2009. Dr. Cohn seconded the motion. Discussion: Ms. Ciarlariello noted a non-substantive error on page 4. No further discussion. Motion carried: 8 – yes, 1 – abstained (Walz). Mr. Mays directed Mr. Logsdon to correct the minutes as indicated.

Agenda item #2: BOARD OFFICER AND STAFF REPORT

Agenda item 3.1: President's Report

Mr. Mays addressed the committee assignments for FY 2009. He stated that the assignments were made based upon interests and the need to schedule two committees at the same time. Discussion: Mr. Walz inquired if the Board would continue to hold committee meetings in the Board office. Mr. Logsdon stated that he would try to schedule 19th floor or 31st floor meeting rooms.

Next, Mr. Mays introduced Mr. Ken Walz, the Board's new Board member. Mr. Mays provided a synopsis of Mr. Walz's background, accomplishments and education. Mr. Mays welcomed Mr. Walz.

Mr. Mays stated that the hearing appears ready to move forward. He stated that regular business would stand in recess until after the administrative hearing is concluded.

The Board took a break from 1:21 p.m. to 1:23 p.m.

ADMINISTRATIVE HEARINGS

In the Matter of Victoria Shorter

The matter of Victoria Shorter came before the following members of the Ohio Respiratory Care Board on June 9, 2009 at 1:23 p.m. in room West B&C, 31st floor of the Vern Riffe Building for Government and the Arts, 77 S. High Street, Columbus, Ohio. Present were Marc Mays, R.R.T., R.C.P., President, Susan M. Ciarlariello, R.R.T., R.C.P., Carol Gilligan, HME member, Joel Marx, HME member, Robert Cohn M.D., Esther L. Kester, R.R.T., R.C.P., Darrell L. Heckman, J.D., Public Member, Ken Walz, J.D., R.R.T., R.C.P. and Anita Adams, M.B.A, R.C.P. 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. Darrell L. Heckman, J.D. was the appointed hearing officer in this matter. Yvonne Tertel, Assistant Attorney General, represented the state of Ohio. Ms. Victoria Shorter appeared Pro Se. Sheryl A. Bennett was the Court Reporter, Deposition Specialists, Inc., 35 East Gay Street, Suite 300, Columbus, Ohio 43215.

Mr. Heckman introduced himself as the presiding officer for the hearing. He asked the members and staff of the Board to introduce themselves and their county of residence. The Assistant Attorney General, Yvonne Tertel introduced herself and Ms. Victoria Shorter introduced herself. Mr. Heckman reviewed Ms. Shorter's rights to be represented by counsel. Mr. Heckman inquired of Ms. Shorter if she was prepared to continue with the hearing without legal counsel. Ms. Shorter affirmatively stated she was prepared to proceed.

Mr. Heckman inquired if there were any preliminary matters or stipulations. Ms. Tertel stated that she did meet with the respondent, Ms. Shorter, prior to the hearing and Ms. Shorter was willing to stipulate to State's Exhibits A – O. Mr. Heckman asked Ms. Shorter if she was willing to stipulate to the admission of State's Exhibits A – O. Ms. Shorter affirmatively stated she would stipulate to the admissibility of the State's Exhibits.

Mr. Heckman then asked Ms. Tertel to present her case-in-chief. Ms. Tertel gave a brief opening statement.

Witnesses called for the state: Anthony Isom, Investigator

State's Exhibits admitted:

- A - Notice of Opportunity for Hearing dated April 24, 2009, mailed to Victoria Shorter by registered mail/return receipt # 7004 2510 0001 7343 6577 on April 24, 2009.
- B - Copy of electronic return receipt tracking document for article # 7004 2510 0001 7343 6577 and copy of stamped Certified Mail receipt for article # 7004 2510 0001 7343 6577 and a copy of the unsigned return receipt for article # 7004 2510 0001 7343 6577.
- C - Letter from Victoria Shorter requesting a hearing, received by the Ohio Respiratory Care Board on May 13, 2009.
- D - Hearing Scheduling and continuance letter dated May 13, 2009, mailed to Victoria Shorter by regular mail.
- E - Hearing Scheduling letter dated May 21, 2009, mailed to Victoria Shorter by regular mail and certified mail return receipt.
- F - Copy of initial application for a respiratory care professional license filed by Victoria Shorter on January 12, 2009.
- G - Letter addendum to Ms. Victoria Shorter's application for a respiratory care professional license filed by Ms. Shorter on January 12, 2009.
- H - Letter addendum to Ms. Victoria Shorter's application for a respiratory care professional license filed by Ms. Shorter on April 2, 2009.
- I - Letter addendum to Ms. Victoria Shorter's application for a respiratory care professional license filed by Ms. Shorter on April 2, 2009.
- J - Letter addendum to Ms. Victoria Shorter's application for a respiratory care professional license filed by Ms. Shorter on April 6, 2009.
- K - Copy of initial application for a limited permit filed by Victoria Shorter on January 2, 2008.
- L - A certified journal entry for Disorderly Conduct, case # 00CRB04705, from the Dayton Municipal Court, Dayton, Ohio.
- M - A certified journal entries for Falsification, case # 99CRB00271-A, from the Miamisburg Municipal Court, Miamisburg, Ohio.
- N - A certified journal entry for Unauthorized Use, case #97CRB06172-A, from the Miamisburg Municipal Court, Miamisburg, Ohio.
- O - A certified journal entry for Disorderly Conduct, case # 97CRB06517, from the Dayton Municipal Court, Dayton, Ohio.

Dr. Cohn inquired about the letter dated April 24, 2009 attached to State's Exhibit A. Mr. Heckman did not permit Dr. Cohn to continue his question. In response, Ms. Tertel asked to withdraw the letter from State's Exhibit A, but retain the remainder. Mr. Heckman acknowledged the State has withdrawn the letter, but admitted the remainder of State's Exhibit A.

Following Ms. Tertel's case-in-chief, she rested. Mr. Heckman concluded the hearing at 1:21 p.m.

Mr. Heckman asked Ms. Shorter if she was prepared to present her case in chief. Ms. Shorter stated she was prepared. Mr. Heckman directed her on testifying on her own behalf.

Ms. Shorter testified. Mr. Heckman would not allow the respondent to testify on pre-hearing settlement negotiations. Other witnesses for the respondent: None.

Ms. Tertel and Ms. Shorter both gave a brief closing statement. The hearing concluded at 2:07 p.m.

Motion #3: Ms. Ciarlariello moved to go into private session for the purpose of entering into quasi-judicial deliberation in the matter of Victoria Shorter. Ms. Gilligan seconded the motion. Discussion: None. Roll Call vote:

Darrell L. Heckman -	Yes	Carol Gilligan -	Yes
Marc Mays -	Yes	E. Lucile Kester -	Yes
Susan Ciarlariello -	Yes	Darrell L. Heckman -	Yes
Anita Adams -	Yes	Joel Marx -	Yes
Ken Walz -	Yes		

Motion carried.

The board entered executive session at 2:10 p.m. and returned to regular, public session at 2:33 p.m. All voting members of the board were present during executive session. Mr. Mays, Mr. Isom, Ms. Tertel were excused from Executive Session.

Findings, Conclusions of Law and Order in the Matter of Victoria Shorter (Exhibit C)

Mr. Mays asked if the Board had reached a decision in the matter of Victoria Shorter and was prepared to read the Order. Mr. Heckman, Appointed Hearing Officer stated that the members had reached a decision. Mr. Heckman read the findings of fact and the conclusions of law in the matter of Victoria Shorter.

Mr. Heckman stated that the voting members adopted all of the exhibits submitted by the State of Ohio.

Mr. Mays asked if the Board was prepared to enter an Order upon the record. Mr. Heckman stated the membership was prepared to do so.

Motion #4: Mr. Marx moved that the Board finds that the allegations contained in Counts 1 of the Opportunity for hearing in the matter of Victoria Shorter is TRUE. Based upon the Board's findings of fact and conclusions of law in this matter, the Board hereby SUSPENDS Victoria Shorter's license to practice respiratory care in the state of Ohio. The Board shall STAY the suspension subject to the following conditions:

1. Ms. Shorter shall be FINED a sum of three Hundred dollars. The fine shall be paid within sixty (60) days of the mailing date of the order.

2. Ms. Shorter shall, upon finding employment in the practice of respiratory care, cause a supervisor having direct knowledge of Ms. Shorter's daily performance to complete quarterly performance reports using forms supplied by the Board. Ms. Shorter must maintain work performance rating of satisfactory or better. A failure to maintain satisfactory work performance in the performance areas listed under paragraph (B) above will constitute a violation of the board's order. The first report will be due 90 days after the effective date of the Order. The remaining three reports will be due every three months there after until the end of the one year stayed suspension period.

3. Ms. Shorter shall obey all federal, state and local laws, and all rules governing the practice of respiratory care in Ohio. Ms. Shorter shall report to the Board any arrest, criminal charge, citation, guilty or no contest plea, criminal jury verdict, conviction or treatment in lieu of conviction for any crime other than a minor misdemeanor traffic offense.

4. Ms. Shorter shall provide the Board with a new criminal background report from the Ohio Bureau Criminal Identification and Investigation (BCI&I) at the end of the one-year stayed suspension period.

The Order of the Board shall become effective upon the date of mailing. Ms. Adams seconded the motion. Discussion: Ms. Kester asked how the conditions regarding monitoring employment works if the respondent is not employed. Mr. Heckman stated the term of suspension and conditions have to be a set time. He stated the conditions would not apply beyond a year. Mr. Heckman stated that the Board could not require the respondent to obtain employment in the practice of respiratory care. Ms. Adams asked about paying the fine if the respondent was not employed. Mr. Walz suggested that the respondent request an extension of the due date. Mr. Heckman agreed. Mr. Walz asked how an employer would know about the action, if the respondent were not employed during the next year. Mr. Marx reminded Mr. Walz that the action is a public record and noted on the Board's license verification website. No further discussion. Motion carried: 8 – yes, 1 abstained (Mays).

Mr. Walz and Mr. Heckman were dismissed at 2:47 p.m. to have building access passes completed.

Mr. Mays stated that the Board's minutes would serve as the official journal of proceedings in this matter. He directed the Executive Director to prepare a final Original Order that shall be signed by the Board President. The final Original Order shall be attached to the minutes of these proceedings as an exhibit to the record in the matter of Victoria Shorter.

Agenda item 3.2: Executive Director's Report (Exhibit H)

Mr. Logsdon issued a written report. He verbally reviewed the following matters:

1. Mr. Logsdon stated that the Board would be completing FY 2009 under budget. He stated that the Board has resolved all outstanding financial obligations, except for any encumbered funds that have been set aside for incomplete contracts or projects. Mr. Logsdon reported that he did encumber \$5,128.00 to complete a storage area within the current office space and move some modular furniture being given to the Board by another agency.

2. Mr. Logsdon reviewed the Board's current budget balances by spending account and revenues generated.

3. Mr. Logsdon reported that the Governor has issued spending reduction Executive Order (EO) for FY 2010 and 2011. Mr. Logsdon reported that the EO asks the agency to reduce expenses by 30% in accounts 510 (purchase services), 520 (maintenance), and 530 (equipment). Mr. Logsdon stated that the House version of the budget held the Board to FY 2009 budget levels for FY 2010 and 2011. Mr. Logsdon stated that the reductions have been identified and sent to the Office of Budget and Management for consideration. Included in the EO response, was a request to restore approximately \$21,000 of the proposed cuts. Mr. Logsdon stated that the cuts were untenable, because the reductions would affect primary services, such as record management contract, HME inspector contracts and online renewal fees for credit card payments. Mr. Logsdon stated that the Senate version of the budget currently reduces the Board to FY 2008 spending levels. Mr. Logsdon stated that there were serious questions regarding the final spending levels for the Board.

Discussion: Dr. Cohn asked about the HME Inspection, stating the inspections produce revenue. Mr. Logsdon stated that revenue generation and budget are two distinctly different issues from the State's perspective. Mr. Marx inquired if the Board could delay inspections due in FY 2010 to FY 2011 or later. Mr. Logsdon reported that FY 2011 will be even worse than 2010, because it is the start of the four year inspection cycle and the Board was already denied funding for inspections in FY 2011. Mr. Logsdon stated that finding and keeping inspectors is difficult, and regular assignments would be better than no assignments for them. Ms. Kester inquired about the cost-savings days. Mr. Logsdon reported that the funds for the cost savings days have already been accounted for in the overall budget. He stated that the State will assess the projected savings each quarter and the funds will be transferred.

4. Mr. Logsdon also reported that he would be on vacation from July 22, 2009 to August 7, 2009. Mr. Logsdon reported that he has never taken more than one week of vacation, but has arranged to have phone and email access. Members discussed coverage and resource access while he is away.

Mr. Mays inquired about authorizing the Executive Director to file the proposed rules considered by the Rules Committee.

Motion #5: Ms. Ciarlariello moved to authorize the Executive Director to file the following proposed rules:

1. Respiratory Care Licensure ORC 119.03 rules, amended:

- OAC 4761-2-04 (rescind current version)
- OAC 4761-7-01
- OAC 4761-8-01
- OAC 4761-9-03
- OAC 4761-11-03
- OAC 4761-12-03

2. Home Medical Equipment Licensure ORC 119.03 rules, amended:

- OAC 4761:1-2-02 (rescind current version)
- OAC 4761:1-2-03
- OAC 4761:1-2-04
- OAC 4761:1-3-02

Ms. Kester seconded the motion. Discussion: Mr. Mays stated that the majority of the rules are related to cost reductions pursuant to the Governor's EO. Mr. Mays stated that the rule would permit the Board to eliminate the need to issue an ID card upon license renewal. Mr. Logsdon summarized the remainder of the proposed rules. No further discussion: Motion carried: 9-0.

Agenda item 3.3: HME Manager's Report

Ms. Tatum issued a written report. A brief verbal review was provided. Ms. Tatum reported that the Board has approved 8 new HME licenses and 20 new HME Registrations since the last meeting. Ms. Tatum also reported on the number of inspections scheduled and outstanding for licensed HME facilities. Last, Ms. Tatum reported that the Board has generated \$99,270.00 in revenue since the start of the Fiscal Year.

Mr. Mays inquired if the Board's Assistant Attorney General had any report. Ms. Tertel stated she did not, but did state that she is planning on moving forward with the Board's recommendations to have the appointed hearing member, Mr. Heckman hear and render reports and recommendations for hearings. Ms. Tertel gave a brief review of the report and recommendation process and some of her experience with other Board's that use hearing officers.

Mr. Heckman and Mr. Walz returned to public session at 3:25 p.m.

Agenda item #4: PROBABLE REVIEW COMMITTEE REPORT

Motion #6: Ms. Gilligan moved to enter Executive Session for the purpose of discussing proposed disciplinary action against licensees, which is pending or imminent court action 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). Ms. Kester seconded the motion. Discussion: None. Roll Call vote:

Darrell L. Heckman -	Yes	Carol Gilligan -	Yes
Joel Marx -	Yes	Robert Cohn, M.D. -	Yes
Marc Mays -	Yes	Esther Lucile Kester -	Yes
Susan Ciarlariello -	Yes	Anita Adams -	Yes
Kenneth Walz -	Yes		

Motion carried.

The board entered executive session at 3:14 p.m. and returned to regular, public session at 3:25 p.m. All voting members of the board, Mr. Logsdon, Mr. Isom and Ms. Tertel 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 4.2: Approval of Opportunity for Hearing Notices

Motion #7: Ms. Ciarlariello moved to issue an opportunity for hearing notice as presented to the Board in the matters of:

<u>Case no./Respondent</u>	<u>Issue</u>	<u>ORC Code</u>
RCB Proposed OHNs		
1. 2009ORCB027 (Alicia A. Howe RCP.8140)	Violation of an Order of the Board	ORC 4761.09 (A)(2)
2. 2009ORCB049 (Yvonne D. Foster L1.5722)	Obtaining permit by concealment	ORC 4761.09 (A)(4)
3. 2009ORCB062 (Kimberly D. Campbell-Card L1.5052)	Unethical/unprofessional practice	ORC 4761.09 (A)(7)
4. 2009ORCB065 (Elizabeth A. Williams RCP.11529)	Unlicensed Practice	ORC 4761.09 (A)(2)

HME Proposed OHNs

1. 2009HME003 (Homeside Healthcare, Inc.)	Unlicensed Practice	ORC 4752.09 (A)(1)
2. 2009HME010 (Diller Medical, Inc.)	Unlicensed Practice	ORC 4752.09 (A)(1)

Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 7 – yes, Mays and Marx - Abstained

Agenda item 4.3: Approval of Consent Agreements (Exhibit D collective)

Motion #8: Mr. Marx moved to approve the following consent agreements between the Board and the following respective respondents:

RCB Agreements

<u>Case no.</u>	<u>Respondent</u>
2009ORCB024	Nicole M. Hemon RCP.9946

Ms. Adams seconded the motion. Discussion: None. Motion carried: 7 – yes, 1 – No (Walz), Mays– Abstained

Motion #9: Mr. Heckman moved to approve the following consent agreements between the Board and the following respective respondents:

RCB Agreements

<u>Case no.</u>	<u>Respondent</u>
2009ORCB004	Gary L. Foreman RCP.1771
2009ORCB058	Susan D. Yux RCP.4681

Ms. Adams seconded the motion. Discussion: None. Motion carried: 7 – yes, Mays, Ciarlariello– Abstained

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

Motion #10: Ms. Ciarlariello moved to withdraw Opportunity for Hearing Notices in the following matters:

1. 2007ORCB068 John Porter – compliance met

Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 8 – yes, Mays– Abstained

Agenda item 4.5: Approval to close investigative cases

Motion #11: Ms. Ciarlariello moved to close the following investigative cases:

1. 2009ORCB048 - unfounded
2. 2008ORCB032 – unfounded
3. 2008ORCB033 – unfounded
4. 2008ORCB042 – unfounded
5. 2008HME030 - non-jurisdictional
6. 2008HME112 – non-jurisdictional

Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 7 – yes, Mays, Marx– Abstained

Agenda item 3.4: Board Committee Reports

Mr. Mays inquired if the committee chairpersons would like to give a brief report on business and action conducted during the morning meetings.

HME Committee:

Mr. Marx stated that the committee met at 9:00 a.m. this morning. Mr. Marx stated that the committee reviewed a number of issues, including the provision of therapies that being started in a physician office and sent home with the patient. Mr. Marx stated that using equipment in a physician office, as an integral part of care is different from sending a person home on the equipment and billing for the equipment. Mr. Marx stated that the Committee believes an HME license is needed. The concern regarded how the equipment is cleaned, maintained, etc. The Committee is leaning toward requiring licensing for such practices, which would be consistent with the Committee's position on infusion therapy. The Committee, he stated, also reviewed the current number of licenses and certificates of registration issued and the inspection schedule and inspection progress report.

Scope of Practice Committee:

Dr. Cohn reported that the Scope of Practice Committee met at 10:00 am this morning in the Board's office. Dr. Cohn stated that the Committee considered two inquiries. The first inquiry, Dr. Cohn stated, was filed by general counsel for the Massachusetts Professional Licensing Board. Dr. Cohn stated that the counsel asked if therapists in Ohio could administer intraosseous cannula insertion and needle insertion for pneumothoraces. Dr. Cohn stated that the Committee found that a respiratory therapist, given competent training and experience, could perform both procedures. Dr. Cohn stated that the Committee emphasized the competency component of this care. Dr. Cohn stated that the Committee also addressed an inquiry regarding the performance of yankauer suctioning by unlicensed personnel and the scope of licensed practical nurse practice in the provision of CPAP. Dr. Cohn stated that the Committee did not address the scope of LPN practice, deferring the individual to the Ohio Board of Nursing, but did state oral suction suctioning did not violate ORC 4761.10.

Discussion: Mr. Heckman stated that he has been affiliated with the Ohio Respiratory Care Board for many years and believe respiratory care professional, reluctantly accept the provision of respiratory care by registered nurses, but when LPNs provide respiratory care, that is when the profession becomes very concerned. In his opinion, LPN's should not be practicing respiratory care because they do not possess the appropriate training. No further discussion.

Education Committee

Ms. Kester stated that the Education Committee met at 9:00 a.m. this morning. The majority of the meeting was spent in a conference call with Dr. Tom Smalling, Director of the Committee on Accreditation of Respiratory Care programs. Ms. Kester stated that the conference call was very long and the remainder of the committee's business was tabled.

Rules Committee:

Mr. Mays stated that the Rules Committee met at 10:00 a.m. this morning and reviewed a number of draft rules. Mr. Mays stated that the rules were discussed during the Executive Director's report and a motion made for filing the draft rules.

Agenda item #5: NEW BUSINESS

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

Motion #10: Mr. Marx moved to place upon the minutes of the June 9, 2009 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: April 16, 2009, April 24, 2009, April 29, 2009, May 7, 2009, May 14, 2009, May 15, 2009, May 21, 2009, May 22, 2009, May 28, 2009, and May 29, 2009. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 9- 0.

Agenda item 5.2: Application ratification for HME licenses and certificates of registration (Exhibit F)

Motion #11: Ms. Kester moved to ratify HME licenses and certificates of registration issued on the following dates:

HMEL

April 2, 2009, April 22, 2009, April 28, 2009, April 29, 2009, May 5, 2009, May 13, 2009, and May 29, 2009

HMER

March 25, 2009, April 2, 2009, April 13, 2009, April 28, 2009, May 7, 2009, May 13, 2009, May 22, 2009, and May 29, 2009

Ms. Adams seconded the motion. Discussion: None. Motion carried: 9 – 0.

Agenda item 5.3: 2008 Annual Report

Mr. Mays directed members to consider the annual report worksheet, requesting membership input on the annual report. Mr. Mays stated that the annual report discussion should be considered in length and recommended that the membership complete the annual report worksheet and turn it into the Executive Director. He directed the remainder of the discussion to be tabled until the next meeting.

Agenda item 5.4: Disciplinary Guidance and Strategic Plan

Mr. Mays inquired if the membership was prepared to take action on the draft disciplinary guidance document and the FY 2010 and 2011 strategic plan. Mr. Mays stated that the documents are very comprehensive and will warrant thorough review. Mr. Mays stressed that the membership must be comfortable with the changes made to the disciplinary guidance document and the draft strategic plan. He directed the remainder of the discussion to be tabled until the next meeting.

Agenda item 5.5: Accessing Personal Confidential Information Policy (Exhibit G)

Mr. Mays asked Mr. Logsdon to review the policy. Members stated that the policy was exhausting to review. Ms. Ciarlariello stated that without a full understanding of the data systems used by the Board, this should be left to the discretion of the Executive Director. Mr. Marx asked if it was possible for the Board to abide by the policy. Mr. Logsdon stated that the policy seems to meet the requirement of ORC 1347.15, but it is cumbersome. Mr. Logsdon stated that he agrees the policy is very complex and he is concerned employees may not understand. He stated he would do his utmost best to train and monitor employee compliance. Mr. Heckman stated that, unlike the disciplinary guidance document, he does not believe the Board should be trying to second-guess the Executive Director on this issue.

Motion #12: Mr. Heckman moved to approve revised policy #2.95 (b). Ms. Kester seconded the motion. Discussion: None. Motion carried: 9 – 0.

Agenda item 5.6: NBRC Disciplinary Action Database

Mr. Mays asked Mr. Logsdon to discuss the issue. Mr. Logsdon stated that the NBRC has sponsored a national database. Mr. Logsdon stated that most states participate in reporting to the database. He reported that the Board voluntarily participates in reporting public disciplinary actions to the NBRC disciplinary database. Mr. Logsdon states that the Board uses name to search for the appropriate person contained in the NBRC's system, but to verify that the person is the same person, the Board must be able to identify the individual using other information. Mr. Logsdon stated that the NBRC search system must be modified to be consistent with Ohio's information law. Logsdon recommended no longer participating in reporting to the database until the system meets Ohio's standards.

Discussion: Mr. Mays asked if Mr. Logsdon was suggesting that the NBRC must change their data system. Mr. Logsdon stated affirmatively. Mr. Mays suggested that the Board move to inform the NBRC that Ohio will not participate until the system is modified. Hearing no objections, Mr. Logsdon was directed to inform the NBRC of the Board's decision to restrict further participation.

Mr. Marx departed at 4:45 p.m.

Agenda item #6: OPEN FORUM

No one appeared.

Agenda item #7: FOR THE GOOD OF THE BOARD

Mr. Heckman inquired about CoARC's recognition of substandard programs. Ms. Gilligan stated that the discussion the Education Committee had with the Executive Director of CoARC, revealed some new information. Ms. Kester stated the Board should wait until the new standards are published. Dr. Cohn stated that the record of accomplishment for non-accrediting programs is likely sparse. Ms. Ciarlariello stated that she thinks CoARC is on the right track, but it will take some time to see the results. She stated that CoARC has expressed concern over the number of private programs opening in the United States. Next, Mr. Logsdon stated that the State has issued new travel expense forms. He asked members to discard the old templates.

Agenda item #8: ADJOURNMENT

Motion #13: Mr. Heckman moved to adjourn. Ms. Gilligan seconded. Discussion: None. Motion carried: 8 – 0.

Hearing no further matters, Mr. Mays adjourned the business meeting at 4:50 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 August 26, 2009.

Secretary

Witness