

---

# OHIO RESPIRATORY CARE BOARD

77 S. HIGH ST., 16<sup>TH</sup> FL.

COLUMBUS, OHIO 43215-6108

## Contents

<b>MEMBERS IN ATTENDANCE (Exhibit A):</b> .....	<b>2</b>
<b>Agenda item #1: CALL MEETING TO ORDER AND APPROVAL OF AGENDA (Exhibit B)</b> .....	<b>3</b>
<b>Agenda item #2: ADMINISTRATIVE HEARINGS</b> .....	<b>3</b>
Agenda item 2a: In the matter of Aaron Blaine Wilcox, Case #2014ORCB036.....	3
<b>Agenda item #3: STANDING COMMITTEE MEETINGS</b> .....	<b>4</b>
<b>Agenda item #4: APPROVAL OF PRIOR MEETING MINUTES (Exhibit C &amp; D)</b> .....	<b>4</b>
Agenda item 4.a: Prior Meeting Minutes - April 16, 2014 (Exhibit C).....	4
<b>Agenda item #5: OFFICER AND STAFF REPORTS</b> .....	<b>5</b>
Agenda item 5c: President’s Report .....	5
<b>Agenda item #4 Cont’d: APPROVAL OF PRIOR MEETING MINUTES</b> .....	<b>5</b>
Agenda item 4.b: Prior Meeting Minutes - May 13, 2014 (Exhibit D).....	5
<b>Agenda item #5 Cont’d: OFFICER AND STAFF REPORTS</b> .....	<b>5</b>
Agenda item 5b: Executive Director’s Report (Exhibit E) .....	5
Agenda item 5c: HME Manager’s Report (Exhibit F).....	6
<b>Agenda item #6: BOARD COMMITTEE REPORTS</b> .....	<b>7</b>
Agenda item 6a: Home Medical Equipment Committee – Joel Marx, Chair .....	7
Agenda item 6b: Scope of Practice Committee – Andrea Yagodich, Chair (Exhibits G & H) .....	7
<b>Agenda item #7: DELIBERATION IN PRIVATE SESSION</b> .....	<b>7</b>
Agenda item 7: Deliberation in Private Session .....	7
<b>Agenda item #8: FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JOURNAL ENTRIES</b> .....	<b>8</b>
Agenda item 8.a: In the matter of Aaron Blaine Wilcox, Case #2014ORCB068 (Exhibit I) .....	8
<b>Agenda item #9: PROBABLE REVIEW COMMITTEE REPORT</b> .....	<b>12</b>
Agenda item 9b: Approval of Opportunity for Hearing Notices (Exhibits J - N).....	12
Agenda item 9c: Approval of Consent Agreement (Exhibit O) .....	13

Agenda item 9d: Closed Case Review ..... 13

**Agenda item #10: NEW BUSINESS ..... 14**

Agenda item 10a: Application ratification for licenses and limited permits issued since  
the last meeting (Exhibit P) ..... 14

Agenda item 10b: Application ratification for Home Medical Equipment Licenses and  
Certificates of Registration (Exhibit Q) ..... 14

Agenda item 10c: HME Form Approval (Exhibit R) ..... 14

Agenda item 10d: Respiratory Care Licensing Form Approval (Exhibit S)..... 14

**Agenda item #10: OPEN FORUM ..... 15**

**Agenda item #11: FOR THE GOOD OF THE BOARD ..... 15**

**Agenda item #12 ADJOURNMENT..... 15**

**OFFICIAL BOARD MEETING MINUTES OF JUNE 18, 2014**

**REGULAR BUSINESS MEETING**

**MEMBERS IN ATTENDANCE (Exhibit A):**

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

Joel Marx, HME Member

Verna Riffe Biemel, Public Member

Carol Gilligan, HME Member

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

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

Robert Slabodnick, M.Ed., R.R.T., R.C.P.

Maninder Kalra, Ph.D., M.D., Physician Member

Andrea Yagodich, R.R.T., R.C.P.

**Staff in attendance:**

Christopher H. Logsdon, Executive Director

Traci L. McDonald, Administrative Professional I

**Others in Attendance:**

Steven R. Kochheiser, Assistant Attorney General

Bobby Robbins, Contract Investigator

David Cunningham

Aaron Blaine Wilcox

James Loomis, Ph.D.

David Corey, Ohio Society for Respiratory Care

Susan Ciarlariello, Legislative Chairperson, Ohio Society for Respiratory Care

**Agenda item #1: CALL MEETING TO ORDER AND APPROVAL OF AGENDA (Exhibit B)**

Mr. Mays called the meeting order at 9:15 am. Mr. Pavlak took roll call and all members were present

Motion #1: Ms. Riffe Biemel moved to approve the regular business agenda for May 18, 2014. Mr. Slabodnick seconded the motion. Discussion: None. Motion carried: 9 – 0.

**Agenda item #2: ADMINISTRATIVE HEARINGS**

Agenda item 2a: In the matter of Aaron Blaine Wilcox, Case #2014ORCB036

The matter of Aaron Blaine Wilcox came before the following members of the Ohio Respiratory Care Board on June 18, 2014 at 9:18 a.m. in Room East B, 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, Joel Marx, HME Member, Carol Gilligan, HME Member, Maninder Kalra, M.D., Kenneth Walz, J.D., R.R.T., R.C.P., Steven Pavlak, R.R.T., M.S., Verna Riffe Biemel, Public Member, Andrea D. Yagodich, B.S., R.R.T., R.C.P., and Robert Slabodnick, R.R.T., M.Ed. Robert Slabodnick, R.R.T., M.Ed. recused himself from the proceedings based upon his role as the Board liaison to the investigatory Probable Review Committee.

Kenneth Walz, J.D., R.R.T., R.C.P. served as the Appointed Hearing Officer in this matter.

Steven R. Kochheiser, Assistant Attorney General, represented the State of Ohio.

Aaron Blaine Wilcox appeared Pro Se.

Teresa L. Mantz was the Court Reporter, Deposition Specialists, Inc. 35 East Gay Street, Suite 300, Columbus, Ohio 43215.

Preliminary matters:

Mr. Walz noted that an Attorney did not represent Mr. Wilcox. Mr. Walz asked Mr. Wilcox if his observation was correct. Mr. Wilcox affirmed Mr. Walz's observation. Mr. Walz asked Mr. Wilcox if he received the Ohio Respiratory Care Board's Notice of Opportunity for Hearing wherein he was advised of his right to be represented by an attorney. Mr. Wilcox affirmed that he did receive the Ohio Respiratory Care Board's Notice of Opportunity for Hearing. Mr. Walz asked Mr. Wilcox, based on his

understanding of his right to be represented by an attorney, if it was his wish to proceed without the presence of counsel. Mr. Wilcox affirmed that he was prepared to proceed without the presence of counsel. Mr. Walz noted that the record would so reflect his acknowledgement.

Mr. Walz briefly reviewed the rules of the hearing and then asked if there were any preliminary stipulations. Hearing none, Mr. Walz proceeded with the hearing.

Mr. Kochheiser gave an opening statement. Mr. Wilcox waived the opening statement. The State presented its case in chief. The State called Aaron Blaine Wilcox, as on cross-examination, and Christopher H. Logsdon, Executive Director of the Ohio Respiratory Care Board. The State of Ohio moved for the admission of State's Exhibits 1 through 8. Hearing no objection from Mr. Wilcox, the State's exhibits were admitted.

Mr. Wilcox presented his case in chief. Mr. Wilcox called James Loomis, Ph.D. and David Cunningham, R.N. (retired) as witnesses. Mr. Wilcox testified on his own behalf.

Mr. Kochheiser and Mr. Wilcox gave a closing statement. The hearing concluded at 10:23 a.m.

Following the administrative hearing, the Board meeting was suspended to permit the Home Medical Equipment Committee and the Scope of Practice Committee to meet.

### **Agenda item #3: STANDING COMMITTEE MEETINGS**

The Board's Home Medical Equipment Committee met in Room East B, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio at 10:55 a.m. The Committee meeting adjourned at 11:25 a.m. Mr. Marx chaired the meeting. Official minutes of the Board's Home Medical Equipment Committee were prepared and are maintained separate of this journal.

The Board's Scope of Practice Committee met in Room 1616, 16th Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio at 10:37 a.m. The Committee meeting adjourned at 10:50 a.m. Ms. Yagodich chaired the meeting. Official minutes of the Board's Scope of Practice Committee were prepared and are maintained separate of this journal.

### **Agenda item #4: APPROVAL OF PRIOR MEETING MINUTES (Exhibit C & D)**

Agenda item 4.a: Prior Meeting Minutes - April 16, 2014 (Exhibit C)

Motion #2: Ms. Riffe Biemel moved to approve the prior meeting minutes from April 16, 2014. Ms. Yagodich seconded the meeting. Discussion: Mr. Walz inquired about Motion #31 and recommended striking the sentence concerning Mr. Mays' perception. Mr. Mays agreed. Motion was withdrawn.

Motion #3: Ms. Slabodnick moved amend Motion #31, page 23 of the April 16, 2014 minutes by deleting the sentence prior the vote count and then approve the meeting minutes as amended. Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 9 – 0.

**Agenda item #5: OFFICER AND STAFF REPORTS**

Agenda item 5c: President's Report

Mr. Mays informed the members that H.B. 165, the Hyperbaric Technologist Exemption bill, was recently signed into law. Mr. Mays stated that the new law would require the Board to collect certification information from Certified Hyperbaric Technologist and develop procedures for maintaining the certification information. The procedures, he stated, will be adopted in rule and the he therefore directed Mr. Pavlak to begin considering how to complete the associated rules.

Next, Mr. Mays informed the members that the Ohio Society for Respiratory Care (OSRC) has been working on draft amendments to ORC Chapter 4761. Mr. Mays invited Ms. Susan Ciarlariello from the OSRC to speak to the Board concerning progress on the project.

Ms. Ciarlariello stated the OSRC had found a sponsor to carry a bill to amend ORC Chapter 4761. Ms. Ciarlariello passed out a copy of a draft bill prepared by the Ohio Legislative Services Commission. Ms. Ciarlariello reviewed the amendments being considered. Significant discussion between Ms. Ciarlariello, Mr. Corey and the Board members followed concern the draft language. Significant discussion was given to proposed amendments to ORC 4761.09 (A) concerning impairment in practice. Members of the Board advised Ms. Ciarlariello that the proposed draft language might be lead to misinterpretation of the intent. Recommendations were provided. Mr. Logsdon recommended amending ORC Section 4761.03 (D) to address recognition of national examinations. Ms. Ciarlariello and Mr. Corey received positive comments on the proposed amendments. Ms. Ciarlariello and Mr. Corey thanked the Board for their time and input on the proposed language.

Mr. Logsdon noted that the Board did not approve the minutes of the May 13, 2014 teleconference meeting.

The Board meeting broke for lunch at 12:07 p.m. The meeting returned to public session at 1:07 p.m.

**Agenda item #4 Cont'd: APPROVAL OF PRIOR MEETING MINUTES**

Agenda item 4.b: Prior Meeting Minutes - May 13, 2014 (Exhibit D)

Motion #4: Mr. Pavlak moved to approve the meeting minutes of May 13, 2014. Mr. Slabodnick seconded the motion.  
Discussion: None. No further discussion. Motion carried: 9-0.

**Agenda item #5 Cont'd: OFFICER AND STAFF REPORTS**

Agenda item 5b: Executive Director's Report (Exhibit E)

Mr. Logsdon reported on the following issues:

1. FY 2014 Financial Report – Mr. Logsdon stated that the Board was near the end of the fourth quarter of FY 2014 and FY 2015 would soon begin. Mr. Logsdon reported that the payroll expenses are under budget due to an open position and funds have been transferred from payroll account to personal services to fund contract investigation services. Additional funds were encumbered to account for DAS services and Vantiv/5/3 online processing costs. Mr. Logsdon projected that the Board would end FY 2014 under budget. Mr. Logsdon recommended that the

- Board address specific priorities in FY 2015, including filling an open position or using contractors and reducing the number of inspector contracts to improve resource utilization.
2. FY 2016/2017 budget preparation – Mr. Logsdon reported that the Board would soon be receiving budget guidance for the FY 2015/2016 budget.
  3. 2014 Workforce Plan – Mr. Logsdon reported that the Boards and Commissions would be receiving new workforce planning guidance, which will likely contain succession-planning components.
  4. Disbursements and Budget Balances – Mr. Logsdon gave an overview of the Board disbursements and budget balances as of 6/5/2014.
  5. FY 2014 Revenue Report – Mr. Logsdon gave an overview of the revenue collected during FY 2014 for each account.
  6. License and Limited Permit Statistics – Mr. Logsdon provided a review of the number of persons holding licenses and registrations, the number of persons that have not yet renewed their licenses and registrations, and the number of persons renewing licenses and registrations.
  7. Meetings and Travel – Mr. Logsdon reported on the meetings and travel incurred since the prior meeting in April 2014.
  8. Legislation Monitoring – Mr. Logsdon reported on H.B. 165 and H.B. 488.
  9. Correspondence – Mr. Logsdon provided that the Board with a copy of a letter filed by Dr. Gerald N. Arndt requesting a refund of fees.

Members discussed the Board’s policy on refunding fees. After considerable discussion, no action was taken.

Agenda item 5c: HME Manager’s Report (Exhibit F)

Ms. Tatum was not in attendance to give a verbal review of her report. Mr. Logsdon provided the member with a written report prepared by Ms. Tatum.

Motion #5: Mr. Slabodnick moved to approve the President’s report. Ms. Riffe Biemel seconded the motion. Discussion: None. Motion carried: 9 – 0.

Motion #6: Ms. Yagodich moved to approve the Executive Director’s report. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 9 – 0.

Motion #7: Mr. Slabodnick moved to approve the HME Manger’s report. Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 9 – 0.

Motion #8: Mr. Walz moved to enter Executive Session pursuant to ORC 121.22 (G) to conference with an attorney for the public body concerning disputes involving the public body that are the subject of pending or imminent court action. Ms. Yagodich seconded the motion. Roll call vote:

Marc Mays -	Yes	Kenneth Walz -	Yes
Joel Marx -	Yes	Maninder Kalra, M.D. -	Yes
Steven A. Pavlak -	Yes	Verna Riffe Biemel -	Yes
Andrea Yagodich -	Yes	Robert Slabodnick -	Yes
Carol Gilligan -	Yes		

Motion carried.

The Board moved into executive session at 1:44 p.m. Ms. McDonald and visitors were asked to leave the meeting. All nine members of the Board, Christopher Logsdon and Steven Kochheiser were present during Executive Session. Executive Session concluded and the Board returned to public session at 1:53 p.m.

## **Agenda item #6: BOARD COMMITTEE REPORTS**

### Agenda item 6a: Home Medical Equipment Committee – Joel Marx, Chair

Mr. Marx reported that the Home Medical Equipment (HME) Committee met and reviewed the HME Manger's inspection report and form amendments for initial license and initial registration applications. Mr. Marx stated that the HME Committee would be recommending approval of the forms, which are on the agenda under new business. Mr. Marx also reported that the HME Committee is working on questions for an Attorney General's opinion request concerning authority to perform inspections prior to license issuance and the Board's authority concerning out-of-state HME facilities.

### Agenda item 6b: Scope of Practice Committee – Andrea Yagodich, Chair (Exhibits G & H)

Ms. Yagodich reported that the Scope of Practice Committee met and reviewed two inquiries filed. Ms. Yagodich reported the Board's Executive Director provided the committee with draft responses to each inquiry. Following a review of the inquiry and the draft responses, the committee is recommending the Board approve the responses as presented.

Ms. Yagodich stated the first inquiry was from Ms. Kathleen Deakins who asked three questions: (1) Can respiratory therapists administer alcohol breath testing?, (2) What is the Board's position on medical assistants performing pulmonary function testing in a physician's office?, and (3) In 2015, will all Registered Respiratory Therapists be required to maintain active credentialing with the NBRC? Ms. Yagodich summarized the committee's recommended response.

Ms. Yagodich stated the second inquiry was from Mr. Todd Bickley who asked if respiratory therapists could accept and write verbal orders for medications and treatments that relate to the treatment of a cardiopulmonary condition. Ms. Yagodich summarized the committee's recommended response.

Motion #9: Mr. Pavlak moved to approve the Home Medical Equipment Committee Report. Dr. Kalra seconded the motion. Discussion: None. Motion carried: 9 – 0.

Motion #10: Mr. Pavlak moved to approve the Scope of Practice Committee report and the Board's response to the following persons, which will be attached as marked exhibits to the Board's minutes:

Exhibit G – Response to Kathleen Deakins.  
Exhibit H - Response to Todd Bickley

Mr. Marx seconded the motion. Discussion: None. Motion carried: 9 – 0

## **Agenda item #7: DELIBERATION IN PRIVATE SESSION**

### Agenda item 7: Deliberation in Private Session

Motion #11: Mr. Walz moved to go into private session for the purpose of entering into quasi-judicial deliberations concerning the matter of Aaron Blaine Wilcox (Case#2014ORCB036. Ms. Gilligan seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Kenneth Walz -	Yes
Joel Marx -	Yes	Maninder Kalra, M.D. -	Yes
Steven A. Pavlak -	Yes	Verna Riffe Biemel -	Yes
Andrea Yagodich -	Yes	Robert Slabodnick -	Yes
Carol Gilligan -	Yes		

Motion carried.

The Board moved into private session at 1:58 p.m., and returned to regular, public session at 2:21 p.m. Mr. Slabodnick, Ms. McDonald, and Steven Kochheiser were excused from participation. Eight Board members and Mr. Logsdon were present during private session.

Following private session, the Board entered the following Findings of Fact, Conclusions of Law, and Journal Entries:

**Agenda item #8: FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JOURNAL ENTRIES**

Agenda item 8.a: In the matter of Aaron Blaine Wilcox, Case #2014ORCB068 (Exhibit I)

The Ohio Respiratory Care Board  
**Adjudication Order**

**In the Matter Of:**

Aaron Blaine Wilcox  
6250 New London Road  
Ashtabula, OH 44004

THE MATTER OF AARON BLAINE WILCOX CAME BEFORE THE FOLLOWING MEMBERS OF THE OHIO RESPIRATORY CARE BOARD ON JUNE 18, 2014 AT 9:18 A.M. IN ROOM EAST B, 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, JOEL MARX, HME MEMBER, CAROL GILLIGAN, HME MEMBER, MANINDER KALRA, M.D., KENNETH WALZ, J.D., R.R.T, R.C.P., STEVEN PAVLAK, R.R.T., M.S., VERNA RIFFE BIEMEL, PUBLIC MEMBER, ANDREA D. YAGODICH, B.S., R.R.T., R.C.P., AND ROBERT SLABODNICK, R.R.T, M.ED. ROBERT SLABODNICK, R.R.T., M.ED. RECUSED HIMSELF FROM THE PROCEEDINGS BASED UPON HIS ROLE AS THE BOARD LIAISON TO THE INVESTIGATORY PROBABLE REVIEW COMMITTEE.

KENNETH WALZ, J.D., R.R.T., R.C.P. SERVED AS THE APPOINTED HEARING OFFICER IN THIS MATTER.

STEVEN R. KOCHHEISER, ASSISTANT ATTORNEY GENERAL, REPRESENTED THE STATE OF OHIO.

AARON BLAINE WILCOX APPEARED PRO SE.

TERESA L. MANTZ WAS THE COURT REPORTER, DEPOSITION SPECIALISTS, INC. 35 EAST GAY STREET, SUITE 300, COLUMBUS, OHIO 43215.

**Preliminary matters:**

Mr. Walz advised Aaron Blaine Wilcox of his right to have legal counsel. Aaron Blaine Wilcox affirmed that he was prepared to proceed without the presence of counsel.

No further preliminary matters.

**State's Exhibits admitted:**

- 1 – Notice of Opportunity for Hearing approved on April 16, 2014 and mailed to Aaron Blaine Wilcox by certified mail/return receipt #7011 1150 0001 6781 8537 on April 21, 2014 and a signed return receipt for certified mail article #7011 1150 0001 6781 8537.
- 2 – Email from Aaron Blaine Wilcox dated April 24, 2014 requesting a hearing before the Ohio Respiratory Care Board.
- 3 – Hearing scheduling letter dated April 28, 2014 mailed to Aaron Blaine Wilcox by certified mail/return receipt #7011 1150 0001 6781 8544 on April 21, 2014 and a signed return receipt for certified mail article #7011 1150 0001 6781 8544.
- 4 – Certified copies of Aaron Blaine Wilcox journal entry, dated September 29, 2011, from Painesville Municipal Court, Lake County, Ohio, case #CRB 1101923.
- 5 – Ohio Uniform Incident Report, dated March 7, 2014, incident #TWP1101322.
- 6 – Statement filed by Aaron Blaine Wilcox with application for initial license for limited permit and a statement dated December 29, 2013.
- 7 – Letters of reference filed by Aaron Blaine Wilcox from:
  - a. Michael G. Shank, Chief of Police
  - b. David Goswick, Lecturer, Kent State University, Ashtabula branch
  - c. Amy Rodenhausen, Director of Clinical Education, Kent State University, Ashtabula branch
  - d. Chris Schwandenberger, Manager, Lutheran Hospital
  - e. William G. Rogers, Education Coordinator, Lutheran Hospital
  - f. Michelle Cruz, RRT
  - g. James E. Loomis, PhD
  - h. Gifford Baker, Pastor
  - i. Tim Branscome, Office Manager
  - j. Carolyn Held, RCP
- 8 – Initial application for limited permit filed by Aaron Blaine Wilcox on December 23, 2013.

**Witnesses called by the State:**

1. Aaron Blaine Wilcox as on cross-examination.
2. Christopher H. Logsdon, Executive Director, Ohio Respiratory Care Board.

**Respondent's Exhibits admitted:**

None.

Witnesses called by the Respondent:

1. James Loomis, Ph.D.

2. David Cunningham, R.N. (retired)
3. Aaron Blaine Wilcox testified on his own behalf.

#### **FINDINGS OF FACT**

- A. State's Exhibit 4 shows that on or about September 29, 2011, Aaron Blaine Wilcox was found guilty in the Painesville Municipal Court, Lake County, Ohio, case #CRB-1101923, of Unlawful Purchase of Pseudoephedrine, a violation of Section 2925.55 (B)(1) of the Revised Code, a Misdemeanor of the first degree.
- B. Aaron Blaine Wilcox did not dispute his conviction record.
- C. The Board finds the following aggravating facts:
  - a. Aaron Blaine Wilcox's history of convictions demonstrates a pattern of uncontrolled substance abuse and disregard for the law.
  - b. Aaron Blaine Wilcox intentionally withheld information on his initial application and only after being presented with the additional facts from the Board did he provide full disclosure of his addiction history.
- D. The Board finds the following mitigating facts:
  - a. Based on the testimony of Aaron Blaine Wilcox, the following rehabilitation programs have been completed:
    1. A five-day inpatient detox program.
    2. A fifteen week intensive outpatient rehabilitation program, and
    3. Two 12-step Alcoholic Anonymous programs.
  - b. Based on the testimony of Aaron Blaine Wilcox, he has been sober since February 19, 2012.

#### **CONCLUSIONS OF LAW**

1. 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; \*\*\*
2. The factual and legal allegations contained in the Notice of Opportunity for Hearing have been proven by a preponderance of the evidence.

#### **ORDER OF THE BOARD**

THEREFORE, it is ordered, adjudged, and decreed by the Ohio Respiratory Care Board that:

In consideration of these findings and conclusions, the Board hereby ISSUES Aaron Blaine Wilcox a Limited Permit to practice respiratory care under the direction of a licensed respiratory care professional. Upon issuance of the limited permit, the Board immediately places Aaron Blaine Wilcox on PROBATION for a period of two (2) years from the effective date of this order.

The following provisions of Aaron Blaine Wilcox's probation shall remain in effect during the term of probation:

- A. Aaron Blaine Wilcox shall obey all federal, state and local laws, and all rules governing the practice of respiratory care in Ohio. 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 after the effective date of this order shall constitute a violation of an order of the Board.
- B. Aaron Blaine Wilcox shall sign a valid release, allowing the Board to obtain records from any drug and alcohol treatment programs and/or drug and alcohol testing programs.
- C. Aaron Blaine Wilcox shall attend Alcoholics or Narcotics Anonymous, or other board-approved meetings, no less than three times per week or as otherwise recommended by a treatment provider. Aaron Blaine Wilcox is responsible for providing the Board with monthly written documentation showing attendance of such meetings. Declarations are due to the Board's offices on or before the first day of every month.
- D. Aaron Blaine Wilcox shall not use or possess illegal drugs or consume alcohol or other intoxicating substances.
- E. Aaron Blaine Wilcox shall not use or possess prescription drugs, except those prescribed, dispensed or administered to him by another so authorized by law who has full knowledge of Aaron Blaine Wilcox's history of chemical dependency, as evidenced by a written acknowledgement by such person of having reviewed this order. Any use of a prescription drug in a manner or dosage inconsistent with a physician's prescription will constitute a violation of this order.
- F. Aaron Blaine Wilcox shall submit to unannounced random drug and alcohol testing at least four (4) times each year in the manner prescribed by the Board. Aaron Blaine Wilcox shall pay for such testing. If such drug test evidences the use of alcohol, illegal or non-prescribed prescription drugs, it shall be deemed a violation of this Order. A failure to submit a drug screen upon request, or a submission of any adulterated OR diluted toxicology result, shall constitute a positive screen for the purposes of this Order. It is the responsibility of the respondent to have a working phone number with messaging system on file with the Board. Failure to do so will be a violation of this Order. A request from the Board's Executive Director, Investigator, or designated alcohol and drug screening service to provide a drug screen shall constitute an authorized drug screen request for the purpose of this Order.
- G. Aaron Blaine Wilcox shall appear in person for interviews every six (6) months before the Board or its designated representative, or as otherwise directed by the Board or its designated representative. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.
- H. Aaron Blaine Wilcox shall cause his employer to file quarterly performance reviews, which shall be filed on forms prescribed by the Board. The first performance review shall be filed with the Ohio Respiratory Care Board fourteen (14) days following the effective date of this Order and every three months thereafter. Aaron Blaine Wilcox shall file a valid release of information form with the Board.
- I. Aaron Blaine Wilcox shall appear before the Ohio Respiratory Care Board as a condition for consideration of an application for initial respiratory care professional license.

The Order of the Board shall become effective upon the date of mailing of the Order.

Motion #12: KENNETH WALZ, J.D., R.R.T., R.C.P. MOVED FOR FINDINGS OF FACT. STEVEN PAVLAK, M.S., R.R.T., R.C.P. SECONDED THE MOTION. DISCUSSION: NONE. MOTION CARRIED (AYE – 8, NO - 0, ABSTAINED – 1, SLABODNICK).

Motion #13: KENNETH WALZ, J.D., R.R.T., R.C.P. MOVED FOR CONCLUSIONS OF LAW. JOEL MARX SECONDED THE MOTION DISCUSSION: NONE. MOTION CARRIED (AYE – 8, NO - 0, ABSTAINED – 1, SLABODNICK).

Motion #14: KENNETH WALZ, J.D., R.R.T., R.C.P. MOVED FOR ORDER OF THE BOARD. ANDREA YAGODICH, R.R.T., R.C.P. SECONDED THE MOTION. DISCUSSION: NONE. MOTION CARRIED (AYE – 8, NO - 0, ABSTAINED – 1, SLABODNICK).

SO ORDERED

This Board hereby certifies that the above language is incorporated into the Board's journal in this case.

Mr. Mays stated that the original order should be signed by the Board President and attached as an exhibit to the meeting minutes.

**Agenda item #9: PROBABLE REVIEW COMMITTEE REPORT**

Motion #15: Mr. Walz moved to enter Executive Session for the purpose of considering the investigation of charges or complaints against licensees under R.C. 121.22(G)(1) and which involves matters that are required to be kept confidential under R.C. 149.43(A)(2) and R.C. 4761.03(E) and 4752.08 (B). Ms. Yagodich seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Kenneth Walz -	Yes
Joel Marx -	Yes	Steven A. Pavlak -	Yes
Andrea Yagodich -	Yes	Maninder Kalra, M.D. -	Yes
Robert Slabodnick -	Yes	Vern Riffe Biemel -	Yes
Carol Gilligan -	Yes		

Motion carried.

The Board entered executive session at 2:32 p.m., and returned to regular, public session at 2:57 p.m. Eight Board members were present during executive session. Mr. Slabodnick was excused from participating in executive session. Mr. Logsdon, Ms. McDonald, and Mr. Kochheiser were present during Executive Session.

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

Agenda item 9b: Approval of Opportunity for Hearing Notices (Exhibits J - N)

Motion #16: Mr. Walz moved to issue an opportunity for hearing notice in accordance with ORC 119.07 as presented to the Board in the matters of:

**RCB Opportunity for Hearing Notices**

<u>Exh. #</u>	<u>Case no. /Respondent</u>	<u>Allegation</u>	<u>ORC Code</u>
J.	2014ORCB054 (Brittany D. Beckman)	Conviction of offense involving moral turpitude	ORC 4761.09 (A) (1)

**HME Opportunity for Hearing Notices**

<u>Exh. #</u>	<u>Case no. /Respondent</u>	<u>Allegation</u>	<u>ORC Code</u>
K.	2014HME015 (Absolute Chiropractic, Inc.) (HMEL.11511)	Failure to comply with directive to meet standards	ORC 4752.09 (A)(1)
L.	2014HME016 (Buckeye Physical Medicine & Rehab – Gahanna) (HMEL.11545)	Failure to comply with directive to meet standards	ORC 4752.09 (A)(1)
M.	2014HME017 (Kenwood Family Chiropractic, LLC) (HMEL.11544)	Failure to comply with directive to meet standards	ORC 4752.09 (A)(1)
N.	2014HME018 (Buckeye Physical Medicine & Rehab – Heath) (HMEL.11569)	Failure to comply with directive to meet standards	ORC 4752.09 (A)(1)

Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 7 – Yes, 2 – Abstained (Mr. Slabodnick and Ms. Gilligan).

Agenda item 9c: Approval of Consent Agreement (Exhibit O)

Motion #17: Mr. Walz moved to approve the following consent agreement:

**RCB Agreements**

<u>Exh. #</u>	<u>Case no. /Respondent</u>	<u>Violation</u>	<u>Action</u>
O.	2014ORCB014 (Mesmer A. Gebreberhane, L1.6984)	Conviction of offense involving moral turpitude	Violation of ORC 4761.09 (A) (1)

Ms. Riffe Biemel seconded the motion. Discussion: None. Motion carried: 8 – Yes, 1 – Abstained (Mr. Slabodnick).

Agenda item 9d: Closed Case Review

Motion #18: Mr. Walz moved to approve the closure of the following cases:

- 2014ORCB037 – with warning letter
- 2014ORCB045
- 2014ORCB047
- 2014ORCB053

2014HME013

Ms. Yagodich seconded the motion. Discussion: None. Motion carried: 8 – Yes, 1 – Abstained (Mr. Slabodnick).

**Agenda item #10: NEW BUSINESS**

Agenda item 10a: Application ratification for licenses and limited permits issued since the last meeting (Exhibit P)

Motion #19: Mr. Walz moved to ratify respiratory care professional licenses and limited permits issued on the following dates:

Limited Permits issued on: April 10, 2014, April 17, 2014, April 24, 2014, May 1, 2014, May 8, 2014, May 14, 2014, May 21, 2014, May 29, 2014, and June 6, 2014.

Respiratory Care Professional Licenses issued on: April 10, 2014, April 17, 2014, April 24, 2014, May 1, 2014, May 8, 2014, May 14, 2014, May 16, 2014, May 21, 2014, May 29, 2014, and June 6, 2014.

Dr. Kalra seconded the motion. Discussion: None. Motion carried 9 - 0.

Agenda item 10b: Application ratification for Home Medical Equipment Licenses and Certificates of Registration (Exhibit Q)

Motion #20: Mr. Walz moved to ratify HME licenses and certificates of registration issued on the following dates:

HMEL  
April 17, 2014, April 21, 2014, May 9, 2014, May 13, 2014, May 21, 2014, and May 30, 2014.

HMER  
April 17, 2014, April 21, 2014, April 25, 2014, April 30, 2014, May 7, 2014, May 9, 2014, May 13, 2014, May 14, 2014, and May 30, 2014.

Dr. Kalra seconded the motion. Discussion: None. Motion carried: 9 – 0.

Agenda item 10c: HME Form Approval (Exhibit R)

Motion #21: Mr. Walz moved to approve the following home medical equipment form amendments:

1. RCB-035 HME Certificate of Registration Application
2. RCB-034 HME License Application
3. RCB-042 Affidavit of Exception form
4. Facility self-evaluation form

Mr. Pavlak seconded the motion. Discussion: Mr. Marx noted a typographical error on the RCB-034 HME License Application. Motion carried: 9 – 0.

Agenda item 10d: Respiratory Care Licensing Form Approval (Exhibit S)

Motion #22: Mr. Walz moved to approve the following respiratory care form amendments:

1. RCB-0002 Respiratory Care Initial Application form approval

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

**Agenda item #10: OPEN FORUM**

There was no discussion.

**Agenda item #11: FOR THE GOOD OF THE BOARD**

There was no discussion.

**Agenda item #12 ADJOURNMENT**

Mr. Mays asked if there was any other business to bring before the Board.

Hearing none, Mr. Mays adjourned the meeting at 3:18 p.m.

Board President's Certification: These are a true account of the proceedings in accordance with Section 121.11 of the Ohio Revised Code, approved by a majority of a quorum of the membership of the Board on August 20, 2014.

  
Steve Pavlak, Board Secretary

  
Witness