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## **OHIO RESPIRATORY CARE BOARD**

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

COLUMBUS, OHIO 43215-6108

### **OFFICIAL BOARD MEETING MINUTES OF October 21, 2009**

#### **NOTE ON COMMITTEE MEETINGS**

The Board's Scope of Practice, Home Medical Equipment and Education Committees met prior to the regular business meeting. The Education Committee met at 9:00 a.m. in room West B&C on the 31<sup>st</sup> floor, Vern Riffe Center for the Government and Arts. The Home Medical Equipment Committee met at 9:30 a.m. in the Ohio Respiratory Care Board office located on the 16<sup>th</sup> floor of the Vern Riffe Center for the Government and Arts, and the Scope of Practice Committee met at 10:00 a.m. in room West B&C on the 31<sup>st</sup> 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.

**October 21, 2009**

#### **Regular Business Meeting**

#### **Agenda items #1: CALL MEETING TO ORDER**

Presiding: Marc Mays, President, called the meeting to order on October 21, 2009 at 11:06a.m. in room West B&C, 31<sup>st</sup> 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., Joel Marx, HME member, 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. Robert Cohn M.D. and Carol Gilligan, HME member 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.

#### **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

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

**Others in Attendance:**

Yvonne Tertel, Assistant Attorney General

Edward Orlett, Ohio Society for Respiratory Care

**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. Hearing none, he asked for a motion to approve the agenda

Motion #1: Ms. Kester moved to approve the meeting agenda for October 21, 2009. Mr. Walz seconded the motion.  
Discussion: None. Motion carried: 7 - 0.

**Agenda item 1.2: 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. Mr. Walz noted two non-substantive corrections.

Motion #2: Mr. Walz moved to approve the meeting minutes from August 26, 2009. Ms. Kester seconded the motion.  
Discussion: No further discussion. Motion carried: 7 - 0.

**Agenda item #2: BOARD OFFICER AND STAFF REPORT**

**Agenda item 2.1: President's Report**

Mr. Mays gave a verbal report. He informed the members that he was working on the Executive Director's annual performance evaluation. Mr. Mays stated that evaluating the Executive Director's annual performance is one of the Board's greatest responsibilities, since the Board entrusts much to this position. Mr. Mays stated that a draft would be sent to each member for comment. He asked that members correspond directly with him so that he could complete the formal document in December 2009.

Next, Mr. Mays stated that Mr. Logsdon had taken a two-week vacation and that the office function went very well during his leave.

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

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

1. Mr. Logsdon reported that the Board's current expenses are within budget allotments. Mr. Logsdon stated that he has annualized the estimated payroll and believes the agency will end the year well within the budget allotments, due to the cost saving days implemented under the recent state employees contract. Mr. Logsdon stated that he would monitor maintenance expenses closely. In other budget matters, Mr. Logsdon stated that he obtained an estimate of costs to complete a detailed inventory of records stored offsite.

Discussion: Members inquired about the justification for obtaining a detailed records inventory. Mr. Logsdon reported that stored records have been moved in groups, based on expiration year. The inventory detail will allow the Board, he stated, to know the exact content and location of every record in storage.

2. Mr. Logsdon directed members of the Board to the revenue and expenditures listed in his written report and inquired if there were any questions.
3. Mr. Logsdon reviewed the current licensing statistics with members.
4. Mr. Logsdon reported on travel he had conducted on the Board's behalf. He stated that he had chosen to not accept travel reimbursement for the travel presented.
5. Mr. Logsdon stated that the Ohio Department of Administrative Services had proposed to relocate the office of the Central Service Agency, but after Boards and Commissions raised some concern, the decision was reversed.
6. Mr. Logsdon discussed a written notice received from the Ohio State Auditor, Mary Taylor, informing the agency the DAS accounts were no longer available to fund the biennial audit of the Board's records. As a result, Auditor Mary Taylor has informed the Board that audits will now be annually and that the agency must be responsible for paying the cost of these audits.

Discussion: Mr. Logsdon stated that he collected information on the average costs of an audit and believes the new directive is financially unmanageable given the agency's budget restraints. Mr. Logsdon stated that the Auditor acknowledges the fiscal challenges. The Board, he stated, did not prepare for such an expense and recommended that the Board communicate such to the Auditor's office.

7. Mr. Logsdon discussed the new on-line travel reporting system. He reviewed the process he would like members to follow to receive proper reimbursement for mileage and lodging. Members discussed the new process and Mr. Logsdon answered questions to the best of his ability. He asked members to send the office travel receipts within 2 weeks of the meeting date, but no later than 30 days of the meeting date.

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

Ms. Tatum issued a written report. A brief verbal review was provided. Ms. Tatum reported that the Board has approved six new HME licenses and 17 new HME Registrations since the last meeting. Ms. Tatum reported that ten applications are currently pending. Ms. Tatum also reported that all HME inspections for March, April, May, and June had been completed. Inspections for October through December are currently being scheduled. Mr. Tatum reported that all inspectors have signed new inspector contract containing a 15% decrease in the contract amount.

Discussion: Mr. Logsdon reported that the trend for HME registration continues to be the prevailing route of authorization sought by providers. Mr. Logsdon also stated that competitive bidding is creating new applications from out-of-state providers.

Motion #3: Ms. Ciarlariello moved to approve the use of funds, if available, for a detailed records inventory for stored records, if the Executive Director deems the project would add to the efficiencies of the agency. Ms. Adams seconded the motion. Discussion: None. Motion carried: 6 – yes, 1 – No (Walz).

Motion #4: Mr. Marx moved to approve the office and staff reports. Ms. Kester seconded the motion. Discussion: None.  
Motion carried: 7-0.

The Board took a break for lunch at 12:00 p.m. and returned to public session at 1:02 p.m.

## ADMINISTRATIVE HEARINGS

### In the Matter of Alicia A. Howe, Case #2009ORCB027

The matter of Alicia A. Howe came before the following members of the Ohio Respiratory Care Board on October 21, 2009 at 1:02 p.m. in room West B&C, 31<sup>st</sup> 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., Joel Marx, HME member, 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. Howe did not request a hearing before the board and was not present. This hearing was held pursuant to Goldman vs. State Medical Board of Ohio, (March 29, 1996), Franklin County Court of Appeals, 95APE 10-1358 (unreported). Teresa L. Mantz, C.P.R., was the hearing reporter, Deposition Specialists, Inc. 35 East Gay Street, Suite 300, Columbus, OH 43215.

Mr. Heckman inquired if there were any preliminary matters: None.

Mr. Heckman then asked Ms. Tertel to present her case-in-chief.

Witnesses called for the state:

Christopher H. Logsdon, Executive Director

Anthony Isom, Investigator

Following witness testimony, Ms. Tertel moved to enter State's Exhibit on the record. Mr. Heckman admitted State's Exhibits A – H.

State's Exhibits admitted:

- A - Notice of Opportunity for Hearing approved on June 9, 2009, and mailed to Alicia A. Howe by registered mail/return receipt # 7004 2510 0001 7343 6744 on June 11, 2009. Additionally, a Signed return receipt # 7004 2510 0001 7343 6744, signed by Alicia A. Howe on June 15, 2009.
- B - Certified copy of consent agreement entered into between Alicia A. Howe and the Ohio Respiratory Care Board on February 10, 2009.
- C - Letter and copy of approved February 10, 2009, Consent Agreement mailed to Alicia A. Howe, RCP-8140 by registered mail/return receipt # 7004 2510 0001 7343 6409 on February 17, 2009. Additionally, a Signed return receipt # 7004 2510 0001 7343 6409, signed by Alicia A. Howe on February 19, 2009.
- D - Letter mailed to Alicia A. Howe, dated March 27, 2009 by registered mail/return receipt # 7004 2510 0001 7343 6485 on March 27, 2009. Additionally, a Signed return receipt # 7004 2510 0001 7343 6485, returned to the Ohio Respiratory Care Board as "unclaimed."

- E - Electronic mail sent to Alicia Howe on April 20, 2009 to her email address on record with the Ohio Respiratory Care Board.
- F - Letter mailed to Alicia A. Howe, on May 1, 2009, to Ms. Howe's address on record with the Ohio Respiratory Care Board, returned to the Board for "Insufficient Address."
- G - Affidavit in the Alicia A. Howe, Case #2009ORCB027, signed and dated by Christopher H. Logsdon, Executive Director on August 25, 2009.
- H. Hearing Scheduling Letter, dated August 27, 2009, mailed to Alicia A. Howe, by certified regular mail to Ms. Howe's address on record with the Ohio Respiratory Care Board.

Following Ms. Tertel's case-in-chief, she rested. Mr. Heckman concluded the hearing at 1:20 p.m.

#### In the Matter of Yvonne D. Foster, Case #2009ORCB049

The matter of Yvonne D. Foster came before the following members of the Ohio Respiratory Care Board on October 21, 2009 at 1:25 p.m. in room West B&C, 31<sup>st</sup> 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., Joel Marx, HME member, 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. Foster did not request a hearing before the board and was not present. This hearing was held pursuant to Goldman vs. State Medical Board of Ohio, (March 29, 1996), Franklin County Court of Appeals, 95APE 10-1358 (unreported). Teresa L. Mantz, C.P.R., was the hearing reporter, Deposition Specialists, Inc. 35 East Gay Street, Suite 300, Columbus, OH 43215.

Mr. Heckman inquired if there were any preliminary matters: None.

Mr. Heckman then asked Ms. Tertel to present her case-in-chief.

Witnesses called for the state:

Christopher H. Logsdon, Executive Director

Anthony Isom, Investigator

Following witness testimony, Ms. Tertel moved to enter State's Exhibit on the record. Mr. Heckman admitted State's Exhibits A – I.

State's Exhibits admitted:

- A - Notice of Opportunity for Hearing approved on June 9, 2009, and mailed to Yvonne D. Foster, L1.5722 by registered mail/return receipt # 7004 2510 0001 7343 6720 on June 11, 2009. Additionally, a Signed return receipt # 7004 2510 0001 7343 6720, signed by Yvonne D. Foster on June 12, 2009.
- B - Copy of Application for Initial License/Limited Permit, filed with the Ohio Respiratory Care Board by Yvonne D. Foster on October 16, 2008.
- C - Copy of Application for Initial License/Limited Permit, filed with the Ohio Respiratory Care Board by Yvonne D. Foster on March 23, 2009.

- D - Copy of "Letter of Understanding," dated March 25, 2009 and signed by Yvonne D. Foster on April 10, 2009.
- E - Certified journal entry for Disorderly Conduct, case # 0302770-A, from the Vandalia Municipal Court, Vandalia, Ohio and a certified journal entry for Trespassing, case # 0701232, Vandalia Municipal Court, Vandalia, Ohio.
- F - Attachment to March 23, 2009, Application for Initial License/Limited Permit, filed with the Ohio Respiratory Care Board by Yvonne D. Foster.
- G - Screen print of on-line license verification for Yvonne D. Foster, L1.5722.
- H - Affidavit in the Yvonne D. Foster, Case #2009ORCB049, signed and dated by Christopher H. Logsdon, Executive Director on August 18, 2009.
- I. Hearing Scheduling Letter, dated August 27, 2009, mailed to Yvonne D. Foster, by certified regular mail to Ms. Foster's address on record with the Ohio Respiratory Care Board.

Following Ms. Tertel's case-in-chief, she rested. Mr. Heckman concluded the hearing at 1:36 p.m.

Motion #5: Mr. Marx moved to go into private session for the purpose of entering into quasi-judicial deliberation in the matters of Alicia A. Howe, Case # 2009ORCB027 and Yvonne D. Foster, Case #2009 ORCB049. Mr. Walz seconded the motion. Discussion: None. Roll Call vote:

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

Motion carried.

The board entered executive session at 1:37 p.m. and returned to regular, public session at 2:29 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 Alicia A. Howe (Exhibit E)

Mr. Mays asked if the Board had reached a decision in the matter of Alicia A. Howe 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 Alicia A. Howe.

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 #6: Ms. Ciarlariello moved that the Board finds that the allegations contained in Counts 1 of the Opportunity for hearing in the matter of Alicia A. Howe is TRUE. Based upon the Board's findings of fact and conclusions of law in this matter, the Board hereby PERMANENTLY REVOKES Alicia A. Howe's license to practice respiratory care in the state of Ohio. The Order of the Board shall become effective upon the date of mailing.

Ms. Kester seconded the motion. Discussion: Mr. Heckman stated that the facts of this case were clear. He stated that Ms. Howe did not comply with the provisions of her February 2009, Consent Agreement, which was a second chance agreement. Ms. Howe did not submit a qualifying assessment from an approved Drug Assessment Counselor, did not respond to repeated requests to comply and/or contact the agency, and did not file any proof of attending Narcotics Anonymous or other qualifying meetings. In addition, Mr. Heckman stated that the members found aggravating facts in this matter, being the second chance agreement and the unusual attempts by staff to communicate with Ms. Howe. No further discussion. Motion carried: 6 – yes, 1 abstained (Mays).

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 Alicia A. Howe.

#### Findings, Conclusions of Law and Order in the Matter of Yvonne D. Foster (Exhibit F)

Mr. Mays asked if the Board had reached a decision in the matter of Yvonne D. Foster 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 Yvonne D. Foster.

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 #7: Mr. Marx moved that the Board finds that the allegations contained in Counts 1 of the Opportunity for hearing in the matter of Yvonne D. Foster is TRUE. Based upon the Board's findings of fact and conclusions of law in this matter, the Board hereby FINES Yvonne D. Foster two-hundred dollars, to be paid within 90 days of the effective date of the Board's Order. The Order of the Board shall become effective upon the date of mailing.

Mr. Walz seconded the motion. Discussion: None. Motion carried: 6 – yes, 1 abstained (Mays).

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 Yvonne D. Foster.

### **Agenda item #4:**

### **BOARD COMMITTEE REPORTS**

#### Agenda item 4.1: Education Committee Report

Ms. Kester reported that the Education Committee met this morning and hosted approximately 8–9 representatives of respiratory care educational programs throughout the state of Ohio. The Education Committee, she reported, proposed to publish the draft 2008 Ohio Education Report. The Committee had proposed to publish the data reported by Ohio's educational programs and the narrative analysis of the data rendered by F. Herbert Douce, a contracted educational expert. Ms. Kester stated that this was the first time the committee has proposed to relate program identity to the actual data. Before publishing the report, the Committee asked the Executive Director to redact identifying information and send the report to Ohio's respiratory care programs to review the accuracy of the reported data.

Ms. Kester reported that attendees appeared to comment on the draft education report. Ms. Kester stated that the most common concern heard was that the data was not accurate. Ms. Kester stated that the data, based upon comments heard, appears to have been accurate at the time each program sent the data, but due to the passage of time since providing the data and publishing the report, the

data has changed. The Committee committed to writing a disclaimer in the report addressing the accuracy of the data as it relates to the time it was submitted to the Board. In addition, the Committee will try to look at data changes since the drafting of the report and incorporate these changes into the report. In the future, the Committee, she stated, will ask programs to report their data by a specific date and the Board will commit to publishing the report by a specific annual date.

The second part of the Ohio Education Report is a needs assessment survey conducted by the Board, Ms. Kester reported. The Committee has not completed its review of this data, but hopes to complete this by the next meeting.

Discussion: Mr. Heckman asked if the Education Committee has discussed CoARC's new educational standards. Ms. Kester stated that the Committee has reviewed the first draft of CoARC's educational standards, but has not reviewed the final draft. Ms. Ciarlariello stated that all programs were given an opportunity to comment on the new standards.

Regarding the Education Report, Ms. Ciarlariello asked if the Executive Director would have any difficulty updating the current report. Mr. Logsdon reported that he had the data and would need to have Mr. Douce update the current report.

#### Agenda item 4.2: HME Committee Report

Mr. Marx stated that the committee met at 9:30 a.m. this morning. Mr. Marx stated that the Committee approved the prior meeting minutes, reviewed the progress of an HME facility named Omnicare on the progress of inspection responses that were previously appealed, and reviewed licenses and certificates of registrations issued. Mr. Marx reported that the HME Committee will be recommending the ratification of HME licenses and certificates of registration later in the meeting agenda.

#### Agenda item 4.3: Scope of Practice Committee Report

Mr. Mays stated that he served as acting Chairperson for the Scope of Practice Committee in Dr. Cohn's absence. The Committee, he stated, approved the previous meeting minutes and reviewed a number of scope of practice inquiries. Mr. Mays then reviewed each issue and the proposed response from the Committee.

##### A. Draft response letter to Doug Laher, Fairview Hospital.

- (1) Can licensed respiratory care professionals assist physicians and nurse personnel insert Peripherally Inserted Central Catheter lines?

The Committee moved to issue a response stating that assisting PICC line insertion is not addressed within the scope of practice, but that assisting other qualified professionals may be addressed by the health organization. The Committee also clarified that the issue addressed was **assisting**, not insertion of PICC lines.

##### B. Draft response letter to R. Stephen Nalawadi, DASCOS Home Medical Equipment

- (1) Can an RPSGT perform in-home/ office (1) mask fittings and (2) CPAP pressure changes in accordance with physician orders?
- (2) How does the Board define "under the general supervision of a physician" for an RPSGT as used in ORC 4761.10(B)(3)(a)?

The Committee moved to issue a response stating that an RPSGT cannot administer mask fitting and CPAP pressure changes without the general supervision of a physician.

##### C. Richard A. Dukes, Blanchard Valley Medical Center

- (1) Can respiratory care providers, who possess ACLS and Registered Respiratory Therapist credentials, be permitted to intubate patients in a clinical setting during an emergency, without a physician present?

The Committee moved to issue a response stating that the procedure is within the scope of respiratory care practice, if the health organization affirms practitioner competency and qualified orders within the context of an emergency. The Committee also stated that the issue of causing a valid order would need to be addressed.

D. Bob Harberson, The Toledo Hospital

- (1) Is arterial line insertion by a Licensed Respiratory Care Professional, with documented competency, considered to be within the scope of respiratory care practice?

The Committee moved to issue a response stating that the procedure is within the scope of respiratory care practice, if the health organization affirms practitioner competency and qualified orders.

E. Mary Irvin, RN, MBA, Good Samaritan Hospital

- (1) Can respiratory care providers administer Relenza for the treatment of influenza?

The Committee moved to issue a response stating that the administration of Relenza is within the scope of respiratory care practice, if the health organization affirms practitioner competency and qualified orders.

F. Marilyn Recker, St. Rita's Medical Center  
Laura Evans, Nationwide Children's Hospital

- (1) Is administering influenza vaccine by nasal mist route or intramuscular injection, upon completion of documented competencies, considered to be within the scope of respiratory care practice of a Licensed Respiratory Care Professional?

The Committee moved to issue a response stating that the administration of influenza vaccine is within the scope of respiratory care practice, if the health organization affirms practitioner competency.

Motion #8: Mr. Heckman moved to approve the Board Committee Reports. Ms. Kester seconded the motion. Discussion: None. Motion passed: 7 - 0.

Motion #9: Ms. Adams moved to approve the response letters of the Scope of Practice Committee to the inquiries filed. Mr. Walz seconded the motion. Discussion: None. Motion carried: 7 - 0.

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

Motion #10: Mr. Walz 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. Adams seconded the motion. Discussion: None. Roll Call vote:

Darrell L. Heckman -	Yes	Joel Marx -	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 2:55 p.m. and returned to regular, public session at 3:30 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 5.2: Approval of Opportunity for Hearing Notices

Motion #11: 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>
<b>RCB Proposed Opportunity for Hearing Notices</b>		
1. 2010ORCB008 (Patricia S. Thompson)	Concealment of Mat. Facts	ORC 4761.09 (A)(4)
2. 2010ORCB013 (Mary C. Rodriguez)	Unlicensed Practice	ORC 4761.09 (A)(2)
3. 2010ORCB012 (Mark E. Moody)	Unethical/unprofessional practice	ORC 4761.09 (A)(2)

Mr. Walz seconded the motion. Discussion: None. Motion carried: 6 – yes, Mays - Abstained

Motion #12: Ms. Ciarlariello moved to rescind an opportunity for hearing notice issued in the matter of case #2008ORCB041 (Loretta J. Jeronimo). Mr. Heckman seconded the motion. Discussion: None. Motion carried: 7 – yes

### Agenda item 5.3: Approval of Consent Agreements (Exhibit G - J)

Motion #13: Ms. Ciarlariello moved to approve the following consent agreements between the Board and the following respective respondents:

#### **RCB Agreements**

<u>Case no.</u>	<u>Respondent</u>
2007ORCB051	Bonnie L. Bilko (RCP.6197)
2009ORCB051	Angela M. Rider (RCP.9298)
2009ORCB067	Evelyn K. Gorton (RCP.3254)
2010ORCB002	Daar M. Warsame (RCP.11724)

Ms. Adams seconded the motion. Discussion: None. Motion carried: 6 – yes, Mays – Abstained

**Agenda item #6: NEW BUSINESS**

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

Motion #14: Mr. Marx moved to place upon the minutes of the October 21, 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: August 20, 2009, August 21, 2009, August 27, 2009, September 3, 2009, September 4, 2009, September 10, 2009, September 18, 2009, September 24, 2009, October 2, 2009, and October 8, 2009. Ms. Kester seconded the motion. Discussion: None. Motion carried: 7- 0.

Agenda item 6.2: Application ratification for HME licenses and certificates of registration  
(Exhibit L)

Motion #15: Ms. Adams moved to ratify HME licenses and certificates of registration issued on the following dates:

**HMEL**

September 3, 2009, September 10, 2009, September 15, 2009, September 18, 2009, September 23, 2009, and September 28, 2009.

**HMER**

August 18, 2009, August 25, 2009, August 26, 2009, September 3, 2009, September 8, 2009, September 10, 2009, September 15, 2009, September 18, 2009, and September 28, 2009.

Ms. Ciarlariello seconded the motion. Discussion: None. Motion carried: 7 – yes

Agenda item 6.3: Inspection Fee Rate Change

Mr. Mays asked the Executive Director to present the issue to the Board membership. Mr. Logsdon stated that the Board, at its last meeting, moved to approve a 15% rate reduction for contract HME facility inspectors. Mr. Logsdon stated that this amounts to a \$50 savings to the agency. Mr. Logsdon stated that Mr. Marx, at the previous meeting, asked that the savings be passed along to the facilities. The current fee charged to licensed facilities is \$350.00. Mr. Logsdon stated that motion before the Board proposes to reduce the inspection fee to licensed facilities to \$300.00. The action, he stated, would be budget neutral as it relates the Board's budget requirements, because expenditures for inspector fees have been reduced by an equivalent amount.

Motion #16: Mr. Walz moved to approve the inspection rate change to \$300.00. Mr. Marx seconded the motion. Discussion: None. Motion carried: 7 – 0.

Agenda item 6.4: 2010 Renewal Application Approval (Exhibit M collective)

Mr. Mays asked Mr. Logsdon to discuss the matter. Mr. Logsdon stated that the agenda item under consideration had several components: HMEL renewal forms and fees for licensed home medical equipment facilities, HMER renewal forms and fees for certificate of registration home medical equipment facilities, Limited Permit renewal forms for experienced-based and educational-based limited permits, and RCP renewal forms for respiratory care professional licensing.

Mr. Logsdon explained that he recommends a few changes to the current renewal forms and fees for home medical equipment licensing and registration. The first matter Mr. Logsdon addressed was renewal fees. Mr. Logsdon stated that the Board is required to

establish renewal fees in accordance with ORC 4752.17 (A), which requires the Board to set fees at a level necessary to meet the expenses incurred in the administering the licensing and registration program. Mr. Logsdon stated that he estimated the number of facilities that would be eligible for license or certificate of registration renewal in 2010. Based upon this review, Mr. Logsdon stated that the current estimated renewal fees for both programs would exceed the estimated expenses incurred in administering the two programs.

Next, Mr. Logsdon discussed renewal forms for the respiratory care-licensing program. Mr. Logsdon stated that the forms for respiratory care professional license renewal have been redrafted to address two primary changes: elimination of the biennial identification card and emphasis of online renewal as the primary method of processing. Mr. Logsdon discussed a proposed draft notice that would inform licensees and limited permit holders of the changes. Mr. Logsdon presented a draft online renewal notice, a paper renewal application for respiratory care professionals and revised paper applications for limited permit holders.

Discussion: Mr. Walz addressed a few typographical errors and inquired how to handle them. Mr. Logsdon asked members to send him any errors or style corrections to his attention. Mr. Marx stated that the revenue assumptions submitted by the Executive Director include an estimated diminished number of locations for certificate of registration holders. Mr. Marx stated that the competitive bidding does not become effective until 2011 and he believes the number of registrants will not change as much. Mr. Logsdon explained that the estimate was very conservative.

Mr. Marx addressed the HME license renewal form. Mr. Marx stated that there was no mechanism to pay for HME renewal by credit card. Mr. Marx stated that the rule requires a paper application. Mr. Marx also stated that applicants could not answer the sixth question under Part B, which asks about criminal convictions unless the facility performs continual background checks. Mr. Marx recommended that the language be changed to state, "To the best of your knowledge..." Last, Mr. Marx recommended that the acronym JCAHO on the Certificate of Registration renewal form be changed to "the Joint Commission."

Hearing no opposition, Mr. Mays asked Mr. Logsdon to change the forms accordingly.

Mr. Mays inquired about the display of a license under ORC 4761.05 and asked if the new rule on issuing I.D. cards conflicts. Mr. Logsdon stated that OAC 4761-3-01 defines the term license for conspicuous display as being the certificate of license, not the I.D. card.

Motion #17: Mr. Marx moved to adopt the draft renewal forms and recommended fees for the 2010 renewal year. Ms. Kester seconded the motion. Discussion: None. Motion carried: 7 – 0.

## **Agenda item #9: FOR THE GOOD OF THE BOARD**

Members discussed the future meeting schedule. The following dates were tentatively approved for calendar year 2010:

February 10, 2010  
April 14, 2010  
June 8, 2010  
August 13, 2010 – in Cleveland  
October 13, 2010  
December 1, 2010

Mr. Heckman informed the Board that he was scheduled to preside over an administrative hearing on November 10, 2009.

**Agenda item #10: ADJOURNMENT**

Hearing no further matters, Mr. Mays adjourned the business meeting at 4:10 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 December 16, 2009.

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Secretary

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Witness