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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 DECEMBER 7, 2011**

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

The Board's Scope of Practice Committee met prior to regular business at 9:05 a.m. in room West B & C, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. Official minutes of the Board's Scope of Practice Committee were prepared and are maintained separate of this journal.

The Board's Home Medical Equipment Committee met at 9:35 a.m. in room West B & C, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. Official minutes of the Board's Home Medical Equipment Committee were prepared and are maintained separate of this journal.

Following administrative hearings, the Board's Rule Committee met at 11:00 a.m. in room West B & C, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. These official minutes reflect the break taken for the Rules Committee. Office minutes of the Board's Rule Committee were prepared and are maintained separate of this journal.

#### **Regular Business Meeting**

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

Presiding: Marc Mays, President, called the meeting to order on December 7, 2011 at 10:00 a.m. in room West B & C, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. Mr. Walz took the roll. Present were Marc Mays, R.R.T., R.C.P., President, Kenneth Walz, J.D., R.R.T., R.C.P., Robert Cohn, M.D., Joel Marx, HME Member, Carol Gilligan, HME Member, and Scott Pettinichi, R.R.T., R.C.P. Mr. Mays noted that Ms. Sandra Stabile Harwood, J.D. and Anita Adams, M.B.A., R.C.P. contacted the agency office in advance of the meeting and would not attend. Mr. Mays also noted that more than a majority of the Board members was present; representing a quorum of the members of the Board and that business could be conducted.

**Members in attendance (Exhibit A):**

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

Scott Pettinichi, R.R.T., R.C.P.

Robert Cohn, M.D.

Carol Gilligan, HME Member

Joel Marx, HME Member

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

**Staff in attendance:**

Christopher H. Logsdon, Executive Director

Anthony Isom, Investigator

Marcia L. Tatum, HME Manager

**Others in Attendance:**

Michelle T. Sutter, Assistant Attorney General

Ed Orlett, Ohio Society for Respiratory Care

F. Herbert Douce, MS, R.R.T.-NPS, RPFT, RCP, FAARC  
OSU - School of Allied Medical Professions

Craig Black, Ph.D., R.R.T., R.C.P., University of Toledo

Susan M. Ciarlariello, M.B.A., R.R.T., R.C.P., Dayton Children's Hospital

Sarah Varekojis, Ph.D., R.R.T., R.C.P., OSU - School of Allied Medical Professions

Alan Kidder, ODFS, Provider Services

Beth Cooper, Ohio Society for Respiratory Care

Karen Stewart, American Association for Respiratory Care

Sam Giordano, American Association for Respiratory Care

Sean McGlone, Ohio Hospital Association

Agenda item 1.a: 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.

Motion #1: Mr. Walz moved to approve the meeting agenda for December 7, 2011. Ms. Gilligan seconded the motion.  
Discussion: None. Motion carried: 6 - 0.

Agenda item 1.b: Approval of Prior Meeting Minutes (Exhibit C)

The prior meeting minutes were mailed in advance of the meeting. Mr. Mays inquired if there were any changes or corrections to the minutes.

Motion #2: Dr. Cohn moved to approve the October 12, 2011 meeting minutes. Mr. Marx seconded the motion.  
Discussion: Mr. Walz addressed a substantive correction, pointing out an error on Page 3, 1a, motion #1. Mr. Logsdon reviewed the error and stated a correction would be made to the final version. Mr. Mays inquired if Dr. Cohn would accept an amendment to the main motion by accepting the correction. Hearing no objections, Mr. Mays called the original question. Motion carried: 6 – yes. Minutes were approved as corrected.

**Agenda item #2: ADMINISTRATIVE HEARINGS**

Agenda item 2a: **In the Matter Essex IV, LLC (Case #2012HME0036)**

The matter of Essex IV, LLC, came before the following members of the Ohio Respiratory Care Board : Marc Mays, R.R.T., R.C.P., President, Joel Marx, HME member, Robert Cohn, M.D., Kenneth Walz, J.D., R.R.T, R.C.P., Scott Pettinchi, MEd, R.R.T., R.C.P., and Carol Gilligan, HME Member. Joel Marx recused himself from the proceedings based upon his role as the board liaison to the investigatory probable review.

Kenneth Walz, J.D., R.R.T, R.C.P. was the appointed hearing officer in this matter.

Michelle T. Sutter, Assistant Attorney General, represented the state of Ohio.

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 was the Court Reporter, Deposition Specialists, Inc. 35 East Gay Street, Suite 300, Columbus, Ohio 43215. The hearing began at 10:03 a.m. and concluded at 10:21 a.m.

**Agenda item #3: CASE DELIBERATIONS IN EXECUTIVE SESSION**

Agenda item 3a: In the Matter of Essex IV, LLC (Case #2012HME0036)

Motion #3: Mr. Walz moved to go into private session for the purpose of entering into quasi-judicial deliberations concerning proposed disciplinary action against Essex IV, LLC. Dr. Cohn seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Carol Gilligan -	Yes
Kenneth Walz -	Yes	Joel Marx -	Abstained



- A - Notice of Opportunity for Hearing approved on August 17, 2011 and mailed to Essex IV, LLC by certified mail/return receipt # 7005 1820 0000 0296 0521 on August 22, 2011.
- A-1 - Envelope containing Notice of Opportunity for Hearing, sent by certified mail/return receipt # 7005 1820 0000 0296 0521, with label from United States Postal Service stating "Return to Sender, Unclaimed," dated September 15, 2011.
- A-2 - Certificate of Mailing for ordinary mail for Notice of Opportunity for Hearing approved on August 17, 2011 and re-mailed on September 23, 2011.
- B - Evidentiary Hearing Review Notice, dated November 4, 2011 and mailed to Essex IV, LLC by certified mail/return receipt # 7005 1820 0000 0296 0972 on November 4, 2011.
- C - Letter of Facility Inspection Findings, dated February 1, 2011 and sent to Essex IV, LLC's address of record.
- D - Inspection Response Reminder letter, dated April 14, 2011 and sent to Essex IV, LLC's address of record.
- E - Letter from Essex Phillips, dated April 25, 2011 to the Ohio Respiratory Care Board, Marcia Tatum.
- F - Review of Facility Inspection Response letter, dated May 11, 2011 sent to Essex IV, LLC's address of record.
- G - Letter from the Ohio Respiratory Care Board, dated May 17, 2011, to Essex IV, LLC's address of record and copy of check #1038 returned for insufficient funds.

#### **FINDINGS OF FACT**

1. Based upon a preponderance of the evidence, the Ohio Respiratory Care Board complied with ORC 119.07 in the mailing of the Notice of Opportunity for Hearing to Essex IV, LLC.
2. Based upon a preponderance of the evidence, Essex IV, LLC was properly served the Notice of Opportunity for Hearing, in accordance with ORC 119.07.
3. An inspection of Essex IV, LLC was conducted on February 8, 2011 by Mark Kemerer, contracted inspector for the Ohio Respiratory Care Board.
4. Upon completing the inspection of Essex IV, LLC on February 8, 2011, Mark Kemerer reviewed the finding of the inspection with Essex Phillips, Owner of Essex IV, LLC as indicated by Essex Phillips' signature on the Home Medical Equipment Inspection Survey. (Exhibit C, last page)
5. On April 14, 2011, the Ohio Respiratory Care Board mailed Essex Phillips a "Letter of Facility Inspection Findings" requesting a written remedial response within 90 days of the date of the letter.
6. On April 25, 2011, Essex Phillips, Owner of Essex IV, LLC mailed a response to the Ohio Respiratory Care Board's "Letter of Facility Inspection Findings".
7. On May 11, 2011, the Ohio Respiratory Care Board mailed Essex IV, LLC an "Review of Facility Inspection Response" letter advising Essex IV, LLC that the Ohio Respiratory Care Board had completed a review of Mr. Phillips inspection response and that additional documentation was needed to complete the process of review.
8. Based upon the testimony of Mr. Logsdon, the Ohio Respiratory Care Board finds that Essex IV, LLC did not respond to the Ohio Respiratory Care Board's request for additional documentation.

9. On May 17, 2011, the Ohio Respiratory Care Board sent a letter to Essex IV, LLC, advising the licensee that check # 1038 for \$300.00 had been returned for “insufficient funds” and that prompt payment of the fee was required.
10. Based upon the testimony of Mr. Logsdon, the Ohio Respiratory Care Board finds that Essex IV, LLC did not pay the inspection fee required.
11. Based upon the evidence provided the Ohio Respiratory Care Board also finds the following aggravating facts:
  - a. After the Ohio Respiratory Care Board mailed Essex IV, LLC a letter on May 11, 2011 requesting additional documentation, Essex IV, LLC did not communicate further with agency staff, and
  - b. After the Ohio Respiratory Care Board mailed Essex IV, LLC a letter on May 17, 2011 requesting prompt payment of fees, Essex IV, LLC failed to submit payment.

#### **CONCLUSIONS OF LAW**

- A. Based upon a preponderance of the evidence presented, the Ohio Respiratory Care Board concludes that Essex IV, LLC failed to comply with a directive of Ohio Respiratory Care Board with respect to providing a written remedial action plan to the Board that addressed the deficiencies found during an authorized inspection of the facility conducted on February 8, 2011. A failure to comply with a directive of the Ohio Respiratory Care Board to attain compliance with deficient standards of practice is a violation of Section 4752.08 (C) of the Ohio Revised Code. Section 4752.09 (A)(1) of the Revised Code, authorizes the Ohio Respiratory Care Board to impose sanctions for violating a provision of Chapter 4752 of the Ohio Revised Code. Count I of the Notice of Opportunity for Hearing is proved.
- B. Based upon a preponderance of the evidence presented, Essex IV, LLC failed to pay the inspection fee in accordance with rule 4761:1-8-03 of the Ohio Administrative Code for the inspection service provided by the Ohio Respiratory Care Board on February 8, 2011. A failure of the licensee to comply with a rule of the Ohio Respiratory Care Board, specifically rule 4761:1-8-03 of the Ohio Administrative Code, is a violation of Section 4752.09 (A) (1). Count II of the Notice of Opportunity for Hearing is proved.
- C. Section 4752.09 of the Ohio Revised Code states, in part:
  - (A) The Ohio respiratory care board may, in accordance with Chapter 119. of the Ohio Revised Code, suspend or revoke a license issued under this chapter or discipline a license holder by imposing a fine of not more than five thousand dollars or taking other disciplinary action on any of the following grounds:
    - (1) Violation of any provision of this chapter or an order or rule of the board, as those provisions, orders, or rules are applicable to persons licensed under this chapter; \*\*\* (Emphasis added)

#### **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 REVOKES Essex IV, LLC’s license to provide home medical equipment services in the State of Ohio, as defined under ORC 4752.01.

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

Motion #4: KENNETH WALZ, J.D., R.R.T., R.CP. MOVED FOR FINDINGS OF FACT; CAROL GILLIGAN, HME MEMBER SECONDED THE MOTION. MOTION PASSED (AYE – 5/NAY – 0/ABSTAINED – 1(MR. MARX)).

Motion #5: KENNETH WALZ, J.D., R.R.T., R.C.P. MOVED FOR CONCLUSIONS OF LAW; SCOTT PETTINICHI, R.R.T., R.C.P. SECONDED THE MOTION. MOTION PASSED (AYE – 5/NAY – 0/ABSTAINED – 1(MR. MARX)).

Motion #6: ROBERT COHN, M.D. MOVED FOR ORDER OF THE BOARD; CAROL GILLIGAN, HME MEMBER SECONDED THE MOTION. MOTION PASSED (AYE – 5/NAY – 0/ABSTAINED – 1(MR. MARX)).

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 shall be signed by the Board President and attached as an exhibit to the meeting minutes.

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11:00 a.m. to 11:30 a.m.

Following administrative hearings, the Board's Rule Committee met at 11:00 a.m. in room West B & C, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. The Committee meeting concluded at 11:30 a.m.

Following the Rules Committee, the Mr. Mays entertained general discussion from 11:30 a.m. to 12:00 p.m. on the procedure for hearing testimony under old business. Mr. Mays provided a brief summary of his comments and established specific ground rules for persons providing testimony to the Board. Dr. Cohn discussed his designation as a Fellow of the American Association for Respiratory Care (AARC). Dr. Cohn inquired if his membership in the AARC and Fellowship designation could be a conflict. Members discussed the issue, but did not advise the member concerning his potential conflict. Mr. Mays reviewed the list of persons testifying before the Board during Old Business. Mr. Logsdon encouraged members to use probing questions when asking speakers about their specific positions.

The members broke for lunch from 12:00 p.m. to 1:00 p.m.

**Agenda item #5: OLD BUSINESS**

Agenda item 5.a: Discussion on Ohio Examination Workgroup Report and Recommendation regarding amending OAC 4761-5-01 (Exhibit E – I)

Mr. Mays called the meeting back to order at 1:00 p.m. Mr. Mays provided the membership and guests with a summary of the Board's discussion and actions concerning a proposal to amend OAC 4761-5-01, which would require a license candidate to pass the written and clinical simulation portions of the RRT examination. Mr. Mays gave a verbal summation of the Board's reasons for pursuing a rule amendment and then articulated ground rules for presenting testimony.

Summary of testimony provided:

Karen Stewart, President of the American Association for Respiratory Care (AARC) - (Exhibit E - AARC packet)

Ms. Stewart provided a verbal update on the AARC's activities with the 2015 and beyond project. She stated that the AARC held three conferences. The first conference identified specific trends for future respiratory care, the second conference she stated looked at specific competency relevant to the future therapists, and the third conference developed specific recommendations with majority and minority opinions. Ms. Stewart reported that the AARC Board of Director's has not adopted the taskforce recommendations from the third 2015 and beyond conference. The AARC, she stated, thought adopting the recommendations

without further study would be premature. The AARC, she stated, developed guiding attributes or principles for evaluating the taskforce recommendations. The AARC stated that the attributes look at the protecting the interests of the profession at large and the interests of the individual therapist working in the field. The AARC attributes, she stated, also consider workforce requirements for the profession. To evaluate the recommendations, the AARC, she reported, has undertaken a gap analysis of the attributes. Ms. Stewart reported that the first gap analysis has been completed, which focused on the information needed to maintain a workforce at growth levels to cover vacancies, without harming the profession or creating a new layer of the profession. The AARC, she reported, created two small committees: one for Associate Degree programs and one for Bachelor Degree programs. These committees were asked to review the competencies identified by the 2015 and beyond taskforce and identify any gaps based on a comparison of program curriculums. In addition, the AARC, she stated, has asked the NBRC to conduct a gap analysis with the identified competencies and the examination matrix. The AARC, she stated, has also asked the CoARC to conduct a gap analysis on the 2015 and beyond competencies and the curriculum standards required of accredited programs.

Ms. Stewart stated that she wanted the Ohio Respiratory Care Board to understand that the AARC was looking at what they needed to do in the future, what kind of levels of competencies or education were needed for the profession.

Sam Giordano, R.R.T., Executive Director of the American Association for Respiratory

Mr. Giordano reviewed materials provided to the Board, mentioning an editorial that he authored. Mr. Giordano stated that the editorial sums up what the AARC is doing with an evolving profession. Mr. Giordano stated that he was fortunate some years for having been appointed as a Commissioner to the Health Resource Services Administration, Commission on Allied Health. Mr. Giordano stated that he had the opportunity to learn from the mistakes other allied health professions had made with regard to changes in their credentialing and education systems. The AARC, he stated, developed the attributes on the 2015 and beyond recommendation to avoid unintended consequences. The AARC, he stated, wants to prevent a void in the market place that leads to a sub-professional to fill the needs gap. The AARC, he stated, is sensitive to what the Ohio Board is trying to do. Mr. Giordano stated that the NBRC is working on something that goes to the heart of the Ohio board's concerns. Mr. Giordano acknowledged, "change is in the wind" and there will be a higher demand on our educational systems in terms of creating a respiratory care professional that meets the patient's needs, but he encouraged the Board to take a studied approach. Mr. Giordano warned the Board not to open up a new problem while attempting to resolve another.

Sarah M. Varekojjs, Ph.D., R.R.T., R.C.P. - (Exhibit F)

Dr. Varekojjs gave a brief summary of her professional background, including a report that she is the new President Elect for the Ohio Society for Respiratory Care. Dr. Varekojjs summarized the findings of a survey of employers in the state of Ohio that was included in the Board's Ohio Examination Workgroup. Dr. Varekojjs stated that the survey found that Certified Respiratory Therapists (CRTs) were over utilized in the State of Ohio, based on the competency identified by the AARC through their white paper on Registered Respiratory Therapist (RRT) credentialing. Further, she stated, that the survey found that employers who require RRT credentialing reported positive impacts, indicating an increased quality of care. The survey also concluded that employers that do require RRT credentialing have not realized the negative impacts reported by employers that do not require RRT credentialing.

Dr. Varekojjs stated that the Board invited the OSRC to participate in the Ohio Examinations Workgroup. She reported that the OSRC unanimously voted to support the changes proposed by the Board to recognize the RRT examination for licensure. In addition, Dr. Varekojjs stated that four OSRC Board members participated in the Ohio Examination Workgroup and all four voted to support the report and recommendations.

F. Herbert Douce, M.S., R.R.T., R.C.P.-N.P.S., R.P.F.T., F.A.A.R.C. - (Exhibit G)

Mr. Douce gave a brief summary of his professional background. Mr. Douce asked the Board to consider his comments as they proceed with the examination requirements proposal. Mr. Douce reviewed his written statement:

1. The Board adopted minimum associate degree education requirements in 1998 to assure that all new RCPs were prepared as RRTs.
2. The Board has been monitoring RRT outcomes of Ohio's 21 respiratory care programs since 1998 and for some CoARC – approved programs, RRT outcomes have been below the accreditation standard.
3. The Board recognized organization, CoARC, had not been enforcing the RRT outcome standard, and in March 2010, CoARC dropped the RRT outcome standard.
4. In a 2009 survey conduct by the Board, the Board found that 79% of hospital departments reported that the RRT met their current needs, 81% of hospital managers reported that their staff provide therapy via assessment-based care, 62% of hospital managers allow CRT level professionals to perform assessment-based care.
5. The CRT examination is the exam currently recognized by the Board for licensure in Ohio. The minimum passing score on the CRT exam has decreased from 74% correct in 1979 when the Board adopted the examination to 61% correct in 2009. The CRT examination is designed to test minimum competency, but not to assess a therapist's ability to gather information to perform patient assessments and make decisions. The RRT examination is designed to assess a therapist's ability to perform assessment-based care.
6. The recommendations of the Ohio Examination Requirements Workgroup to require the RRT examination for all future initial licensees is consistent with the expected outcomes of approved educational programs and the expected clinical practice of RCPs in Ohio.
7. The recommendations of the Ohio Examination Requirements Workgroup will not create a workforce shortage. Persons currently licensed will continue and new graduates can work at entry-level for one year after graduation. The 2009 Ohio Education report indicated that Ohio programs graduated over 400 new therapists. The 2009 Ohio Hospital Staffing survey indicated 203 vacancies in 2009 and projected 352 by 2012.
8. The recommendations of the Ohio Examination Requirements Workgroup do not increase educational levels.

Susan M. Ciarlariello, M.B.A., R.R.T., R.C.P. - (Exhibit H)

Ms. Ciarlariello gave a brief summary of her professional background, including her many years as a member of the Board. Ms. Ciarlariello stated that she is the Director of Respiratory Care Services at the Dayton Children's Hospital. Ms. Ciarlariello handed out written testimony. Ms. Ciarlariello stated that she has only hired RRT eligible therapists since she became the Director 26 years ago. Ms. Ciarlariello stated that Dayton Children's saw the advantage of having a registered respiratory therapist staff many years ago, particularly in the area of protocol-based care. Ms. Ciarlariello reported that her staff is patient advocates. In her hospital, therapists adjust therapy as needed to improve patient progress. Ms. Ciarlariello reviewed a multitude of protocols that are used by therapists in her hospital. Ms. Ciarlariello stated that her staff's job is to find patient driven solutions, not complain about "stupid" physician orders. Ms. Ciarlariello stated that the RRT examination assesses the level of competency and professional responsibility expected. In her opinion, Ms. Ciarlariello concluded, anything less suggests that the profession wants to continue at a technical level, waiting for others to tell us what to do. Ms. Ciarlariello concluded that the CRT examination is below the expectations of the current health delivery system, because future therapists must be prepared to assess the patient, the situation, and recommend interventions.

Craig Black, Ph.D., R.R.T.-N.P.S., R.C.P. F.A.A.R.C. - (Exhibit I)

Dr. Black handed out written testimony, which he read. Dr. Black stated that the profession of Respiratory Care is burdened by a dual credentialing system, which is governed by the NBRC. Dr. Black stated that the RRT credential is regarded by the AARC as the credential that should be obtained by all therapists. Dr. Board reviewed the history of the CRT credential, stating that it was once called the Certified Respiratory Therapy Technician (CRTT) credential. The CRTT was intended, he stated, to provide a

pathway to a credential only for graduates of entry-level programs. Dr. Black stated that the entry-level programs were shorter in length and provided less in the way of educational content than the Advanced-Level programs. Dr. Black stated that the CRT examination continues to fulfill to the role of the retired CRTT examination; however, CoARC mandated that all programs be advanced level programs, thereby eliminating the entry-level programs. The RRT examination, he stated, is intended to certify that graduates have mastered advanced-level content. Unfortunately, Dr. Black stated, the NBRC mandates that a person must pass the CRT examination in order to be eligible for the RRT examination. Dr. Black concluded that because 49 states accept the CRT examination as the licensure examination, many graduates choose not to go on and take the RRT examination that they are prepared for by their education. Dr. Black stated that an NBRC job analysis shows that most therapists practice at an advanced level, regardless of whether they are a CRT or RRT. Dr. Black stated that there is overlap between the two examinations, but the level of testing is more rigorous on the RRT examination. The CRT examination, for example, has only 22% of its questions at the most difficult Analysis Level. The RRT examination, on the other hand, has 79% of its questions at the Analysis Level. Dr. Black also stated that the pass score for the CRT examination has steadily decreased over the past decade. Additionally, Dr. Black stated that the CoARC has stopped using the RRT examination as an outcome measure for respiratory care educational programs. Dr. Black argued that this amounts to a disconnection between the program accreditation process and the credentialing process for the credential that is designed to test students' competence at the advanced level. Dr. Black stated that the Board's proposal would reconnect the appropriate credential with the licensure process.

Sean McGlone, J.D., Ohio Hospital Association

Mr. McGlone introduced himself and his professional credentials. Mr. McGlone stated that he attended the Ohio Examination Requirements Workgroup meetings and appreciated the opportunity to provide input into the process. Mr. McGlone provided verbal testimony on feedback he had received from OHA members. Mr. McGlone described the feedback as mixed. Mr. McGlone summarized the feedback as being either opposed or indifferent. Indifference, he stated, is likely because their organization is already doing what the Board is proposing and so it does not affect them. Mr. McGlone stated that no hospital is actively supporting the proposal. Mr. McGlone summarized the opposed responses as:

1. The proposal is viewed as licensure creep with no hard data to support it.
2. The market should dictate change, so why regulate it. The change is already happening.
3. The health system has a wide variety of care settings and in some settings, a CRT is sufficient.
4. Do not like the idea of Ohio being the first.
5. Hospitals should have flexibility to define roles.
6. The Board's role is to protect the public and defining minimum competency is their job. Grandfathering CRT level professionals does not change quality.
7. Why does not the Board just define a different scope of practice for CRT and RRT?

Mr. McGlone stated that the OHA is not prepared to support or oppose the proposal, but he would like to stay engaged in the process.

Following testimony, the members of the Board and the Executive Director commented on the testimony and/or asked questions of the guests. Mr. Orlett, representing the OSRC, stated that he had worked with the OSRC for the past 25 years and he could not imagine the members of the society not supporting the recommendations of Board's Ohio Examination Requirements Workgroup. Mr. Giordano, answering a question from a Board member, stated that his primary concern was reciprocity. Mr. Mays thanked everyone for appearing and making themselves available to the Board. Following the discussion, Mr. Mays asked if any member had a motion for consideration.

Motion #7: Mr. Pettinichi moved to approve the report and recommendation of the Ohio Examination Requirements Workgroup and to move forward on the Board's proposal to require the written and simulation portions of the RRT examination offered by the NBRC, Inc. for initial licensure in the State of Ohio. Ms. Gilligan seconded the motion. Discussion: Mr. Marx stated that he would like to table the action.

Subsidiary motion: Mr. Marx moved to table action on the Ohio Examination Requirements Committee's report and recommendation on the Board's proposal to require the RRT examination for initial licensure requirements. Mr. Walz seconded the motion. Motion failed: 2- Yes, 3 - No, 1 abstained (Dr. Cohn).

Discussion on the main motion: Dr. Cohn inquired why Mr. Marx would like to table the issue. Mr. Marx stated that he wanted time to consider the testimony and discussion. Ms. Gilligan stated that she saw no reason to table the issue. Mr. Walz stated that the Board is confusing competence with expectations. Mr. Walz stated that not every area of respiratory care requires advanced practice. Mr. Walz asked if the Board was trying to impose its expectation on others. Dr. Cohn stated that there are no programs for CRTs. Dr. Cohn stated that all programs prepare students for the RRT examination. Mr. Walz asked why the Board does not force all current CRTs to become registered. Dr. Cohn stated that Mr. Walz was questioning the concept of grandfathering. Mr. Walz stated that grandfathering CRTs goes against the concept that has brought the Board to this point. Mr. Pettinichi stated that the process would have a *domino effect* over time. Ms. Gilligan asked what factors keep CRTs from taking and passing the RRT examination now, because currently many CRTs are performing advanced-level tasks, but have not taken an advanced-level competency examination. Mr. Mays stated that the Board's original intent to make sure the educational programs were producing the level of therapists the programs were designed to produce. No further discussion. Motion carried: 4 - Yes, 1 - No, 1 - Abstained (Mr. Marx).

Motion #8: Ms. Gilligan moved that Mr. Mays, Mr. Walz, and Mr. Pettinichi be assigned to a stakeholder's workgroup to assist with rule drafting. Mr. Marx seconded the motion. Discussion: None. Motion carried: 6 - Yes.

## **Agenda item #6: BOARD OFFICER AND STAFF REPORT**

Agenda item 6.a: President's Report

Mr. Mays stated that he was still working on the draft Executive Director's 2011 performance review.

Agenda item 6.b: Executive Director's Report (Exhibit J collective)

Mr. Logsdon gave a verbal overview of his written report. Director Logsdon verbally reviewed the following:

1. FY 2012 financial activity report: Mr. Logsdon reported that the Board is currently well within its budget allotments and under budget. Mr. Logsdon reported that he would like to move forward on proposal to move the Board's part-time staffer to full-time.
2. Next, Mr. Logsdon reviewed FY 2012 disbursements and addressed questions from the Board members concerning specific expenditures reported.
3. Next, Mr. Logsdon reported on the licensing and revenue statistics for the current fiscal year.
4. Next, Mr. Logsdon reported on the status of several legislative bills.
5. Last, Mr. Logsdon reported on travel conducted on behalf of the agency since the prior board meeting.

Discussion: Mr. Walz asked the Executive Director to amend the Board's website to make navigating to the online Ethics course more evident to the licensees. Mr. Logsdon agreed to change the website.

Agenda item 2.c: HME Manager's Report (Exhibit K)

Ms. Tatum filed a written report with the Board. There were no questions on the report.

Motion #9: Mr. Walz moved to approve the Executive Director and HME Manager's report. Dr. Cohn seconded the motion. Discussion: None. Motion carried: 6 – 0.

**Agenda item #7: COMMITTEE REPORTS**

HME Committee

Mr. Marx stated that the committee did not have a quorum to conduct business, but he did review the list of licensees being presented to the Board under new business and that he would recommend approval. All other matters were delayed until the next meeting.

Scope of Practice Committee (Exhibit L and M)

Dr. Cohn stated that the Committee reviewed two inquiries and found that the Executive Director's proposed response was accurate. Dr. Cohn recommended approving the draft letters as attached.

Motion #10: Dr. Cohn moved to approve the inquiry response letters addressed to Kathleen Cirelli (Exhibit L) and Deb Rivera (Exhibit M), respectively. Mr. Pettinichi seconded the motion. Discussion: None. Motion carried: 6 – 0.

Rules Committee

Mr. Walz reported that the committee met during the a.m. hours and reviewed two draft rules. Mr. Walz stated that one rule was tabled, pending confirmation from a primary stakeholder that the rule was properly drafted. The Committee moved to propose amending OAC 4761:1-10-03 and the Executive Director was directed to begin the process of meeting with stakeholders for the purpose of complying with the Common Sense Initiative requirements.

**Agenda item #8: PROBABLE REVIEW COMMITTEE**

Motion #11: 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. Gilligan seconded the motion. Discussion: None. Roll Call vote:

Marc Mays -	Yes	Scott Pettinichi -	Yes
Carol Gilligan -	Yes	Kenneth Walz -	Yes
Robert Cohn, M.D. -	Yes	Joel Marx -	Yes

Motion carried.

The Board entered executive session at 3:47 p.m. and returned to regular, public session at 4:04 p.m. All six attending Board Members, Mr. Isom, Mr. Logsdon, and Ms. Sutter 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 8.b: Approval of Opportunity for Hearing Notices (Exhibit N - O)

Motion #12: Mr. Walz moved to issue an opportunity for hearing notice 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>
N.	2012ORCB030 (Nakia J. Hudson, No lic. number)	Conviction	ORC 4761.09(A) (1)
O.	2012ORCB031 (Steven D. Sagun, No lic. number)	Conviction	ORC 4761.09(A) (1)

Mr. Marx seconded the motion. Discussion: None. Motion carried: 5 – yes, 1 – abstained (Dr. Cohn).

Agenda item 8.b: Withdraw of Opportunity for Hearing Notice (Exhibit P)

Motion #13: Mr. Walz moved to withdraw the opportunity for hearing notice in the matters of:

**HME Opportunity for Hearing Notices**

<u>Exh. #</u>	<u>Case no. /Respondent</u>	<u>Reason for withdraw</u>
P.	2012HME003 (Liberty Medical Supply, Inc. HMEL.11332)	Compliance met

Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 5 – yes, 1 – abstained (Dr. Cohn)

Agenda item 8.c: Consent Agreement Approval (Exhibit Q and R)

*\*Names and identifying information was redacted from discussion and proposed consent agreements during the course of executive session deliberation and the 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 consent agreements through a motion on the record during public session.*

Motion #14: Mr. Walz moved to approve the consent agreement between the Board and the following cases:

RCB Agreements

<u>Exh. #</u>	<u>Case no. /Respondent</u>	<u>Violation</u>	<u>Action</u>
Q.	Case #2012ORCB007 (Tracy J. Frankhouser, RCP.12110)	Professional Standard of conduct (OAC 4761-10-01 (E))	Reprimand/ Fine
R.	Case #2012ORCB017 (Christina G. Shafer, RCP.11865)	Unlicensed practice ORC 4761.09 (A) (2)	Stayed Suspension/ Probation with conditions

Mr. Pettinichi seconded the motion. Discussion: None. Motion carried: 5 – yes, 1 – abstained (Dr. Cohn).

**Agenda item #9: NEW BUSINESS**

Agenda item 9.a: Application ratification for Respiratory Care Licenses and Limited Permits (Exhibit S)

Motion #15: Mr. Walz moved to ratify respiratory care professional licenses and limited permits issued on the following dates:

Limited Permits issued on September 29, 2011, October 6, 2011, October 13, 2011, October 20, 2011, October 27, 2011, November 3, 2011, November 9, 2011, and November 17, 2011.

Respiratory Care Professional Licenses issued on September 29, 2011, October 6, 2011, October 13, 2011, October 20, 2011, October 27, 2011, November 3, 2011, November 9, 2011, and November 17, 2011.

Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 6 - 0.

Agenda item 9.b: Application ratification for Home Medical Equipment Licenses and Certificates of Registration (Exhibit T)

Motion #16: Mr. Walz moved to ratify HME licenses and certificates of registration issued on the following dates:

HME Licenses issued on September 29, 2011 and November 10, 2011.

HME Certificates of Registration issued on September 29, 2011, September 30, 2011, October 5, 2011, October 7, 2011, October 13, 2011, October 18, 2011, October 27, 2011, October 31, 2011, November 2, 2011, November 8, 2011, and November 17, 2011.

Mr. Marx seconded the motion. Discussion: None. Motion carried: 6 – 0.

Agenda item 9.c: 2012 Forms Approval (Exhibit U1 – U8 collective)

Motion #17: Mr. Walz moved to approve revised form RCB-049, Application for 2012 Respiratory Care Professional License Biennial Renewal for online renewal and the paper version of the same form, titled Respiratory Care Professional 2012 License Renewal. Mr. Marx seconded the motion. Discussion: None. Motion carried: 6 – 0. (Exhibit U1)

Motion #18: Mr. Walz moved to approve revised form RCB-004, titled Limited Permit Renewal 2012. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 6 – 0. (Exhibit U2)

Motion #19: Mr. Walz moved to approve the 2012 License/Limited Renewal Response letter. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 6 – 0. (Exhibit U3)

Motion #20: Mr. Walz moved to approve form #RCB-037, 2012 Biennial Renewal Application for HME Registration. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 6 – 0. (Exhibit U4).

Motion #21: Mr. Walz moved to approve the following forms:

- a. Form #RCB-036, 2012 Biennial Renewal Application for HME License. (Exhibit U5)

- b. Form #RCB-035, Application for Home Medical Equipment Provider Certificate of Registration. (Exhibit U6)
  - c. Form #RCB-034, Application for Home Medical Equipment Provider License. (Exhibit U7)
  - d. Form #RCB-017, Name and Address Change, Replacement Certificate Order. (Exhibit U8)
- Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 6 – 0.

Agenda item 9.d: 2012 Fall Newsletter (Exhibit V)

Motion #22: Mr. Walz moved to approve the 2012 Fall Newsletter. Mr. Marx seconded the motion. Discussion: None. Motion carried: 6 – 0.

**Agenda item #19: OPEN FORUM**

No appearances for Open Forum

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

None.

**Agenda item #12: ADJOURNMENT**

Hearing no objection, Mr. Mays adjourned the meeting at 5:00 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 February 8, 2012.

\_\_\_\_\_  
Board Secretary

\_\_\_\_\_  
Witness