

Board of Respiratory Care Minutes

Date: February 26, 2009

Time: 9:00 a.m., C.D.T.

Location: Iris Conference Room, Ground Floor
227 French Landing Drive
Heritage Place, Metro Center
Nashville, TN 37243

Members Present: Candace Partee, Chair
Roger Major, Secretary
Gene Gantt
Delmar Mack, Ed.D.
Teresa Hatcher

Members Absent: Darryl Jordan, M.D.
Colleen Schabacker

Staff Present: Marva Swann, Board Director
Mary Webb, Board Administrator
Ernie Sykes, Advisory Attorney
Elizabeth Miller, HRB Director
Juanita Stone, Investigations Coordinator

Guests Present: Mike Harkreader, Tennessee Professional Assistance Program
John Williams, Tennessee Society for Respiratory Care

Rulemaking Hearing

Ernie Sykes conducted a rulemaking hearing which was convened at 9:30 a.m. for the purpose of amending Rules 1330-1-.02, .12, .15, .19 relating to the Use of Titles, Continuing Education, Disciplinary Conditions, and Board Consultants. Board members, Candace Partee, Chair; Roger Major, Secretary; Delmar Mack; and Teresa Hatcher were present. A quorum of the Board was deemed unnecessary to proceed with the hearing.

There were no comments from the public.

Board Meeting

With a quorum being present, Candace Partee, Chair, called the meeting to order at 10:15 a.m.

Conflict of Interest

Ernie Sykes advised Board members of their responsibilities under the Conflict of Interest Policy. They were asked to read and sign the policy if they had not previously done so.

Office of General Counsel Report

Mr. Sykes presented the following report from the Office of General Counsel:

Rulemaking Hearing

1. *Use of Titles, Continuing Education, Disciplinary Conditions, Board Consultants* [1330-1-.02, .12, .15, .19] –The Board on November 15, 2007 authorized a rulemaking hearing. The rule received intradepartmental approval on September 24, 2008. It was published by the Secretary of State's office in the January 15, 2009 Tennessee Administrative Register (TAR) [Vol. 35, no. 1].

Litigation

OGC currently has seven (7) open disciplinary cases pertaining to the Board of Respiratory Care.

Mr. Sykes presented an Order of Compliance for Kristi L. Jellison, RRT. Ms. Jellison, now Ms. Carter, has met the requirements of the adverse licensure action taken on December 11, 2004 and has petitioned the Board for removal of probationary status from her license.

Mr. Gantt made a motion seconded by Mr. Major to approve the Order of Compliance. The motion carried.

Rule Amendments

A discussion was held regarding the proposed rule amendments presented at the rulemaking hearing regarding use of titles, continuing education, disciplinary conditions, and board consultants. Dr. Mack made a motion seconded by Mr. Major to approve an additional amendment to the rules that only members of the National Board of Respiratory Care (NBRC) can use the trademark acronyms RRT and CRT. The motion carried by roll call vote with all members voting yes.

Mr. Gantt made a motion seconded by Dr. Mack to approve the rules presented at the rulemaking hearing as amended. The motion carried by roll call vote with all members voting yes.

Mr. Sykes presented a draft of a proposed amendment to Rule 1330-1-.05, Qualifications and Procedures for Licensure regarding automatic retirement of CRT license upon upgrade to RRT. After discussion, a motion was made by Dr. Mack and seconded by Mr. Gantt to send the amendment to a rulemaking hearing. The motion carried.

Polysomnography Rules Update

The Board discussed the letter submitted by Mr. Sykes on its behalf to the Polysomnography Committee for its December 8, 2008 meeting which made two recommendations regarding proposed polysomnography rules. Ms Partee attended the meeting.

1. Recognize the Sleep Disorder Specialty Examination given by the National Board for Respiratory Care (NBRC).

The Committee rejected this recommendation, stating that it could not be done by rules but would require a statute change to implement.

2. Remove the reference to respiratory therapist in the Polysomnography Committee's code of ethics.

The Committee accepted this recommendation.

Mr. Gantt made a motion seconded by Mr. Major to authorize Mr. Sykes to draft a subsequent letter to the Polysomnography Committee making the recommendation that it accept courses given by other organizations such as the Tennessee Society for Respiratory Care (TSRC) for continuing education credits. The motion carried.

Approval of Minutes

Dr. Mack made a motion seconded by Mr. Major to approve the minutes from the November 13, 2008 meeting as amended. The motion carried.

Investigation and Disciplinary Reports

Juanita Stone, Disciplinary Coordinator for the Bureau of Investigations (BIV), presented the RRT and CRT investigative and disciplinary reports. There are five (5) open RRT cases; one (1) is ready for first review, two (2) are still being investigated, and two (2) are ready for a second review. There are six (6) open CRT cases; five (5) are still being investigated and one is ready for a second review. There are currently twenty (20) respiratory practitioners being monitored after Board disciplinary action.

Tennessee Professional Assistance Program (TNPAP)

Report

Mike Harkreader, Director of Tennessee Professional Assistance Program (TNPAP), presented the report. For the period of July 1, 2008 thru December 31, 2008, four (4) practitioners were monitored and four (4) referrals were received; all of which were from the Board. The source of the referrals was two (2) for a history of arrest/illegal drug use/DUI, one (1) for substance abuse/dependence, and one (1) for unprofessional conduct.

During this period, nine (9) practitioners were discharged from the program, three (3) because monitoring was deemed unnecessary, one (1) noncompliant, one (1) refused enrollment, and four (4) upon their successful completion of the monitoring agreement.

TNPAP Contract

Mr. Harkreader gave an overview of the operation of TNPAP from a practitioner's initial contact, evaluation, treatment (if necessary), and completion. After discussion, Mr. Major made a motion seconded by Mr. Gantt exercise the option to renew the TNPAP contract. The motion carried.

Applicant Interview/File Review

Larry Weatherford – Mr. Weatherford's application was before the Board because of a misdemeanor conviction. After discussion, Dr. Mack made a motion seconded by Mr. Gantt to grant Mr. Weatherford a CRT license through reciprocity. The motion carried.

James Poteet—Mr. Poteet's application was before the Board because of a misdemeanor conviction. After discussion, Mr. Gantt made a motion seconded by Dr. Mack to grant Mr. Poteet an upgrade from CRT to RRT. The motion carried.

Benton Earl Roberts—Mr. Roberts submitted a letter to the Board requesting a waiver of continuing education and licensure fees to reinstate his license which he allowed to lapse in 2007 due to his having suffered a gunshot wound. He has not applied to reinstate his license at this time. After discussion, Dr. Mack made a motion seconded by Mr. Major to deny Mr. Roberts' request and require him to submit required continuing education and licensure fees whenever he applies to reinstate his license. The motion carried.

Ventilator Transports Task Force

Pursuant to the Board's request at its November 18, 2008 meeting, a member of the Tennessee Board of Nursing was asked to serve on the task force on ventilator care. Mr. Sykes introduced Carol Lynn Thompson, APN, to the Board as the representative from the Board of Nursing. Dr. Thompson has been recognized by her colleagues on the Board of Nursing as being among the foremost nursing experts on ventilator care in the state. In addition to Dr. Thompson, the Task Force Committee members are Gene Gantt, Chair; Colleen Schabacker; and Roger Major.

The Task Force met briefly and informally after this meeting to define its purpose, which is to, among other things, clarify definitions of "monitor", "maintain", and "manage" with respect to life support systems. Those definitions could then be incorporated into the Board's rules. A date for the Task Force Committee to meet again is to be selected.

Mr. Gantt presented for the Board's review a copy of the EMS Interfacility Transport with Mechanical Ventilator Training Curriculum. Although training requirements are in place, there is still not a readily accessible or recognizable credential that EMS transport personnel have had this training. Rather than draft a letter as previously directed, the Board directed Mr. Sykes to informally contact the EMS board through their attorney, Lucy Bond, regarding their concerns with this issue. Mr. Gantt as Chair of the task force committee will also contact Joe Phillips, Director of EMS, and Donna Tidwell, EMS

training coordinator to offer recommendations and will attend the next EMS board meeting for which he is available.

Fingerprints for Criminal Background Checks

Pursuant to the Department of Health's policy all applicants who reside in the State of Tennessee must have their fingerprints scanned electronically for a criminal background check at a Cogent facility. Without the Department's knowledge, the Tennessee Bureau of Investigation had been initiating a name based background search when the scanned fingerprints sent to them by Cogent were unreadable. As a result, three RRT and one CRT applicants were licensed by a name based search rather than by an electronic scan of their fingerprints. This search did not reveal any negative findings on these applicants. After discussion, Dr. Mack made a motion seconded by Mr. Gantt to accept the name based search on these applicants. The motion carried

The TBI has since revised its policy to adhere to the Department's policy when processing fingerprints on applicants for health care professions; however, there are times when an individual's fingerprints are unreadable for reasons such as the age of the person, occupations working with chemicals, bricks, sewing, etc. When this occurs the Tennessee Bureau of Investigation provides a name based search for the individual and will on the applicant's behalf submit a letter of explanation, a copy of which was presented for the Board's review.

Mr. Major made a motion seconded by Mr. Gantt to accept a name based search when an individual's fingerprints are unreadable and this fact has been verified in writing by the TBI. The motion carried. Mr. Sykes will draft a policy.

Correspondence

- A. Christy Wright, RRT Director at Maury Regional Hospital, Columbia, Tennessee submitted a letter asking whether the use of nebulized opioids therapy is in accordance with the statute of respiratory care in Tennessee. The Board stated that this practice is not in violation of 63-27-102 (4) (A) as it defines the practice of respiratory care under the supervision, control and responsibility of a licensed physician.
- B. Lori Roberts, RRT submitted a letter asking for clarification as to what is considered acceptable continuing education pursuant to Rule 1330-1-.12 (1) (a) and what is not acceptable pursuant to Rule 1330-1-.12 (5) (a) regarding regular work activities. The Board stated that all continuing education activities to be considered acceptable must be from an approved provider as listed in Rule 1330-1-.12 (2) (a) and must be properly documented pursuant to Rule 1330-1-.12 (4) (a).
- C. Charles G. Brooks, Jr. Clinical Coordinator for Respiratory Care , Sleep, EEG Services at Summit Medical Center submitted a letter asking three specific questions:
 1. If licensed respiratory therapists in Tennessee have been permitted under their scope of practice to provide services and procedures now defined as polysomnography or sleep disorder services? The Board's answer was yes.

2. If licensed respiratory therapists have been providing these services, now defined as polysomnography, has it ever been determined that the RTs have been providing them outside the scope of their practice? The Board's answer was no.
3. Has there ever been a disciplinary action taken against or an investigation of a licensed Tennessee Respiratory Therapist regarding the provision of services now defined as polysomnography? The Board's answer was that it has not taken any disciplinary action to date and that it would not have knowledge if any complaints were under investigation. John Williams, TSRC, noted that no one now practicing polysomnography would be in violation of the Polysomnography Act until all aspects of the law becomes effective July 1, 2010.

Mr. Gantt made a motion seconded by Mr. Major directing Mr. Sykes to draft a letter to Mr. Brooks to be signed by Ms. Partee stating the Board's answers to his questions. The motion carried.

Ratifications

A motion was made by Dr. Mack and seconded by Mr. Major to approve the lists of initial and reinstatement applications for licensure (Attachments 1 & 2). The motion carried.

Administrator's Report

Ms. Webb presented the following licensure status report:

As of February 25, 2009 the number of active licensees were:

- RRT—2447
- CRT—1896
- RCA—27

Board activity totals from November 11, 2008 through February 24, 2009

RRT	CRT
New licenses—49	New licenses—38
Reinstated—5	Reinstated—4
Retired—17	Retired—17
Failed to Renew—11	Failed to Renew—39

Continuing Education Audit Status Report:

Sept 2008-Jan 2009	RRT	CRT
Licensees Audited	6	4
Licensees Compliant	6	1
Licensees Non-Compliant	0	3

Board Members

The Hospital Administrator position is still vacant. All other positions are filled.

Newsletter

The newsletter for the Board of Respiratory Care may be found on its website at <http://health.state.tn.us/boards/RC/applications.htm> .

Financial Report

The financial report for FY 2008 was presented with total revenue of \$313,075.00 and expenditures of \$239,413.00.

Adjournment

There being no further business, the meeting was adjourned at 1:25 p.m.

These minutes were ratified at the June 25, 2009 meeting.