

**Board of Respiratory Care
Minutes**

Date: November 13, 2008

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, Secretary
Gene Gantt
Roger Major
Colleen Schabacker
Delmar Mack, Ed.D.
Teresa Hatcher

Members Absent: Darryl Jordan, M.D.

Staff Present: Marva Swann, Unit 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 of Respiratory Care

With a quorum being present, Candace Partee, Secretary, called the meeting to order at 9:20 a.m. New board member, Teresa Hatcher, was introduced and welcomed to the board.

Conflict of Interest

Ernie Sykes presented the new Conflict of Interest Policy that went into effect November 1, 2008. Board members were asked to review the policy paying particular attention to numbers six (6) and seven (7) which refer to their serving as an officer or in a policy making role in any trade or professional association while serving on the Board.

It was noted that there would be no conflict of interest to be a member of a trade or professional association as long as it was not in a policy making position. Members were directed to present any questions on interpretation of the Conflict of Interest Policy to the Ethics Compliance Office of the Department of Health.

All Board members were asked to sign the Conflict of Interest Policy and given the option of disclosing at this time any membership to which they felt might pose a potential conflict of interest.

Election of Officers

Candace Partee was elected as Chair and Roger Major as Secretary unanimously.

Office of General Counsel Report

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

Rules

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 will be filed with the Secretary of State's office for publication in the Tennessee Administrative Register (TAR) by the end of this month, which will allow the rulemaking hearing to be held at the next Board meeting, on February 26, 2009.

Litigation

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

Approval of Minutes

Ms. Schabacker made a motion seconded by Mr. Gantt to approve the minutes from the August 21, 2008 meeting as amended. The motion carried unanimously.

Investigation and Disciplinary Reports

Ms. Juanita Stone, Disciplinary Coordinator for the Bureau of Investigations (BIV), presented the RRT and CRT investigative reports.

Eight (8) RRT complaints were carried over from the last meeting in August, 2008. Two (2) new complaints have been received, one (1) in September and one (1) in October. Of these ten (10) complaints, three (3) were closed, one (1) by referral to OGC and two (2) pending court action leaving seven (7) still open as of this meeting.

Ten (10) CRT complaints were carried over from the last meeting in August, 2008. Seven (7) new complaints have been received, all in the month of September. Of these seventeen (17) complaints seven (7) have been closed, one (1) with no action and six (6) by referral to OGC leaving ten (10) still open as of this meeting.

The Board disciplinary report shows a total of twenty (20) practitioners being currently monitored. Ten (10) are on probation, two (2) on suspension, three (3) under Board orders and five (5) whose licenses have been revoked.

The BIV is working with the Attorney General's office to collect costs assessed as a result of 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 October 31, 2008, five (5) practitioners signed monitoring agreements and no referrals were received.

During this period, two practitioners were discharged from the program, one because monitoring was deemed unnecessary and one upon his/her completion of the monitoring agreement.

Applicant Interview/File Review

Keenan Hess – Mr. Hess appeared before the Board to give an explanation of a misdemeanor conviction. After discussion, Ms. Schabacker made a motion seconded by Mr. Gantt to grant Mr. Hess a license conditional upon his referral to TNPAP for an evaluation and his fulfilling TNPAP's recommendations, if any. The motion carried unanimously.

Samantha McGhee—Ms. McGhee appeared before the Board to give an explanation of a misdemeanor conviction. After discussion, Ms. Schabacker made a motion seconded by Dr. Mack to grant Ms. McGhee a license conditional upon her referral to TNPAP for an evaluation and her fulfilling TNPAP's recommendations, if any. The motion carried unanimously.

Continuing Education and Lapsed License Policy Review

Ernie Sykes presented for the Board's review the revised continuing education and lapsed license policies authorized at their last meeting.

Ms. Schabacker made a motion seconded by Dr. Mack to approve the continuing education policy as presented. The motion carried unanimously.

A motion was made by Dr. Mack and seconded by Ms. Schabacker to approve the lapsed license policy with the amendment that the file of any practitioner found to be practicing on a lapsed license for as long as six months would not be handled by agreed citation, but would be reviewed by the board on a case by case basis. The motion carried unanimously.

Mr. Sykes is to make the changes and the policies are to be posted to the Board's website.

Emergency Medical Services (EMS) Ventilator Transports

Mr. Gantt presented for Board discussion the concern that EMS does not have a credential that can easily be observed for ambulance personnel who transport ventilator patients that attests to said personnel being trained and qualified to do so.

Since the Board of Respiratory Care has no jurisdiction over this matter, Mr. Gantt made a motion seconded by Mr. Major that Mr. Sykes draft a letter to the EMS Board on behalf of the Board to be signed by the Chair voicing the Board's concern. The letter is to be prepared and mailed before the next meeting in February.

Discussion of Proposed Rules

- A. Establish greater flexibility for the Board to grant licensure by endorsement—subject to be eliminated from proposed rules as the terms of endorsement are set by statute and cannot be changed by rule.

- B. Automatic retirement of a CRT license when licensee upgrades to an RRT license—Mr. Sykes is to draft a rule for the Board's review at its next meeting stating that an upgrade to the RRT license would automatically result in the retirement or inactivation of the CRT license unless otherwise specified by the licensee.

- C. Clarify definitions that relate to ventilator care to better ensure quality of care to ventilator dependent patients—The Board acknowledges that an LPN employed by a home care organization is permitted to provide physician-ordered respiratory care to a patient, except for the maintenance and management of the life support equipment. The LPN is permitted to monitor the ventilator to ensure it is functioning properly, and is to call for assistance if the ventilator is to be adjusted, connected, disconnected, cleaned, or otherwise serviced.

Mr. Gantt made a motion seconded by Mr. Major to form a task force to formulate the definition of "monitor" as it relates to the practice of respiratory care. The motion carried unanimously. Task force members are Gene Gantt, Roger Major, and Colleen Schabacker. It was suggested that a member of the Board of Nursing be invited to join the committee. Mr. Sykes is to make this request at the Board of Nursing's meeting in December. The task force is to meet before the Board of Respiratory Care's meeting in February.

Ratifications

A motion was made by Dr. Mack and seconded by Mr. Gantt to approve as presented the lists of initial and reinstatement applications for licensure. The motion carried unanimously.

File Review Process

Rule 1330-1.07 (1) (2) relating to application review states in part that preliminary review of all applications to determine whether or not the application file is complete may be delegated to the Board's Unit Director and that completed applications may be approved by a Board member by the Board consultant, or by the Board designee for a temporary authorization pursuant to T.C.A. § 63-1-142 and 63-27-116.

The Board was asked to consider delegating authority to the Board's director, Marva Swann, to approve an applicant for temporary authorization to practice, or whether to require that a Board

member be contacted by the Board administrator, Ms. Webb, for review of every file prior to approval. After discussion, a motion was made by Ms. Schabacker and seconded by Dr. Mack for the Board administrator to contact a Board member or consultant to review each file prior to issuing an applicant a temporary authorization to practice. The motion carried unanimously.

Administrator’s Report

Ms. Webb presented the following Board administration report:

As of October, 2008 the number of active licensees were 2425 RRTs, 1925 CRTs, and 1 RCA.

Board activity totals from August 20, 2008 thru November 10, 2008:

RRT	CRT
New licenses—49	New licenses—34
Reinstated—1	Reinstated—5
Retired—7	Retired—23
Failed to Renew—14	Failed to Renew—37

Continuing Education Audit Status Report:

Jan 2008 –July 2008	RRT	CRT	RCA
Licensees Audited	25	61	6
Licensees Compliance	80%	71%	83%
Licensees Non-Compl.	20%	29%	17%

Board Members:

Ms. Teresa Hatcher has joined the Board as the consumer member. She takes the place of Mr. Billy Alred who resigned after many years of dedicated service to the Board. Mr. Timothy McGill has also resigned from the Board after years of dedicated service. The Board welcomed Ms. Hatcher and imparted thanks and best wishes to Mr. Alred and Mr. McGill.

Mr. McGill’s position as the hospital administrator is vacant. All other positions are filled.

Newsletter

A Board newsletter is being drafted. Members were asked to contact the administrative office if they had any newsworthy items to contribute. It was requested that online renewal instructions be included.

Financial

New statements are to be mailed to the Board within the coming week.

Polysomnography Rules

The Board discussed the proposed polysomnography rules that were presented at a rulemaking hearing held on November 16, 2008. Ms. Partee and Ms. Schabacker attended the hearing. Ms. Schabacker offered two recommendations regarding the proposed rules:

1. The NBRC “Sleep Disorder Specialty” exam should be added as acceptable for polysomnography credentialing. After discussion and a check of the NBRC website to determine what qualifications were required in order to be eligible to take the exam, a motion was made by Ms. Schabacker and seconded by Mr. Gantt to approve this recommendation to the Polysomnography Committee. The motion carried with all members voting yes with the exception of Dr. Mack who voted no.
2. Under the section relating to “Code of Ethics”, strike out the inclusion of Respiratory Therapists. A motion was made by Ms. Schabacker and seconded by Mr. Gantt to approve this recommendation to the Polysomnography Committee. The motion carried unanimously.

Mr. Sykes will draft these recommendations and forward them to the Polysomnography Committee to be considered at their polysomnography rulemaking hearing to be held on December 8, 2008.

With there being no further business, the meeting was adjourned at 12:05 p.m.

These minutes were ratified at the February 26, 2009 Board meeting.