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OHIO RESPIRATORY CARE BOARD

77 SOUTH HIGH STREET, 16TH FLOOR

COLUMBUS, OHIO 43215-6108

OFFICIAL BOARD MEETING MINUTES OF AUGUST 14, 2013

REGULAR BUSINESS MEETING

Members in attendance (Exhibit A):

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

Joel Marx, HME Member

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

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

Carol Gilligan, HME Member

Verna Riffe Biemel, Public Member

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

Maninder Kalra, M.D., Physician Member

Staff in attendance:

Christopher H. Logsdon, Executive Director

Anthony Isom, Investigator

Traci L. McDonald, Office Professional I

Others in Attendance:

Cheryl R. Hawkinson, Assistant Attorney General

Steven R. Kochheiser, Assistant Attorney General

Agenda item #1: CALL REGULAR MEETING TO ORDER

Mr. Mays called the meeting to order at 9:11 a.m. Mr. Mays asked Mr. Pavlak to call the roll. Present were Joel Marx, Marc Mays, Steven Pavlak, Robert Slabodnick, Verna Riffe Biemel, Kenneth Walz, Maninder Kalra, M.D., and Carol Gilligan (*). Mr. Mays noted the approved absence of Ms. Andrea Yagodich. A quorum of the Board was present to conduct business.

* Carol Gilligan (arrived at 9:15 a.m.)

Agenda item 1.a: Approval of meeting agenda (Exhibit B)

Motion #1: Mr. Slabodnick moved to approve the meeting agenda. Mr. Pavlak seconded the motion. Discussion: None. Motion carried 7 – 0.

Agenda item 1.b: Approval of meeting minutes for June 19, 2013 (Exhibit C)

Motion #2: Mr. Pavlak moved to approve meeting minutes of June 19, 2013. Ms. Riffe Biemel seconded the motion. Discussion: None. Motion carried: 7 – 0.

Agenda item #2: ADMINISTRATIVE HEARINGS

Agenda item 2.a: In the matter of Kristen E. Stacy, Case #2013ORCB054

The matter of Kristen E. Stacy came before the following members of the Ohio Respiratory Care Board on August 14, 2013 at 9:14 a.m. in the Board Room, 31st Floor of the Vern Riffe Building for Government and the Arts, 77 S. High Street, Columbus, Ohio. Present were Marc Mays, R.R.T., R.C.P., President, Joel Marx, HME Member, Kenneth Walz, J.D., R.R.T, R.C.P., Steven Pavlak, R.R.T., M.S., Carol Gilligan, HME Member, Verna Riffe Biemel, Public Member, Maninder Kalra, M.D., and Robert Slabodnick, R.R.T, M.Ed. Mr. Slabodnick recused himself from participation in the hearing based upon his role as the Board representative on the Board's Probable Review Committee.

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

Cheryl R. Hawkinson, Assistant Attorney General, represented the State of Ohio.

Kristen E. Stacy did not request a hearing before the Board. 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.

Preliminary matter: None.

Ms. Hawkinson gave a brief opening statement.

The State called the following witnesses:

Anthony Isom, Investigator.

The State of Ohio moved for the admission of State's Exhibits 1 through 15. Mr. Walz admitted State's Exhibits 1 through 15. The following exhibits were admitted:

1. Notice of Opportunity for Hearing approved on June 19, 2013 and mailed to Kristen E. Stacy by certified mail/return receipt #7011 1150 0001 6788 5935 on June 21, 2013, and signed return receipt for article #7011 1150 0001 6788 5935.
2. Hearing Schedule Letter mailed to Kristen E. Stacy by certified mail/return receipt #7011 1150 0001 6788 6024 on July 24, 2013, and signed return receipt for article #7011 1150 0001 6788 6024.
3. Copy of Subpoena issued to Karla Johnson, R.N., M.S.N., dated February 20, 2013.
4. Certification of records, signed by Karla Johnson, R.N., M.S.N., dated March 12, 2013.
5. Chain of Custody and Control Form for Drug and Alcohol Analysis, #4110974, for February 13, 2013 sampling.
6. Drug analysis panel results, dated February 14, 2013.
7. Job description for Registered Respiratory Therapist and Agency Respiratory Therapist, Patient Care Services, Nationwide Children's Hospital.
8. Corrective Action for employee, Kristen Stacy, Nationwide Children's Hospital, dated February 14, 2013.
9. Statement from Karla Johnson, dated February 13, 2013.
10. Statement from Karla Johnson, dated February 14, 2013.
11. Email dated February 14, 2013 regarding involuntary termination of Kristen Stacy.
12. Statement of Facts from Kristen E. Stacy, dated March 15, 2013.
13. Statement of Facts from Kristen E. Stacy, dated April 3, 2013.
14. Report of Analysis Urine Drug Screen form dated April 3, 2013.
15. Facsimile from Monique, The Treatment Center to Anthony Isom, dated July 17, 2013.

Ms. Hawkinson gave a closing statement. The hearing concluded at 9:58 a.m.

Agenda item #3: CASE DELIBERATION IN PRIVATE SESSION

Agenda item 3.a: In the matter of Kristen E. Stacy, Case #2013ORCB054

Motion #3: Mr. Pavlak moved to go into private session for the purpose of entering into quasi-judicial deliberations concerning proposed disciplinary action in the matter of Kristen E. Stacy, Case#2013ORCB054 . Ms. Gilligan seconded the motion. Discussion: None. Roll Call vote:

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

Motion carried.

The Board moved into private session at 10:04 a.m., and returned to regular, public session at 10:55 a.m. Seven Board members, Christopher H. Logsdon, Executive Director, and Steven Kochheiser, Assistant Attorney General were present during private session.

Agenda item #4: FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JOURNAL ENTRIES

Agenda item 4.a: In the matter of Kristen E. Stacy, Case #2013ORCB054 (Exhibit D)

The Ohio Respiratory Care Board

Adjudication Order

In the Matter Of:

Kristen E. Stacy
1730 Quail Meadows Drive
Lancaster, OH 43130

THE MATTER OF KRISTEN E. STACY CAME BEFORE THE FOLLOWING MEMBERS OF THE OHIO RESPIRATORY CARE BOARD ON AUGUST 14, 2013 AT 9:14 A.M. IN THE BOARD ROOM, 31ST FLOOR OF THE VERN RIFFE BUILDING FOR GOVERNMENT AND THE ARTS, 77 S. HIGH STREET, COLUMBUS, OHIO. PRESENT WERE MARC MAYS, R.R.T., R.C.P., PRESIDENT, JOEL MARX, HME MEMBER, KENNETH WALZ, J.D., R.R.T., R.C.P., STEVEN PAVLAK, R.R.T., M.S., CAROL GILLIGAN, HME MEMBER, VERNA RIFFE BIEMEL, PUBLIC MEMBER, MANINDER KALRA, M.D., AND ROBERT SLABODNICK, R.R.T, M.ED. MR. SLABODNICK RECUSED HIMSELF FROM PARTICIPATION IN THE HEARING BASED UPON HIS ROLE AS THE BOARD REPRESENTATIVE ON THE BOARD'S PROBABLE REVIEW COMMITTEE.

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

CHERYL HAWKINSON, ASSISTANT ATTORNEY GENERAL, REPRESENTED THE STATE OF OHIO.

KRISTEN E. STACY DID NOT REQUEST A HEARING BEFORE THE BOARD. 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.

Preliminary matter: None.

State's Exhibits admitted:

1. Notice of Opportunity for Hearing approved on June 19, 2013 and mailed to Kristen E. Stacy by certified mail/return receipt #7011 1150 0001 6788 5935 on June 21, 2013, and signed return receipt for article #7011 1150 0001 6788 5935.
2. Hearing Schedule Letter mailed to Kristen E. Stacy by certified mail/return receipt #7011 1150 0001 6788 6024 on July 24, 2013, and signed return receipt for article #7011 1150 0001 6788 6024.
3. Copy of Subpoena issued to Karla Johnson, R.N., M.S.N., dated February 20, 2013.
4. Certification of records, signed by Karla Johnson, R.N., M.S.N., dated March 12, 2013.
5. Chain of Custody and Control Form for Drug and Alcohol Analysis, #4110974, for February 13, 2013 sampling.
6. Drug analysis panel results, dated February 14, 2013.
7. Job description for Registered Respiratory Therapist and Agency Respiratory Therapist, Patient Care Services, Nationwide Children's Hospital.
8. Corrective Action for employee, Kristen Stacy, Nationwide Children's Hospital, dated February 14, 2013.
9. Statement from Karla Johnson taken by Nationwide Children's Hospital, dated February 13, 2013.
10. Statement from Karla Johnson taken by Nationwide Children's Hospital, dated February 14, 2013.
11. Email dated February 14, 2013 regarding involuntary termination of Kristen Stacy.
12. Statement of Facts from Kristen E. Stacy, dated March 15, 2013.
13. Statement of Facts from Kristen E. Stacy, dated April 3, 2013.
14. Report of Analysis Urine Drug Screen form dated April 3, 2013.
15. Facsimile from Monique, The Treatment Center to Anthony Isom, dated July 17, 2013.

Witnesses called by the State of Ohio:

Anthony Isom, Investigator.

Respondent's Exhibits admitted:

None.

FINDINGS OF FACT

Based upon a preponderance of the evidence, the Board finds:

- A. Kristen E. Stacy was issued a Notice of Opportunity for Hearing in compliance with Section 119.07 of the Ohio Revised Code.
- B. Kristen E. Stacy did not request a hearing before the Ohio Respiratory Care Board.
- C. Kristen E. Stacy was properly notified of the date, time, and place of the hearing held.
- D. Kristen E. Stacy tested positive for Fentanyl/Norfentanyl on or about February 13, 2013, upon arriving to work at Nationwide Children's Hospital, Columbus, Ohio, where she was employed as a Respiratory Care Professional.
- E. On March 15, 2013, Kristen E. Stacy denied use of Fentanyl/Norfentanyl to the Board's Investigator, Anthony Isom. In a follow-up interview on April 3, 2013, Kristen E. Stacy admitted that she was not truthful with the Board's Investigator during her initial interview. Kristen E. Stacy, in a written statement of facts, admitted to the following:
 - a. She self-administered Fentanyl patches prior to coming to work at Nationwide Children's Hospital on February 13, 2013.
 - b. Fentanyl was in her system when she was observed near the controlled substance syringe pump while working at Nationwide Children's Hospital on February 10, 2013.
 - c. She was under the influence of Fentanyl two or three times per week while working at Nationwide Children's Hospital.
 - d. She was self-administering Fentanyl patches to get high.
 - e. She self-administered Fentanyl patches by placing them on her arm, her chest, or in her mouth.
 - f. She did not have a legal, valid prescription for Fentanyl patches.
 - g. She had an addiction or substance abuse problem with Fentanyl.
- F. Kristen E. Stacy admitted to taking Fentanyl from a friend she cared for and from personal friends.
- G. Kristen E. Stacy was intentionally untruthful to the Board's Investigator, Anthony Isom during an interview on March 15, 2013 and therefore this is an aggravating fact.
- H. Kristen E. Stacy is currently admitted into a drug treatment program and therefore this is a mitigating fact.

CONCLUSIONS OF LAW

- A. Ohio Revised Code § 4761.09 states in pertinent part:
 - (A) The Ohio respiratory care board may refuse to issue or renew a license or a limited permit, may issue a reprimand, may suspend or permanently revoke a license or limited permit, or may place a license or limited permit holder on probation, on any of the following grounds:

- (8) Using any dangerous drug, as defined in section 4729.01 of the Revised Code, or alcohol to the extent that the use impairs the ability to practice respiratory care at an acceptable level of competency;

- B. The Board concludes that Kristen E. Stacy did use a dangerous drug to the extent that she could not practice respiratory care at an acceptable level of competency.
- C. The Board concludes that the factual and legal allegations contained in Count I of the Notice of Opportunity for Hearing has been proven by a preponderance of the evidence.

ORDER OF THE BOARD

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

In consideration of these findings and conclusions, the Board hereby INDEFINITELY SUSPENDS Kristen E. Stacy's license commencing on the mailing date of the Order of the Board until such time she can provide proof of completing an approved drug treatment program. Upon completion of an approved drug treatment program, Kristen E. Stacy's license will be placed on PROBATION for a period of two (2) years, subject to the ongoing conditions described below. During the term of suspension/probation, Kristen E. Stacy shall:

1. Within thirty (30) days of the effective date of this Order, or as otherwise approved by the Board, Kristen E. Stacy shall submit to appropriate treatment, as determined by an informed assessment of Kristen E. Stacy's needs. Such assessment and treatment shall be by a treatment provider for drug and alcohol treatment approved by the Executive Director. Prior to initial assessment, Kristen E. Stacy shall provide the treatment program with copies of the Board's Order in this matter (including any documents attached and incorporated by reference) and the Board may provide any other documentation it deems necessary and/or helpful to the treatment program. Kristen E. Stacy is responsible for paying the costs of the alcohol and drug dependency assessment and any treatment recommended by the Licensed Physician or Certified Licensed Drug Assessment Counselor.
2. Within ten (10) days after completion of the initial assessment, or as otherwise determined by the Board, Kristen E. Stacy shall cause a written report to be submitted to the Board from the approved treatment program, which shall include:
 - a. A detailed plan of recommended treatment based on the treatment provider's informed assessment of Kristen E. Stacy's current needs;
 - b. A statement indicating that Kristen E. Stacy entered into or commenced the recommended treatment program within 48 hours of its determination;
 - c. A copy of a treatment contract signed by Kristen E. Stacy, establishing the terms of treatment and aftercare, including any required supervision or restrictions of practice during treatment or aftercare, and;
 - d. A statement indicating that the treatment program will immediately report to the Board any failure by Kristen E. Stacy to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare.
3. Kristen E. Stacy shall follow all orders for recommended treatment and aftercare set forth in the assessment and will complete the full course of treatment and aftercare.

4. Evidence of compliance with recommended treatment:

Kristen E. Stacy shall provide the Board with acceptable documentation evidencing compliance with the plan of recommended treatment required under paragraph 3 above.

5. Release of Information:

Kristen E. Stacy shall sign a written release that authorizes the Board to have access to all treatment information and documentation.

6. Evidence of drug free status and fitness to practice:

Kristen E. Stacy shall submit to an evaluation from a certified drug counselor or physician approved in advance by the Executive Director. Kristen E. Stacy shall ensure that a written report is sent directly to the Board stating that Kristen E. Stacy is no longer drug or alcohol dependent and is able to practice respiratory care. The report shall state with particularity the basis for this determination and shall set forth any recommended limitations upon Kristen E. Stacy's practice.

7. Evidence of completion of treatment and compliance with aftercare:

Kristen E. Stacy shall ensure that the approved treatment program provides certification directly to the Board that Kristen E. Stacy has completed any required inpatient treatment and is continuing full compliance with regard to any outpatient treatment and/or aftercare.

8. Evidence of participation in drug/alcohol rehabilitation program:

Kristen E. Stacy shall provide satisfactory documentation of continuous participation in a drug and alcohol rehabilitation program acceptable to the Board, such as AA or NA, no less than two (2) times per week, or as otherwise directed by the Board.

9. Abstinence from drugs or alcohol:

Kristen E. Stacy shall abstain completely from using alcohol and the personal use or possession of drugs, except those prescribed for Kristen E. Stacy's personal use by another so authorized by law who has full knowledge of the Kristen E. Stacy's history of chemical dependence or from alcohol, as evidenced by providing a copy of the Board Order to the Board, signed by the prescribing healthcare provider.

10. Random urine screens:

Kristen E. Stacy shall submit to random urine screenings at intervals deemed appropriate by the Board investigator. Kristen E. Stacy shall be responsible to pay for the cost of the screening. Kristen E. Stacy shall ensure that all screening reports are forwarded directly to the Board within twenty-four (24) hours of the screening.

11. Notice to employers:

Kristen E. Stacy shall provide a copy of the Board's order to all employers and/or places of practice where she has privileges.

12. Interview by Board:

Kristen E. Stacy shall appear in person for interviews every six (6) months before the Board or its designated representative,

or as otherwise directed by the Board or its designated representative. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled. Notwithstanding this, a missed appearance is a violation of this Order of the Board unless an excuse satisfactory to the Executive Director of the Board is provided.

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

- Motion #11: CAROL GILLIGAN MOVED FOR FINDINGS OF FACT. STEVEN PAVLAK, R.R.T., M.S. SECONDED THE MOTION. MOTION CARRIED (AYE – 7, NO - 0, ABSTAINED – 1, SLABODNICK).
- Motion #12: VERNA RIFFE BIEMEL MOVED FOR CONCLUSIONS OF LAW. STEVEN PAVLAK, R.R.T., M.S. SECONDED THE MOTION CARRIED (AYE – 7, NO - 0, ABSTAINED – 1, SLABODNICK).
- Motion #13: CAROL GILLIGAN MOVED FOR ORDER OF THE BOARD. STEVEN PAVLAK, R.R.T., M.S. SECONDED THE MOTION. MOTION CARRIED (AYE – 7, NO - 0, ABSTAINED – 1, SLABODNICK).

SO ORDERED

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

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

The Board took a break at 11:00 a.m., returning to public session at approximately 11:17 a.m. Upon return to public session, Mr. Mays directed members to their respective committees until 12:00 p.m.

NOTE ON BOARD COMMITTEE MEETINGS

The Board's Rule Committee met at 11:20 a.m. in the Board Room, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. The Committee meeting ended at 12:01 p.m. Official minutes of the Board's Rule Committee were prepared and are maintained separate of this journal.

The Scope of Practice Committee and the HME Committee meetings were deferred until the afternoon session.

Agenda item #5: LUNCH

The Board broke for lunch at 12:04 p.m., returning to public session at approximately 1:05 p.m.

Agenda item #6: HEARING PURSUANT TO ORC 119.032 ON PROPOSED ADMINISTRATIVE RULES (Exhibit E)

The public hearing on proposed rules began at 1:06 p.m. Mr. Mays presided over the hearing process and asked members of the board introduce themselves.

The public hearing on proposed rules was held in the Board Room, 3rd Floor of the Vern Riffe Building for Government and the Arts, 77 S. High Street, Columbus, Ohio. Present were Marc Mays, R.R.T., R.C.P., President, Joel Marx, HME Member, Kenneth Walz,

J.D., R.R.T, R.C.P., Steven Pavlak, R.R.T., M.S., Carol Gilligan, HME Member, Verna Riffe Biemel, Public Member, Maninder Kalra, M.D., and Robert Slabodnick, R.R.T, M.Ed.

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

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

Preliminary matters: None.

Mr. Logsdon was called as a witness by the State of Ohio to identify the State's Exhibits.

The following states exhibits were introduced.

- A – Copy of Notice of Public Hearing of Intent to amend existing Ohio Administrative Rules or file existing rules as “no change.”
- B - Screen print copy of the Ohio Respiratory Care Board's website: www.respiratorycare.ohio.gov and www.hme.ohio.gov, demonstrating the posting of Notice of Public Hearing of Intent to amend existing Ohio Administrative Rules or file existing rules as “no change” and the availability of an imaged version of all rules under consideration.
- C - Full copy of the proposed amended and “no change” rules and rules summary and fiscal analyses filed with the Office of the Secretary of State, Joint Committee on Agency Rule Review, Department of Development, and Legislative Service Commission for the following proposed rules:

Home Medical Equipment Services ORC 4752 rules proposed:

- Amended rule** 4761:1-5-02: Application form requirements.
- Amended rule** 4761:1-6-02: Application form requirements to apply for a certificate of registration.
- Amended rule** 4761:1-9-02: Standards for maintaining a facility.
- Amended rule** 4761:1-15-03: Transfer of authorization to new facility or new ownership.

Home Medical Equipment Services ORC 4752 rules proposed as “no change” rules:

- OAC Rule** 4761:1-6-01: Qualifications to obtain a certificate of registration.
 - OAC Rule** 4761:1-9-03: Standard for maintaining equipment.
 - OAC Rule** 4761:1-9-04: Client records.
 - OAC Rule** 4761:1-15-04: Requirement to provide board contact information to clients.
- D - Confirmation of Electronic Rules Filing dated 7/12/2013 with the Office of the Secretary of State, Joint Committee on Agency Rule Review, Department of Development, and Legislative Service Commission.
 - E - Copy of Business Impact Analyses for rules filed with the Office of Common Sense Initiative.
 - F. Memorandum of recommendations from the Office of Common Sense Initiative dated July 12, 2013.

G - Copies of collective email correspondence received by the Ohio Respiratory Care Board in response to rules filed.

Mr. Kochheiser moved to admit exhibits A – G inclusive. Hearing no objection to the admission of the exhibits, Mr. Mays admitted State's Exhibits A through G inclusive.

Motion #4: Ms. Gilligan moved to waive the reading of the rules. Ms. Riffe Biemel seconded the motion. Discussion: None.
Motion carried: 8 – 0.

Mr. Mays recognized the Assistant Attorney General for the purpose of calling witnesses for testimony on the proposed rules. No witnesses appeared.

The hearing concluded at 1:17 p.m.

Mr. Mays noted that Committee Meetings were not completed as scheduled. He informed the members that Agenda item 8, Committee Reports would be deferred until after the completion of the Scope of Practice and Home Medical Equipment Committee Meetings.

Agenda item #7 OFFICER AND STAFF REPORTS

Agenda item 7a: President's Report

Mr. Mays gave a brief verbal President's report by informing the members that Dr. Kalra has agreed to join the Scope of Practice Committee and that he is appointing Dr. Kalra to that committee.

Motion #5: Mr. Slabodnick moved to approve the President's Report. Mr. Pavlik seconded the motion. Discussion: None.
Motion carried: 8 – 0.

Agenda item 7.b: Executive Director's Report (Exhibit F)

Mr. Logsdon submitted a written report to the Board. He verbally reviewed the report.

1. Mr. Logsdon reviewed the financial activity report for FY 2013. Mr. Logsdon reported that the Board ended FY 2013 under budget. Mr. Logsdon reported that an analysis of the Board's expenditures in FY 2013 show that payroll variations due to leave and separation were the greatest contributing factors leading to the Board's positive year-end financial position.
2. Mr. Logsdon reported that the Board did receive some additional funding in the next biennial budget for HME inspections: \$5,300.00 in FY 2014 and \$3,000.00 in FY 2015.
3. Mr. Logsdon reviewed the Board's year-end 2013 expenditures, disbursements, the Board's current FY 2014 budget, and expenditures. Mr. Logsdon reported that the expenditures in FY 2014 were unremarkable since the year just began on July 1, 2013.
4. Mr. Logsdon reviewed year-end FY 2013 and current FY 2014 revenue totals and sources. Mr. Logsdon stated that FY 2013 revenue exceeded estimates.
5. Mr. Logsdon then reviewed the license statistics report as of July 18, 2013. Mr. Logsdon noted the increase in HME license issuance, which he stated was primarily attributable to Chiropractic offices seeking HME licenses to sell TENs units. Mr. Logsdon stated that he would be reviewing a proposed letter with the HME Committee that he would like to send to Chiropractic offices and other health care professionals that sell TENs devices.
6. Mr. Logsdon reported on his travel and meetings since the Board's prior meeting, including an orientation meeting with Dr. Kalra.

Joel Marx -	Yes	Steven A. Pavlak -	Yes
Carol Gilligan -	Yes	Verna Riffe Biemel -	Yes
Maninder Kalra, M.D. -	Yes	Robert Slabodnick -	Yes

Motion carried.

Motion carried.

The Board entered executive session at 2:18 p.m., and returned to regular, public session at 2:27 p.m. Eight Board members were present during executive session. Mr. Logsdon, Mr. Isom, and Mr. Kochheiser were present during Executive Session.

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

Mr. Slabodnick asked to address the membership following executive session. Hearing no objection, Mr. Mays permitted Mr. Slabodnick to speak. Mr. Slabodnick expressed concern, as the appointed member on the Board's Probable Review Committee, about impairment investigations under ORC 4761.09 (A)(8). Mr. Slabodnick stated that the Revised Code seemed to require observed impairment that leads to incompetent care. Mr. Mays informed Mr. Slabodnick that other members shared in his concerns and that the matter was discussed during Rules Committee earlier in the day. Mr. Walz added that he recommended a new addition to the code of professional conduct that would make the use of an illegal or non-prescribe drug an unethical act. Mr. Logsdon recommended that the Board seek an opinion from the Ohio Attorney General's office concerning the language in ORC 4761.09 (A)(8). Mr. Logsdon explained that the Board may or may not be interpreting the language as intended. No action taken.

Agenda item 9.b: Approval of Opportunity for Hearing Notices (Exhibits H)

Motion #9: Mr. Marx moved to issue an opportunity for hearing notice in accordance with ORC 119.07 as presented to the Board in the matters of:

RCB Opportunity for Hearing Notices

<u>Exh. #</u>	<u>Case no. /Respondent</u>	<u>Allegation</u>	<u>ORC Code</u>
F.	2013ORCB069 (Theresa Armitage, RCP.6535)	Violation of Professional Conduct Rules	Violation of ORC 4761.09 (A) (2), OAC 4761-10-01 (N)

Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 7 – Yes, 1 – Abstained (Slabodnick).

Motion #10: Mr. Marx moved to approve the Probable Review Committee report. Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 7 – Yes, 1 – Abstained (Slabodnick).

NOTE ON BOARD COMMITTEE MEETINGS CONT'D

The Board's Scope of Practice Committee met at 2:35 p.m. in the Board Room, 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. The Committee meeting ended at 3:02 p.m. Official minutes of the Board's Scope of Practice Committee were prepared and are maintained separate of this journal.

The Board's HME Committee met at 2:35 p.m. on the 31st Floor, Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, Ohio. The Committee meeting ended at 2:44 p.m. Official minutes of the Board's HME Committee were prepared and are maintained separate of this journal.

Following the Committee Meetings, the Board returned to the regular business meeting agenda.

Agenda item #8: COMMITTEE REPORTS

Agenda item 8.a: Scope of Practice Committee Report (Exhibits I – K)

Mr. Mays reported that the Scope of Practice Committee met just prior to giving this report. Mr. Mays stated that the members reviewed three scope of practice inquiries. Mr. Mays reported on the following inquiries:

1. Training to insert PICC lines by respiratory care professionals. Mr. Mays reported that the Executive Director prepared a draft response that stated RCPs could be trained to insert PICC lines, if performed to render respiratory care services. Mr. Mays stated the response was based on a precedent response that was approved by the Board in 2011. Mr. Mays stated that the Committee concluded that RCP would not normally have a reason related to their services to insert a PICC line, but could, if trained, and if the purpose of insertion was related to evaluation and care of a person with a cardiopulmonary impairment. Mr. Mays stated that the Committee recommends approval of the response prepared for Mr. Price. (Exhibit G)
2. Downloading, collecting data from a pulse oximeter and other information by unlicensed persons. Mr. Mays reported that the Executive Director prepared a draft response, which was amended by the Committee. Mr. Mays stated that the Committee concluded that the Board could not address specific aspects of the inquiry, because the law did not include the activities within the definition of HME services. Mr. Mays stated that the Committee recommends approval of the response prepared for Ms. Black. (Exhibit H)
3. Running a cardiac rehab program. Mr. Mays reported that the Committee considered an inquiry, which asked if respiratory care professionals could run a cardiac rehab program. Unanimously, Mr. Mays reported, the Committee affirmed that a respiratory care profession could run such a program, but the organization would be in the best position to determine a person's capabilities to do so. Mr. Mays stated that the Committee recommends approval of the response prepared for Ms. Couch. (Exhibit I)

Motion #11: Mr. Slabodnick moved to approve the Scope of Practice Committee report and the three inquiry responses presented. Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 8 – 0.

Agenda item 8b: Home Medical Equipment Committee Report

Mr. Marx reported that the HME Committee met prior to the continuation of regular business. Mr. Marx reported that the Committee approved the prior minutes, reviewed the HME Manager's report on inspections, and reviewed the list of HME licenses and certificates of registration approved and issued since the prior meeting. In addition, the Committee, he stated,

reconfirmed the Board's 2009 assessment of not requiring licensing for a facility that solely functions as a warehouse facility for equipment and does not engage in HME services. Mr. Marx stated that a company call KCI filed the inquiry in 2009 and has asked, essentially, the same question again. Next, Mr. Marx stated the Committee had reviewed a draft letter intended for distribution to the Chiropractic community and recommended approval of the letter.

Motion 12: Ms. Gilligan moved to approve the HME Committee report and the recommended actions of the Committee. Ms. Riffe Biemel seconded the motion. Discussion: None. Motion carried: 8 – 0.

Agenda item 8.c: Rules Committee Report

Mr. Pavlak reported that the Rules Committee met prior to regular business. Mr. Pavlak stated that the Committee reviewed rules scheduled for 5-year review. Mr. Pavlak stated the Committee reviewed the following rules:

- OAC 4761-1-01
- OAC 4761-1-02
- OAC 4761-2-03
- OAC 4761-2-05
- OAC 4761-3-01
- OAC 4761-4-01
- OAC 4761-4-02
- OAC 4761-5-04
- OAC 4761-5-07
- OAC 4761-7-01
- OAC 4761-8-01
- OAC 4761-9-01
- OAC 4761-9-05
- OAC 4761-10-01
- OAC 4761-11-06
- OAC 4761-11-15
- OAC 4761:1-1-02
- OAC 4761:1-2-03
- OAC 4761:1-2-05
- OAC 4761:1-5-01
- OAC 4761:1-9-01
- OAC 4761:1-9-05
- OAC 4761:1-12-07
- OAC 4761:1-13-01

Mr. Pavlak reported that the full Board was present during the Committee meeting. Mr. Pavlak stated that the Committee was tasked with reviewing rules scheduled for five-year review. Mr. Pavlak recommended that the Board approve a motion to file the rules.

Motion #13: Mr. Pavlak moved to approve the Rules Committee report. Mr. Slabodnick seconded the motion. Discussion: None. Motion carried: 8- 0.

Motion #14: Mr. Walz moved to approve a resolution to file the proposed rules listed. Ms. Riffe Biemel seconded the motion. Discussion: Mr. Walz inquired about proposed amendments to OAC 4761-10-01. Mr. Logsdon explained that the Board would see the language at the public hearing and could amend the rule at any point along the way. No further discussion. Motion carried: 8 – 0.

Agenda item #10: NEW BUSINESS

Agenda item 10.a: Resolution to File Rules (Exhibit L)

Motion #15: Mr. Marx moved to approve a resolution authorizing the Executive Director to final file the following rules:

Home Medical Equipment Services ORC 4752 rules proposed:

Amended rule 4761:1-5-02: Application form requirements.

Amended rule 4761:1-6-02: Application form requirements to apply for a certificate of registration.

Amended rule 4761:1-9-02: Standards for maintaining a facility.

Amended rule 4761:1-15-03: Transfer of authorization to new facility or new ownership.

Home Medical Equipment Services ORC 4752 rules proposed as “no change” rules:

OAC Rule 4761:1-6-01: Qualifications to obtain a certificate of registration.

OAC Rule 4761:1-9-03: Standard for maintaining equipment.

OAC Rule 4761:1-9-04: Client records.

OAC Rule 4761:1-15-04: Requirement to provide board contact information to clients.

Mr. Walz seconded the motion. Discussion: None. Motion carried: 8 – 0

Agenda item 10.b: Resolution to Adopt Order of Surrender – Somnetics, LLC (Exhibit M)

Ms. Gilligan moved to approve the resolution entering an order of surrender upon the journal of the Ohio Respiratory Care Board in the matter of Somnetics, LLC. (HMEL.11492). Mr. Pavlak seconded the motion. Discussion: None. Motion carried: 8 – 0.

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

Motion #16: Mr. Marx moved to ratify respiratory care professional licenses and limited permits issued on the following dates:

Limited Permits issued on: June 13, 2013, June 20, 2013, June 28, 2013, July 3, 2013, July 15, 2013, July 18, 2013, July 29, 2013, August 1, 2013, and August 8, 2013.

Respiratory Care Professional Licenses issued on: June 13, 2013, June 20, 2013, June 21, 2013, June 27, 2013, June 28, 2013, July 3, 2013, July 5, 2013, July 11, 2013, July 15, 2013, July 18, 2013, July 29, 2013, July 30, 2013, August 1, 2013, and August 8, 2013. Mr. Slabodnick seconded the motion. Discussion: None. Motion carried 8 - 0.

Agenda item 10.d: Application ratification for Home Medical Equipment Licenses and Certificates of Registration (Exhibit O)

Motion #17: Ms. Gilligan moved to ratify HME licenses and certificates of registration issued on the following dates:

HMEL

June 7, 2013, June 12, 2013, June 13, 2013, June 19, 2013, June 25, 2013, June 27, 2013, June 28, 2013, July 11, 2013, July 29, 2013, and August 1, 2013.

HMER

June 4, 2013, June 7, 2013, June 13, 2013, June 19, 2013, June 25, 2013, June 27, 2013, June 28, 2013, July 1, 2013, July 11, 2013, July 30, 2013, and August 1, 2013.

Mr. Pavlik seconded the motion. Discussion: None. Motion carried: 8 – 0.

Agenda item 10.e: Discussion on Limited Permit Holder Enrollment and Standing

Mr. Logsdon presented recommendations to address academic standing of persons holding limited permits in the state of Ohio. Mr. Logsdon demonstrated that ORC 4761.05 requires an individual to be enrolled in and in good standing in a respiratory care program to obtain a limited permit; however, only discontinuance (or no longer being enrolled) would restrict practice under the limited permit. Mr. Logsdon urged the Board to consider recommendations to:

1. Develop a cease and desist response letter for limited permit holders that are no longer enrolled in an approved respiratory care program.
2. Propose a rule that clearly defines the phrase, “discontinues participation” as used under ORC 4761.05(B)(2)(c) and the phrase “Certificate of Completion” as used under ORC 4761.05(B)(2)(b).
3. Seek a legislative amendment to include academic standing when no longer “in good standing” as a restriction to continued practice under a limited permit.

The members took a break from 3:33 p.m. to 3:40 p.m.

Motion #18: Ms. Gilligan moved to support the following recommendations:

1. Develop a cease and desist response letter for limited permit holders that are no longer enrolled in an approved respiratory care program.
2. Propose to amend rule 4761-3-01 to include the following definitions:
 - a. “Certificate of completion” as used in Section 4761.05 (B)(2)(b) of the Revised Code, means the conferment by an accredited college or university a degree majoring in respiratory care or a certificate of equivalent eligibility to qualify for an examination meeting the requirements of rule 4761-5-01 (B) of the Administrative Code.
 - b. “Discontinues participation” as used Section 4761.05 (B)(2)(c) of the Revised Code, means a determination by the board through notification by an accredited respiratory care educational program or by a limited permit holder that the limited permit holder is no longer enrolled or attending courses required in the core curriculum of a respiratory care educational program.

3. Seek a legislative amendment to include academic standing when no longer “in good standing” as a restriction to continued practice under a limited permit.

Mr. Pavlak seconded the motion. Discussion: Mr. Slabodnick stated that he assumed good academic standing was a requirement for continued practice under a limited permit. Mr. Slabodnick stated that each program was required to develop policy on what constituted good academic standing. Mr. Logsdon responded that the standard was necessary to determine an applicant’s qualifications for initial permit issuance. Mr. Mays stated that the issue might have significant impact. No further discussion. Motion carried: 8 – 0.

The members took a break from 3:33 p.m. to 3:40 p.m.

Agenda item 10.f: Governor’s office of Workforce Transformation (Exhibit P)

Mr. Logsdon presented a draft response to the Governor’s Office of Workforce Transformation. Mr. Logsdon explained that the program has asked Boards and Commissions to provide an analysis of their regulations and licensing procedures as they relate to recognizing military training and education equivalency. Mr. Logsdon state that the Governor, through Executive Order EO 2013-05K, has directed Boards and Commissions to identify ways to streamline and expedite licensing processes for veteran and their spouses and to evaluate military training, competencies, and education for equivalency for licensure issuance.

Motion #19: Mr. Walz moved to approve the proposed report to the Governor’s Office of Workforce Transformation pursuant to EO 2013-05K. Ms. Gilligan seconded the motion. Discussion: None. Motion carried: 8 – 0.

Agenda item 10.g: Discussion on Minimum Data Set for Health Care Professions

Mr. Logsdon provided the Board with a list of recommended questions in response to the Ohio Department of Health’s Minimum Data Set project for health care professions. Mr. Walz inquired if a licensee chooses not to answer a question, would the Board deny renewal. Mr. Logsdon stated that the questions would be tied to the renewal process, but would not be required to meet renewal requirements. Mr. Logsdon also stated that the exact methodology for renewal has not been determined. Mr. Walz stated that the Board would receive more complaints, because there are many people who do not believe the government has the right to ask for any more information than is necessary. Mr. Marx inquired about any possibility that responses to questions would lead to discriminatory determinations by staff. Mr. Logsdon stated the renewal system does not work that way and would not lead to discrimination based on licensee responses. Mr. Logsdon stated that he was led to believe data would be collected in the aggregate. Mr. Logsdon stated that the intent of collecting the data is not to be connected to a renewal or initial issuance process or decision, but to collect information that would lead to improving the nation’s understanding of the gaps in healthcare coverage, education, specialty coverage, etc. Dr. Maninder stated that physicians are already answering these types of questions and he believes the federal government is seeking the information.

Mr. Logsdon asked the Board to identify items not covered in the questions presented. Members gave the Executive Director a list of potential employment specialties for the practice of respiratory care.

Agenda item 10.h: Recognition of Tobacco Treatment Certification Course for RCCE

Mr. Logsdon presented information on the Tobacco Treatment Certification Course. After discussion, the Board directed Mr. Logsdon to research the certification course to determine who approves the program.

Agenda item #7: OPEN FORUM

No one appeared to speak at open forum.

Agenda item #8: FOR THE GOOD OF THE BOARD

There were no matters for the good of the Board.

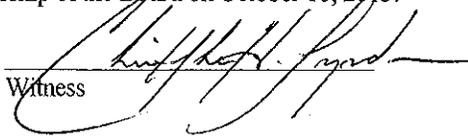
Agenda item #9 ADJOURNMENT

Mr. Mays asked if there was any other business to bring before the Board. Hearing none and seeing no objection, he adjourned the meeting.

The meeting adjourned at 4:18 p.m.

Board President's Certification: These are a true account of the proceedings in accordance with Section 121.11 of the Ohio Revised Code, approved by a majority of a quorum of the membership of the Board on October 16, 2013.


Steve Pavlak, Board Secretary


Witness