

**STATE BOARD OF RESPIRATORY CARE
SOMERSET CONFERENCE ROOM 6TH FLOOR**

PUBLIC SESSION MINUTES

February 3, 2004

The February meeting of the State Board of Respiratory Care was convened in accordance with its notice to the Secretary of State, the Bergen Record, the Trenton Times, the Courier Post and the Star Ledger and was conducted in accordance with the provisions of the Open Public Meetings Act.

Chairman Capek convened the meeting at 10:00 a.m. A roll call was taken and the following attendance was recorded for these minutes.

Present:

Kenneth Capek
Jeffrey Brozoski
James Brophy
Dr. Robert Malovany
John Kalynovych (arrived late)

Absent: Janet Castrovono

Also in attendance: Dorcas K. O'Neal, Executive Director, Michelle Weiner, Deputy Attorney General, Devon Graf, Regulatory Analyst, Frank Barto and David Wagreich, Staff

Public Attendees: Joseph Goss, New Jersey Society of Respiratory Care

I. APPROVAL OF PUBLIC SESSION MINUTES

The Board reviewed the Public Session Minutes for January 6, 2004. Redaction was made as follows: Page 2, Section II. C, line 3, after "January" , **insert** "2003", **delete** "2002". Also on Page 2, Section II. C, line 4, after "December" , **insert** "2002", **delete** "2001". **On a motion by James Brophy, seconded by Jeffrey Brozoski, the Board unanimously approved the Public Session Minutes as redacted.**

II. OLD BUSINESS/REAGENDIZED

A. ASSEMBLY BILL 3696/SENATE BILL 2494 (Revises Respiratory Care Practitioner Act)

Devon Graf, Regulatory Analyst, updated the Board regarding Continuing Education - revision to P.L. 1991, C. 44F, Title 13 advising that this issue was not introduced to the Senate Commerce Committee and that there is nothing new at this time. Joseph Goss from the New Jersey Society of Respiratory Care advised that the Bill for Continuing Education would be pre-filed for introduction under A437 for the 2004 Legislative Session. Devon Graf, will keep the Board apprized of any legislative action regarding Continuing Education. This matter will be reagendaized for March 2, 2004.

B. LEGISLATION SENATE BILL 2749 - Status of Polysomnography

Senate Bill 2749 provides that the practice of polysomnography shall not be considered the practice of respiratory care. Devon Graf advised the Board that there is nothing new at this time regarding this bill which was introduced in the last Legislative Session on November 23, 2003. He will keep the Board apprized of any legislative action regarding Senate Bill 2749. This matter will be reagendaized for March 2, 2004.

III. NEW BUSINESS

A. The Board reviewed a letter from **Shirley J. Esperanza**, Esq. who is planning a mail service pharmacy business to be located in Florida which may eventually do business in the State of New Jersey. Ms. Esperanza inquired as to the requirements for the sale of nebulizer compressors by a pharmacy; as to whether a follow-up visit from a respiratory therapist was required and whether a physician would be required to register with the Board of Respiratory Care if he /she distributes nebulizer compressors out of his/her office.

It was the consensus of the Board that Ms. Esperanza's questions be referred to the Board of Pharmacy. On a motion by John Kalynovych, seconded by Jeffrey Brozski, the Board unanimously approved its referral. Ms. Esperanza will be so advised.

B. The Board reviewed an E-mail from **Dan Brown** inquiring as to whether a separate license is required for providing sleep center services and whether physicians or others can provide sleep center services in settings other than Ambulatory Care Centers.

As to question 1, it was the consensus of the Board that no separate license is required at this time for providing sleep center services.

As to question 2, it was the consensus of the Board that physicians can provide sleep center services in settings other than Ambulatory Care Centers as long as it falls within the scope of practice. On a motion by Jeffrey Brozski, seconded by John Kalynovych, the Board unanimously approved this response.

C. HEALTH INTEGRITY DATABANK DEPARTMENT OF HEALTH & HUMAN SERVICES

The Board reviewed a notification from the Department of Health and Human Services that the Bureau of Health Professions is seeking guidance/comments with respect to reporting certain types of licensure actions taken. This matter will be reagendaized for March 2, 2004.

IV. INFORMATIONAL/FYI

A. The Board reviewed the January 2004 NPDB-HIPDB Newsletter from the U.S. Department of Health and Human Services, **as informational.**

B. The Board was updated that the renewal fee of \$120.00 for the 2004 renewal period was approved by the Director of the Division.

V. LEGISLATIVE / REGULATIONS

A. ASSEMBLY BILL 1913

An Act - concerning the regulation of health care professionals and the State Board of Medical Examiners and revising parts of statutory law. This bill establishes the Health Care Professional Regulation Study Commission to study, and evaluate, and develop recommendations relating to, the most effective means to strengthen the oversight of health care professionals practicing in this State.

This act proposes to appoint 23 members to a commission that will study whether healthcare Boards should be in existence. To date the Respiratory Care Board does not have any representation on this committee. The State Society has already requested to be on this commission. **The Board took no position on the bill at this time, but did question the need and reason for the commission. The Board believes that a representative from the Respiratory Care community should be appointed to the commission. The comments will be reported to Burt Liebman, Legislative Liaison.**

B. An Act - concerning medical oxygen delivery system use in a residential setting and supplementing P.L1971,

c. 134(C.52:17B-118 et seq.).

The Board reviewed this act and concluded that the bill addresses providers of oxygen; a notification requirement to the fire department that any oxygen delivered should be reported to the fire department. The main issue here concerns obtaining consent for delivery of oxygen or oxygen delivery system from the patient or a patient representative and notification to the fire department.

The Director of Consumer Affairs shall notify all licensed pharmacists in the State and provide public notice to other providers of oxygen or oxygen delivery systems of the requirements of this act in newspapers throughout the State. Devon Graf, Regulatory Analyst, will update the Board at the next scheduled Board meeting regarding certain definitions and DAG Weiner will contact the Board of Pharmacy to uncover further information regarding this issue. This matter will be reagendaized for March 2, 2004.

VI. OTHER BUSINESS

A. The Board reviewed the Monthly Revenue Report for December 2003, **as informational.**

VII. PUBLIC COMMENTS

None

On a motion by Jeffrey Brozoski, seconded by James Brophy, the Public Session was adjourned at 10:45 a.m. and the Board convened in Executive Session for the purpose of receiving counsel, to conduct one investigative inquiry, to review eight matters of old business involving ongoing investigations, and two applications.

The Board reconvened in Public Session. The next scheduled Board meeting is March 2, 2004. There being no other business to come before the Board, on a motion by James Brophy, seconded by John Kalynovych, the meeting was adjourned at 2:45 p.m.

Respectfully submitted,

Dorcas K. O'Neal
Executive Director
