

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

**PUBLIC SESSION MINUTES
June 1, 2004**

The June 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
Janet Castronovo
John Kalynovych

Absent:

Dr. Robert Malovany

Also in attendance: Dorcas K. O'Neal, Executive Director, Michelle Weiner, Deputy Attorney General, Devon Graf, Regulatory Analyst, Frank Barto, David Wagreich, and Kevin Pickett, 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 April 6, 2004. Redaction was made as follows: *Page 2, Section III. B, line 3, after "that" , insert "verification", delete "certification"*. **On a motion by John Kalynovych, seconded by James Brophy, the Board unanimously approved the Public Session Minutes as redacted.**

II. OLD BUSINESS/REAGENDIZED

A. ASSEMBLY BILL 457/SENATE BILL 1233 (Revises Respiratory Care Licensing Act)

An act concerning respiratory care practitioners and amending and supplementing P.L.1991, c.31.

Senate Bill 1233 (A457) was introduced on March 18, 2004 and does not have amendments scheduled for the second reading on May 24, 2004 the bill was pulled by Assemblyman Impeveduto because of the Perfusionist Bill. This matter will be reagendaized for July 27, 2004.

B. ASSEMBLY BILL 1913

Establishes Health Care Professional Regulation Study Commission and requires certain State professional licensing boards to take certain actions.

Devon Graf, Regulatory Analyst, advised the Board that this bill passed in the Assembly however, there is no

Senate companion bill at this time. Mr. Graf will keep the Board apprized of any legislative action regarding this bill.

C. The Board reviewed an E-mail from Chairman Kenneth Capek from the Board of Respiratory Care concerning the need for the Board to form a position statement with respect to CEU requirements for those persons requesting reinstatement after non-practice. The Board states that any Respiratory Care Practitioner who has not been practicing Respiratory Care in the State of New Jersey between two to five years should complete a refresher course in order to be allowed to reinstate their respiratory care license in the State of New Jersey. If the licensee has been out of the field for more than five years the Board states that the individual should retake the National Board of Respiratory Care (NBRC) examination. The Board states that individuals looking to take a refresher course should select from the following four areas, courses approved by the Board: patient assessment, infection control, mechanical ventilation, and respiratory pharmacology. **On a motion by Janet Castronovo, seconded by James Brophy, the Board unanimously approved these requirements.**

D. The Board reviewed information from the Respiratory Care Educational Consulting Services (www.rcecs.com) regarding Continuing Education requirements for Respiratory Care Practitioners. The Board reviewed this information and proposed that Respiratory Care Practitioners should follow the matrix guidelines put out by the American Association for Respiratory Care (AARC) and the content of the four areas previously mentioned in II C of these Public Session Minutes.

III. NEW BUSINESS

A. The Board reviewed comments from Chairman Capek on proposed new rule N.J.A.C. 13:35-13 an Act created within the Division of Consumer Affairs in the Department of Law and Public Safety, under the State Board of Medical Examiners, a Perfusionist Advisory Committee (See VA).

B. The Board reviewed a letter from Dr. Jorge L. Gonzalez Gomez of the Mid Jersey Respiratory Associates (MJRA), Medical Supplies & Clinical Svcs., advising the Board of a new practice of nebulizing alcohol for inhalation with compressed oxygen for non-medical use in a non-medical setting of the risks associated with the Alcohol With Out Liquid (AWOL) machines.

This letter will be referred to the Board of Pharmacy and the Board of Medical Examiners.

C. The Board reviewed a letter from Karen E. Ergler from Albert A. Marks Jr. Sleep Disorders Center requesting clarification pertaining to the Notice of the Board of Respiratory Care Regarding Polysomnographic Testing dated April 2003 with respect to the exemption of healthcare providers licensed by appropriate agencies of the State of New Jersey. In addition, Ms. Ergler would like to know what schools the Board recommends for an individual who would like to enter into the field of polysomnography in the State of New Jersey.

As to question 1, it was the consensus of the Board that a licensed respiratory care practitioner can legally perform polysomnography.

As to question 2, it was the consensus of the Board that the New Jersey Board of Respiratory Care does not make recommendations of schools, or academic institutions located in the State of New Jersey. Ms. Ergler will be so advised.

D. The Board reviewed a letter from John J. Hill, RRT at Deborah Heart and Lung Center inquiring as to whether a Certified Medical Lab Technician/Technologist who draws arterial blood gas, performs analyses, and quality control is impacted by the Respiratory Care Act.

The Board directed staff to ascertain information on licensure for a Certified Medical Lab Technician/Technologist and to determine if it is a part of their job to draw arterial blood gas, perform analyses, and quality control. This matter will be reagendaized for July 27, 2004.

IV. INFORMATIONAL/FYI

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

V. LEGISLATIVE / REGULATIONS

A. The Board reviewed the Perfusionist Licensing Act, N.J.S.A. 45:9-37.94 et. seq., became effective on June 24, 1999. The new law provides for the regulation of the practice of perfusion and for the establishment of licensure standards for perfusionists. The Act created within the Division of Consumer Affairs in the Department of Law and Public Safety, under the State Board of Medical Examiners, a Perfusionist Advisory Committee. In order to implement the provisions of the Act, the Board proposes a new subchapter of rules, N.J.A.C. 13:35-13. The Board reviewed the Perfusionist Licensing Act and provided comment that reads as follow:

The Board is seeking clarification of the definition of "perfusion" under N.J.A.C. 13:35 - 13.2 and 13:35 - 13.2(1), specifically with reference to "cardiopulmonary support" and "respiratory system." The Board of Respiratory Care objects to inclusion within this definition of any of those functions found in the Respiratory Care scope of practice that are not performed immediately before, during or after extra corporeal oxygenation and related functions. These procedures in our scope of practice, such as mechanical ventilation techniques, are complex, extensive and require more specific training than are contained in a perfusionist training program. Therefore, the Board requests that the definition of "perfusion" be so limited.

On a motion by James Brophy, seconded by Jeffrey Brozowski the Board unanimously approved the comments as stated, regarding the new proposed rule for perfusionists.

VI. OTHER BUSINESS

A. The Board reviewed the Monthly Revenue Report for March 2004, **as informational.**

B. The Board reviewed the Monthly Revenue Report for April 2004, **as informational.**

C. The Board reviewed the Division of Law Billing for the third quarter of the Fiscal Year 2004, **as informational.**

D. The Board approved the attendance of Chairman Capek and the Executive Director to travel to the State Licensure Liaison Group Meeting in Kansas City, Missouri on September 10, 2004 through September 12, 2004.

VII. PUBLIC COMMENTS

None

VIII. DISCIPLINARY ACTION / REPORTED

A. I/M/O/ HOUDA ELKHOURY - Consent Order

Consent Order to practice respiratory care in the State of New Jersey filed on April 15, 2004 in connection with application filed by respondent acknowledging that she was convicted in Federal Court in Pennsylvania upon a plea of Guilty to Conspiracy to Commit Credit Card Fraud.

B. I/M/O/ VIRGINIA STEVENSON - Consent Order

Consent Order to practice respiratory care in the State of New Jersey filed on March 22, 2004. Ms. Stevenson is reprimanded for abusing controlled dangerous substances in the past, respondent has now demonstrated sufficient

rehabilitation, fitness and ability to practice respiratory care, that she has not engaged in the practice of respiratory care while the license was surrendered, that the Physicians Health Program (PHP) supports reinstatement of her license at this time and that she is willing to comply with the conditions set forth in this Order. Ms. Stevenson signed the Consent Order in connection with the reinstatement of her license on March 22, 2004 and is currently licensed.

C. I/M/O/ DONNA PENDER-KIMBROUGH - Suspension

Final Order of Discipline filed on June 2, 2004 suspending Mrs. Pender-Kimbrough's license to practice respiratory care in the State of New Jersey. Mrs. Pender-Kimbrough did not appear before the Board on January 6, 2004 after being subpoenaed due to her non-response to the previous Final Order of Discipline regarding a positive test result for cocaine metabolites. The Final Order of Discipline was signed by Chairman Capek and the license was automatically suspended on June 2, 2004 when the Order was filed in the Board Office.

On a motion by Jeffrey Brozoski, seconded by John Kalynovych, there will be an automatic suspension of Mrs. Pender-Kimbrough's license and she must appear before the Board if she ever wishes to have her license reinstated.

On a motion by Janet Castronovo, seconded by John Kalynovych, the Public Session was adjourned at 1:15 p.m. and the Board convened in Executive Session for the purpose of receiving counsel, to review eight matters of old business involving ongoing investigations and three matters of new business.

The Board reconvened in Public Session. The next scheduled Board meeting is July 27, 2004. There being no other business to come before the Board, on a motion by Jeffrey Brozoski, seconded by Janet Castronovo, the meeting was adjourned at 2:05 p.m.

Respectfully submitted,

Dorcas K. O'Neal
Executive Director
