

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

PUBLIC SESSION MINUTES

June 3, 2003

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:

Jeffrey Brozoski
Kenneth Capek
James Brophy
Janet Castrovono

Absent:

Dr. Robert Malovany
John Kalynovych

Also in attendance:

Dorcas K. O'Neal, Executive Director, Tobey Palan, Deputy Attorney General, Jake Gertsman, Regulatory Analyst, David Wagreich, Frank Barto, 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 May 6, 2003. On a motion by James Brophy, seconded by Janet Castronovo, the Board unanimously approved the Public Session Minutes as submitted.

II. OLD BUSINESS/REAGENDIZED

A. Notice Regarding Polysomnography Testing

The Board reviewed the final notice regarding Polysomnography Testing typeset by print production, as informational.

B. The Board reviewed a letter from Lawrence Rudesyle citing observations of seeming violations of the Respiratory Care Act by paramedics, home care agencies, patient care assistants, health fairs and asthma education programs where neither respiratory credentials are possessed nor are respiratory care practitioners present. He also commended the New Jersey Society of Respiratory Care for initiating an amendment to the statute for continuing education units which is consistent with the goals of the NBRC. The Board accepted the letter as informational.

III. NEW BUSINESS

A. The Board reviewed a letter from Lori Dougherty, Corporate Compliance Officer, Arcadian Healthcare Inc, Cranford, New Jersey, inquiring as to what tasks a trained unlicensed representative may perform pursuant to N.J.A.C. 13:44F-3.3, such as ON/OFF button, filter change, cleaning instructions; whether it is within regulations to instruct patient/care giver how to assemble a nebulizer kit; and whether a licensed RCP is still required to provide instruction on delivery (of nebulizer) if the patient/care giver has had a nebulizer compressor before and/or states that they have a full understanding of use.

As to question one and two, pursuant to N.J.A.C. 13:44F-3.3 (a) and (b), (an) "Assistant means a respiratory assistant, respiratory aide, equipment technician or any other unlicensed person to whom a licensed respiratory care practitioner delegates tasks... limited to the following routine tasks which relate to the cleanliness and maintenance of equipment: 1. Disassembling equipment; 2. Cleaning equipment; 3. Preparing equipment for sterilization; 4. Maintaining oxygen checks and charges." No instruction by a trained unlicensed representative is permitted.

As to question three, pursuant to N.J.A.C. 13:44F-3.3(g), a licensed respiratory care practitioner who delegates tasks set forth on (b)"...in an outpatient setting shall ensure that a follow-up visit from a licensee or a person exempt from licensure takes place within 24 hours of the delivery of equipment to the patient for the purpose of conducting an in-person assessment of the equipment."

Ms. Dougherty will be so advised and a copy of the statutes and regulations will be provided.

B. The Board reviewed a letter from J.D. Miladin, President of SleepCare requesting to be placed on the mailing list of the Board and to be kept apprized of any developments regarding polysomnography testing. He also offered assistance to contribute to any discussion the Board deems pertinent.

C. The Board also reviewed letters of comment relative to the Notice regarding Polysomnography testing. received from the following persons: Jana L Kowalchik, Rita Brooks, Kathleen A. Feeney, Jacek Kotowski, Robert Perro, Agata Kolaski, Lynn Adair and Daniel Betts. These letters were considered informational and will be acknowledged.

D. The Board reviewed an e-mail from Ed Friedman inquiring as to whether it is acceptable and legal practice to allow nursing assistants and ER techs to suction an orally intubated patient or whether it is required by New Jersey law to be a licensed health care practitioner such as a respiratory therapist, nurse or a P.A. (Physician assistant) to maintain the patency of an artificial airway.

It was the consensus of the Board that based on the limited facts presented, pursuant to N.J.A.C. 13:44F-3.1 Scope of Practice, the performance of the procedure is not allowed, however, pursuant N.J.S.A. 45:14E-9c, Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other persons and health providers licensed by appropriate agencies in the State of New Jersey, provided such duties are consistent with the accepted standards of the member's profession and if the member does not present himself as a respiratory care practitioner. Mr. Friedman will be so advised.

As to the Nursing portion of the question, this inquiry will be forwarded to the Board of Nursing.

IV. INFORMATIONAL/FYI

A. The Board reviewed an article from **Advance Magazine** entitled "**Battle Brewing**" regarding the future of pulmonary function testing in New Jersey **as informational**.

B. The Board reviewed an announcement from the **Association of International Credential Evaluators, Inc.** (AICE) for membership, **as informational**.

V. LEGISLATIVE / REGULATIONS

A. The **Notice Regarding Pulmonary Function Testing** , published in the April 21, 2003 edition of the New Jersey Register was reviewed **as informational**.

B. The **Notice Regarding Polysomnographic Testing** published in the May 5, 2003 edition of the New Jersey Register was reviewed **as informational**.

C. The Board reviewed **Senate Bill 2494** and the companion bill, **Assembly Bill 3696**. Joseph Goss of the New Jersey Society of Respiratory Care commented and made clarifications on the intention of the amendment under Section 14 of P.L. 1991, C.31 as follow: page 4, line 2, delete starting with the word except to the end of the sentence; line 36 and 37, delete from the word *meetings* to *board* and add "lectures, seminars and presentations.". Jake Gertsman, Regulatory Analyst, will prepare Board comments to the bill.

VI. OTHER BUSINESS

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

B. The Board reviewed a request from Christina Saulys requesting that the Board amend its public minutes of May 7, 2002, page 2, item II A, second paragraph, to read..."she surveyed 180 polysomnographic technologists during sleep tests at night..."; On the June 4, 2002 Public Minutes, page 2, item IIA, paragraph 3, line 3, redact *draft copy of curriculum* and replace it with *draft copy of the AARC-APT Clinical Practice Guideline*. These changes will be made to the respective minutes.

C. The Board reviewed the letter from The New Jersey Society for Respiratory Care advising that the New Jersey Association of Polysomnographic Technologists (NJAPT) has chosen not to accept its offer of support of an advisory committee and will pursue an exemption. The Board accepted this **as informational**.

VII. PUBLIC COMMENTS

There being no other business to come before the Board in Public Session, on a motion by James Brophy, seconded by Jeffrey Brozoski, the Public Session was adjourned and the Board convened in Executive Session for the purpose of receiving counsel, to review one matter of old business involving an ongoing investigation and two matters of new business.

The Board reconvened in Public Session. The following disciplinary action by the Board is being reported out.

DISCIPLINARY ACTION

I/M/O Patricia McAndrew - A Consent Order was filed in the Board office on May 20, 2003, reinstating the license for Patricia Mc Andrew.

The next scheduled meeting is August 5, 2003. There being no other business to come before the Board, on a motion by James Brophy, seconded by Jeffrey Brozoski, the meeting was adjourned at 2:00 p.m.

Respectfully submitted;
Board of Respiratory Care

Dorcas K. O'Neal
Executive Director
