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BOARD OF RESPIRATORY CARE PUBLIC SESSION MINUTES

**SOMERSET CONFERENCE ROOM,
6th Floor**

June 7, 2011

FINAL

The June meeting of the New Jersey 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.

Vice Chairman, Michael G. Brown convened the meeting at 10:00 a.m. A roll call was taken and the following attendance was recorded for these minutes.

PRESENT: Christopher Lange
Janet Castronovo
James Brophy
Michael G. Brown

ABSENT: Philip Freeman
Robert Malovany, M.D.

EXCUSED: Kenneth Capek, Chairman

Also in attendance: Dorcas K. O’Neal, Executive Director, Tobey Palan, Deputy Attorney General and Bernadette Augustus, staff.

Public attendance: None.

I. APPROVAL OF MINUTES

The Board reviewed the Public Session Minutes of April 12, 2011. **On a motion by James Brophy, seconded by Janet Castronovo, the Board unanimously approved the Public Session Minutes as submitted.**

II. OLD BUSINESS/REAGENDIZED

None.

III. NEW BUSINESS

- a. The Board reviewed Respiratory Care Total Revenues for April, 2011, **as informational.**
- b. The Board reviewed a letter from Lori M. Tinkler, MBA, Associate Executive Director, National Board for Respiratory Care, cordially inviting the Executive Director or a designated representative to attend the 2011 meeting of the State Licensure Liaison Group, sponsored by the NBRC and the American Association for Respiratory Care (AARC). This year's meeting will be held September 9-10 2011 at the NBRC Executive Office in Olathe, Kansas. On a motion by James Brophy, seconded by Janet Castronovo, the Board unanimously voted to send the Executive Director as a designated representative of the Board.
- c. The Board reviewed fax from Timothy O'Donnell, D.O., Pompton Lakes Pulmonary, P.C., inquiring as to whether the Board has any recommendations or whether there are existing rules and regulations regarding qualifications of personnel performing in-office pulmonary function testing, i.e., pre and post bronchodilator spirometry, lung volumes and diffusion measurements. He further stated that all testing would be performed with the pulmonologist present during testing. On a motion by James Brophy, seconded by Christopher Lange, the Board determined that the performance of pulmonary function testing is within the scope of a respiratory care practitioner pursuant to N.J.S.A. 45:14E-3 (b). However, inasmuch as Dr. O'Donnell is a licensed physician in the State of New Jersey, his question should be directed to the Board of Medical Examiners for supervisory and delegatory requirements. A copy of the Notice Of The Board Of Respiratory Care Regarding Pulmonary Function Testing, dated June, 2002 will be enclosed.
- d. The Board reviewed a letter from Brandon C. Goldberg, Esq., representing Jersey Association of Medical Equipment (JAMES) requesting that the Board clarify the 24 hours follow-up regulation at N.J.A.C.13:44F-3.3. On a motion by Janet Castronovo, seconded by James Brophy, the Board determined that there is no exception to N.J.A.C.13:44F-3.3(f) regarding the delivery of any oxygen equipment and the 24 hour in-person follow-up visit.
 - (f) The respiratory care practitioner who delegates tasks set forth in (b) above in an outpatient setting shall ensure that a follow-up visit from a licensee or a person exempt from respiratory care licensure pursuant to N.J.S.A. 45:14E-9 (c) takes place within 24 hours of the delivery of the equipment to the patient for the purpose of conducting an in-person assessment of the equipment. The follow-up visit shall be documented in writing.

1. The documentation of the follow-up visit shall be maintained for all patients during the course of respiratory care, and for a period of one year following the termination of respiratory care services.
2. The documentation of the follow-up visit shall be available for the Board's inspection on the business premises of the licensee or person exempt from licensure who conducts the follow-up visit, within 12 "business hours" is defined as the hours between 9:00 A.M. and 5:00 P.M. Monday through Friday.

The Board also authorized DAG Palan, to call Attorney Goldberg and confirm the 24 hour regulation with him.

- e. The Board reviewed a fax from Trienah M. Gorman, MRB Acquisition Corp., D/B/A u-Scout and Open-Aire, advising that they have licensed Respiratory Care Therapists from Florida on staff and inquiring as to the company's obligations under New Jersey's Law. On a motion by Janet Castronovo, seconded by James Brophy, the Board determined that oxygen concentrators are deemed respiratory care equipments and any delivery in the State of New Jersey require the 24 hour in-person follow-up visit by a licensed New Jersey respiratory care practitioner.
 - (f) The respiratory care practitioner who delegates tasks set forth in (b) above in an outpatient setting shall ensure that a follow-up visit from a licensee or a person exempt from respiratory care licensure pursuant to N.J.S.A. 45:14E-9 (c) takes place within 24 hours of the delivery of the equipment to the patient for the purpose of conducting an in-person assessment of the equipment. The follow-up visit shall be documented in writing.
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The Board also authorized DAG Palan, to call Ms. Gorman and confirm the 24 hour regulation with her.

- f. The Board reviewed Respiratory Care Total Revenues for May, 2011, as informational
- g. The Board Division of Law Billing for the 3rd quarter of Fiscal Year 2011, as informational.

None.

V. LEGISLATION AND PROPOSED REGULATIONS

- a. The Board reviewed the (Second Reprint) Assembly, No. 2721, SYNOPSIS- Changes five year chapter expiration date for rules to seven years; changes procedures for readoption of rules. The Board had no comment.
- b. The Board reviewed an e-mail submitted by President Capek, to correct Neonatal Resuscitation “Protocol” to “Program” N.J.A.C.13:44F-10.2(a)3, with the current proposed amendments. The Board was advised by Counsel that it is too late to process the changes.
- c. The Board reviewed the Report to the Board of Respiratory Care, First Quarter January 1, 2011 - March 31, 2011.

Bill: A2082 Aca (1R), Permits publication of legal notices by governments and individuals on official government website instead of newspaper.

Subject: Communications; Public Records, Notice and Meetings
Related: 2010: S2072; A1083; 2006: A1990; 2004: A2988, as informational, with no comment.

Bill: A3851, Requires information concerning certain public employees be made public, as informational, with no comment.

VI. PUBLIC COMMENT

None

VII. OTHER BUSINESS

None.

There being no other business to come before the Board in Public Session, on a motion by James Brophy seconded by Janet Castronovo, the meeting was adjourned and the Board moved into Executive Session for the purpose of receiving counsel, to review 13 items of old business, and two applications.

The Board reconvened in Public Session. The next scheduled meeting is July 12, 2011. There being no other business to come before the Board, on a motion by Christopher Lange, seconded by Janet Castronovo, the Board adjourned the meeting at 12:30 p.m.

Respectfully submitted,

Dorcas K. O’Neal
Executive Director

