

COMMONWEALTH OF MASSACHUSETTS

BOARD OF RESPIRATORY CARE

**THIS AGENDA CONSTITUTES NOTICE OF THE REGULARLY SCHEDULED MEETING OF THE
BOARD OF RESPIRATORY CARE
IN COMPLIANCE WITH THE OPEN MEETING LAW, M.G.L. c. 30A, § 20**

**Thursday, August 19, 2021
1:30 PM**

**General Session is open to the public and will be held via Webex at:
<https://statema.webex.com/statema/j.php?MTID=md466672ba527fd8b60b119503aa0e405>
Call-In Telephone number 1-866-692-3580 (toll-free)
Meeting Number/Access Code: 161 756 6670
Meeting Password: F2djvVPQC38**

Agenda

All Votes Must Be Via Roll Call

Time	Item #	Item	Exhibits	Staff Contact
1:30 PM	I	Call to Order Determination of Quorum Notice of electronic recording		Chair
	II	Conflict of Interest Approval of Agenda	Draft Agenda	Chair
	III	Approval of Minutes A. July 15, 2021 Board Meeting Minutes	Draft Minutes	Chair
	IV	DME Companies and RT Supervision--- In light of the change to M.G.L.c. 112 section 23V made by Ch. 185 of the Acts of 2016.		
	V	Open Investigations: N/A Triage: N/A Staff Assignments: N/A Complaint: N/A		
	V	Flex Session A. Announcements B. Topics for next agenda	Verbal Discussion	ED

2:30 PM	VI	<p>Executive Session (Roll call vote): The Board will meet in Executive Session as authorized pursuant to M.G.L. c.30A, § 21(a)(1) for the purpose of discussing the reputation, character, physical condition or mental health, rather than professional competence, individuals, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual.</p> <ol style="list-style-type: none"> 1. In addition, the Board will discuss and evaluate the reputation, character, physical condition or mental health, rather than professional competence, of licensee(s) relevant to their petitions for license status change. 2. In addition, the Board will consider approval of prior executive session minutes in accordance with M.G.L. c.30A, § 22(f) for sessions held during for previous executive sessions of the Board. <p>The Board will not reconvene in open session subsequent to the closed session(s).</p>		Chair
	VII	65C Session: N/A	Closed Session	Board Counsel
	VIII	Adjudicatory Session: See Agenda	Closed Session	Board Counsel
	IX	Adjournment -next Board meeting scheduled for September 16, 2021		Chair

If you need reasonable accommodations in order to participate in the meeting, contact the DPH ADA Coordinator Yulanda Kiner, Phone: 617-624-5848 in advance of the meeting. While the Board will do its best to accommodate you, certain accommodations may require distinctive requests or the hiring of outside contractors and may not be available if requested immediately before the meeting.

**COMMONWEALTH OF MASSACHUSETTS
BOARD OF RESPIRATORY CARE
BOARD MEETING**

Thursday, August 19, 2021
1:30 PM
Via WebEx

MINUTES

Board Members Present: Mr. William Beal, Board Member
Lindsey Greener, Board Member
Amy Keenan, RN, Board Member
Jason Morin, RT, Board Member
Dr. Brian Bloom, MD, Board Member
Dr. Samy Sidhom, MD, Board Member

Board Members
not present: Martha DeSilva, RT, Board Chair

Staff Present: Steven Joubert, Executive Director, Multi-Boards, BHPL
Karen Geoghegan, Assistant Executive Director, Multi-Boards, BHPL
Mary Strachan, Board Counsel, Office of the General Counsel, BHPL

Call to Order | Determination of Quorum | Notice of Electronic Recording

Executive Director, Mr. Steven Joubert, called the meeting to order at 1:30 P.M. He reminded those present via WebEx that the meeting was being recorded. Board members stated their names for the record. A quorum of the Board of Respiratory Care was established with members present via WebEx as follows: William Beal: present; Brian Bloom: present; Lindsey Greener: present; Amy Keenan: present; Jason Morin: present; Samy Sidhom: present. Absent: Martha DeSilva.

Conflict of Interest | Approval of Agenda

The open session meeting agenda was reviewed.

DISCUSSION:

Board members reviewed the general session agenda and were asked to disclose any conflicts of interest regarding the items on the agenda. No conflicts of interest were disclosed.

ACTION:

Motion to approve the agenda made by Mr. Jason Morin, seconded by Dr. Brian Bloom and unanimously passed by roll call vote as follows: William Beal: yes; Brian Bloom: yes; Lindsey Greener: yes; Amy Keenan: yes; Jason Morin: yes; Samy Sidhom: present. Absent: Martha DeSilva. Abstained: none. Opposed: none. Recused: none.

DOCUMENT:

August 19, 2021 Regular Session Agenda

Approval of Minutes

Board members were asked to review the minutes from July 15, 2021.

DISCUSSION:

None.

ACTION:

Motion to approve the July 15, 2021 minutes as presented made by Mr. Beal, seconded by Ms. Lindsey Greener and passed by roll call vote as follows: William Beal: yes; Brian Bloom: yes; Lindsey Greener: yes; Amy Keenan: yes; Jason Morin: yes; Samy Sidhom: abstain. Absent: Martha DeSilva. Abstained: Samy Sidhom. Opposed: none. Recused: none.

DOCUMENT: July 15, 2021 General Session Minutes

Durable Medical Equipment (DME) Companies and RT Supervision

Mr. Joubert read the paragraph regarding last month's discussion for Board members that were not present at the time. Board Counsel, Ms. Mary Strachan provided some historical context to the legislation that passed in 2016. She explained that the Board doesn't have jurisdiction over unlicensed people or DME companies and that the statute itself is quite complicated. Dr. Bloom stated that he felt it was reasonable for some types of Durable Medical Equipment such as a CPAP or BiPAP machine, to be set up by unlicensed technicians with proper training. However, he stated that there are other kinds of equipment provided by DME companies, such as ventilators, that required set up and patient interaction which he believes should be done by a licensed respiratory therapist.

Mr. Morin verbalized his agreement that some of the equipment was simple and did not require a licensed respiratory therapist for set up. He pointed to ambiguity in the statute, noting that the training for a technician does not differentiate between invasive and non-invasive practices. He stated anecdotally that he has seen an increase in inquiries regarding the specifics of the law and attributed it to DME companies being under pressure to save money. He asked if it would be possible to hold the Respiratory Therapist who trains the technician accountable if something were to go wrong.

Ms. Lindsey Greener stated that as a consumer, her family did not have concerns with the initial set up of the equipment and stated that it would be valuable to have ongoing support for when the equipment malfunctions as a representative from a DME company was not always available in her experience. To this point, Dr. Samy Sidhom stated that he did not believe it was appropriate for the respiratory therapist who set up the device to be held accountable for the ongoing maintenance and care of the patient and equipment. He opined that this responsibility should belong to the clinical team as they prescribed the equipment as well as necessary adjustments and changes to settings. He noted that the DME companies also have an obligation to change out filters, tubes, cannulas, etc. on a schedule and that this is paid for by insurance. His recommendation was to not change the law or practice as the technology develops rapidly and did not want to back the practice into a corner as the technology changes. Mr. Beal commented that there should be guidelines for patients on troubleshooting, cleaning procedures, and other maintenance for their equipment. Ms. Amy Keenan explained that dangerous side effects can result from improper maintenance and cleaning of equipment and felt that preventative education should come from the clinical team that is prescribing it. Mr. Morin elaborated that Medicare, MassHealth, and most insurers put the responsibility of education on the DME supplier.

Mr. Morin reiterated that he is concerned about the possibility where a patient is harmed due to a lack of knowledge of their machine as he did not see a mechanism for the Board or any other entity to hold the respiratory therapist accountable. Ms. Strachan explained that the Board's position has always been that the initial set up of DME must be done by a licensed respiratory therapist. Dr. Sidhom observed that it seemed like the Board's hands were tied unless the state began to regulate the technicians. He asked if the Board was able to propose amendments to the regulations. Ms. Strachan explained the regulations can be amended but the Board must follow the standard process for regulatory amendment including administrative review and public comment.

Earlier in the conversation, Ms. Strachan had given an example of the owner of a DME company who was disciplined by the Board because he had technicians setting up equipment. Mr. Morin referenced this example and asked if the Board was able to develop and enforce a standard for the respiratory therapist responsible for training the technicians. Ms. Strachan explained that the Board had attempted to develop a curriculum for respiratory therapists training technicians in equipment setup but that they ultimately determined that they would not be able to enforce it as the onus is on the DME company to document the training and the Board does not have jurisdiction over DME companies there. Mr. Morin asked if it was within the Board's purview to have a standard for the content of this training, not just stating that it needs to have been done. Ms. Strachan explained that it would not be appropriate to hold a respiratory therapist accountable for errors made by another person.

Mr. Beal posed a hypothetical where a patient gets sick due to unclean equipment and the technician claims that they were never trained in its use. He asked who would be responsible for this error. Ms. Strachan stated that it would likely come down to the physician who prescribed the equipment. Mr. Beal noted that DME companies do not have contracts with the physicians who prescribe the equipment and in fact, patients are not obligated to use the company that their physician recommends.

Ms. Strachan noted that it may be worth continuing the discussion at a later meeting, stating that she would consult with other Board Counsels and research how other states and jurisdictions handle this gray area.

ACTION:

Motion to continue discussion and Board Counsel will bring back additional information from the legal unit to the next Board meeting by Mr. Beal, seconded by Dr. Sidhom and passed by roll-call vote as follows: William Beal: yes; Brian Bloom: yes; Lindsey Greener: yes; Amy Keenan: yes; Jason Morin: yes; Samy Sidhom: present. Absent: Martha DeSilva. Abstained: none. Opposed: none. Recused: none.

Open Investigations: N/A

Flex Session

A. Announcements:

Mr. Beal asked if retired respiratory therapists had a "retired" status for their license or if they just were to let it lapse. Ms. Strachan explained that while there is a retired status, many Licensees just let their licenses lapse.

B. Topics for Next Session:

DME Companies and RT Supervision

Executive Session

Mr. Joubert announced that the Board would meet in Executive Session as authorized pursuant to M.G.L. c.30A, §21(a)(1) for the purpose of discussing the reputation, character, physical condition or mental health, rather than the professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. Specifically, the Board will discuss and evaluate the reputation, character, physical condition or mental health, rather than professional competence, of licensee(s) relevant to their petitions for license status change. In addition, the Board will consider approval of prior executive session minutes in accordance with M.G.L. c.30A, § 22(f) for sessions held during for previous executive sessions of the Board. The Board would not reconvene in open session subsequent to the closed session(s).

ACTION:

Motion to enter Executive Session at 2:49 P.M. made by Dr. Bloom, seconded by Mr. Morin and unanimously passed by roll call vote as follows: William Beal: yes; Brian Bloom: yes; Lindsey Greener: yes; Amy Keenan: yes; Jason Morin: yes; Samy Sidhom: present. Absent: Martha DeSilva. Abstained: none. Opposed: none. Recused:

none.

DOCUMENT:

None.

Adjournment:

The Board did not reconvene following Executive Session.

The next meeting of the Board of Respiratory Care is scheduled for **September 16, 2021.**

Respectfully submitted:

Board of Respiratory Care