

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, G.L. c. 30A, § 20

Wednesday, February 13, 2013
1 p.m.
239 Causeway Street – 5th floor, Room 419
Boston, MA 02114

Agenda

- I. Call to Order
- II. Approval of Agenda
- III. Approval of Minutes
 - A. December 12, 2012 Regularly Scheduled Meeting
- IV. Adjudicatory Session (closed session)
None.
- V. M.G.L. c. 112, § 65C Session (closed session)
 - A. REP-2012-012 Assael, Jarret RT9670 (expired 5-31-12)
Allegation: Discipline in another jurisdiction
 - B. REP-2012-011 Dupuis, Veronica RT3432 (expires 5-31-2014)
Disclosure of criminal history
- VI. Limited Permit Applications
None.
- VII. Full License Applications
None.
- VIII. License Reactivation Applications
 - A. Elizabeth Lambert RT9768 License expired 5-31-2012
- IX. License Reinstatement Applications
 - A. Agostini, Thomas REP-2010-013 RT2598 (expired 5-31-2012)
License Suspension effective 12-21-2010)

Petition for license reinstatement

X. Staff Assignments

- A. Hieber, Paul SA-INV-3297 RT3830 (expired 5-31-2010)
Disclosure of criminal history on license reactivation application

XI. Complaints

- A. Andrade, Ibraltino REP-2009-008 (Consent Agreement: License Probation)
REP-2013-001 RT9856 (expires 5-31-2014)
Criminal Conduct during Probationary Period).
- A. Enzinger, Peter REP-2012-013 RT3490 (expired 5-31-2012)
Discipline in another jurisdiction

XII. Scope of Practice Inquiries

None.

XIII. Other Business/Announcements

- A. Board member resignation: Carol Mack, RT, Board Chair
B. Election of Board Chair
C. Board Member Recusals and Disclosures under Conflict of Interest Law, M.G.L. c. 268A:
Memorandum from the Office of the Governor's Legal Counsel dated January 14, 2013

XIV. Adjourn

COMMONWEALTH OF MASSACHUSETTS

BOARD OF RESPIRATORY CARE

BOARD MEETING

Wednesday, February 13, 2013

239 Causeway Street
Room 419
Boston, MA 02114

MINUTES

Board Members Present: Edward Burns, RT, Vice-Chair, RT member
Armand Riendeau, RT, RN, RN Member

Staff Present: Sally Graham, Executive Director
Joelle Stein, Board Counsel, OGC, DPH
Anson Chu, Administrative Assistant

Curtis Jackson, MPRS Coordinator, DHPL (departed 2:35 p.m.)
Karen Fishman, Probation Monitor, DHPL (arrived 2:50 p.m./departed 3:30 p.m.)
Joel Kanter, DPH, BHCSQ (departed at 3:50 p.m.)

I. Call to Order
Mr. Burns, Vice-Chair, called the Board Meeting to order at 1:05 p.m.

II. Approval of the Agenda
The Meeting Agenda was reviewed. Mr. Burns made a motion to approve the Agenda as amended by adding, under Item XI, Complaints, "C. Kenneth Volovick, REP-2013-002, RT1600 (expires 5/31/14)"; Mr. Riendeau seconded the motion. The motion passed unanimously.

Document: February 13, 2013 Meeting Agenda

III. Review and Approval of Minutes
A. December 12, 2012 Regularly Scheduled Board Meeting
The Minutes of the December 12, 2012 Regularly Scheduled Board Meeting were reviewed. Mr. Riendeau made a motion to approve the Minutes as presented; Mr. Burns seconded the motion. The motion passed unanimously.

Documents: Minutes of December 12, 2012 Regularly Scheduled Board Meeting

IV. Adjudicatory Session

None.

V. M.G.L. c. 112, § 65C Session (closed session)

Mr. Burns made a motion to go into the Section 65C Session at 1:11 p.m.; Mr. Riendeau seconded the motion. The motion passed unanimously.

A. REP-2012-012 Assael, Jarret RT9670 (expired 5-31-12)
Allegation: Discipline in another jurisdiction (CT)

B. REP-2012-011 Dupuis, Veronica RT3432 (expires 5-31-2014)
Disclosure of criminal history

[The Board adjourned the M.G.L. c. 112, § 65C Session at 1:33 p.m. and resumed its Regularly Scheduled Board Meeting.]

VI. Limited Permit Applications

None.

VII. Full License Applications

None.

VIII. License Reactivation Applications

A. Elizabeth Lambert (now Mello) RT9768 License expired 5-31-2012

Mr. Riendeau made a motion to accept Ms. Lambert's college courses to meet the CEU requirement and to approve her reactivation application; Mr. Burns seconded the motion. The motion passed unanimously.

Documents: License Reactivation Application

IX. License Reinstatement Applications

A. Agostini, Thomas REP-2010-013 RT2598 (expired 5-31-2012)
(Suspension Agreement effective 12-21-2010)

Post-suspension petition for license reinstatement

The Board reviewed the packet of materials that the licensee compiled for review by the Board, in accordance with the Board's Policy governing license reinstatement following license suspension, and found it complete. Curtis Jackson, MPRS Coordinator, provided an update to the Board.

Mr. Burns made a motion to terminate license suspension; Mr. Riendeau seconded the motion. The motion passed unanimously.

Motion by Mr. Riendeau to reinstate license pending the licensee's signing a post-suspension consent agreement for probation for a period of not less than three (3) years and with terms to include his continued participation in, and compliance with, the terms of his contract with MPRS, no criminal activity, verification of current NBRC certification, and contingent license surrender for failure to comply with all

agreement terms. Mr. Riendeau seconded the motion. The motion passed unanimously.

Documents: Petition for License Reinstatement and related documents

X. Staff Assignments

A. Hieber, Paul SA-INV-3297 RT3830 (expired 5-31-2010)
Disclosure of criminal history on license reactivation application

The Board reviewed the materials submitted by the licensee involving a criminal case in Connecticut from 2004; a current Massachusetts CORI report is negative.

Mr. Riendeau made a motion to approve the reactivation application and to notify the licensee that .3 CEUs submitted for the 2012-2014 license reactivation period will be counted towards the 2010-2012 license reactivation period. Mr. Burns seconded the motion. The motion passed unanimously.

Documents: Staff Assignment, reactivation application and related documents

XI. Complaints

A. Andrade, Ibraltino RT9856 (expires 5-31-2014)
REP-2009-008 (Consent Agreement for License Probation effective 2/16/10)
REP-2013-001 Allegation: Criminal Conduct during Probationary Period

The Board reviewed the documents obtained by Karen Fishman, Probation Monitor, from the criminal court reflecting that the licensee has pending criminal charges. The licensee was terminated from employment as an RT on January 11, 2013.

Ms. Stein informed that Board of her conversation with Paul Starr, Esq., who contacted her with regard to the letter sent the licensee on February 7, 2013, advising him of the Board's anticipated action and offering an opportunity respond to the new complaint at the Board's February 13th Meeting. The licensee did not attend Board Meeting or provide a response. Attorney Starr submitted a letter requesting that the licensee have an opportunity to provide further information relative to the pending criminal charges and to present same at the next monthly meeting.

Mr. Burns made a motion to immediately suspend License No. 9856 in accordance with the terms of his Probation Agreement for violation of its terms, to wit, engaging in conduct that resulted in his arrest for violation of criminal law, and to inform the licensee of the suspension and of the opportunity to appear at the March 2013 Board Meeting provided he confirms his attendance by February 11, 2013. Mr. Riendeau seconded the motion. The motion passed unanimously.

Documents: Complaint files and related documents

B. Enzinger, Peter REP-2012-013 RT3490 (expired 5-31-2012)
Discipline in another jurisdiction (ME)
Convictions in U.S. District Court, District of Maine

Ms. Stein summarized the information relative to the licensee's surrender of his RCP license under a Consent Agreement with the Maine Board of Respiratory Care Practitioners in December 2011 for failing to disclose criminal convictions on his application for RCP licensure and his conviction in U.S. District Court in April 2012 for health care fraud and knowingly making a false statement on a loan application submitted to the Small Business Administration on behalf of three (3) medical supply companies. The licensee is currently incarcerated at a federal prison in Pennsylvania.

Mr. Burns made a motion to offer the licensee a consent agreement for the voluntary surrender of his right to renew his license based on the surrender of his ME RCP license and his convictions in federal court; Mr. Riendeau seconded the motion. The motion passed unanimously.

Documents: Complaint file and related documents

- C. Volovick, Kenneth REP-2013-002 RT1600 (expires 5-31-2014)
Allegation: Inadequate or fraudulent documentation

Ms. Graham informed the Board that she had just opened a complaint against the licensee's RT license alleging that the licensee had been terminated from employment for improprieties relative to the licensee's documentation of the periodic maintenance of facility medical equipment.

Mr. Riendeau disclosed that as a RT he had worked with the licensee in 1974.

The Board agreed to defer action until the investigation is complete.

Documents: Complaint file

- XII. Scope of Practice Inquiries
None.

XIII. Other Business/Announcements

A. Board member resignation: Carol Mack, RT, Board Chair

Ms. Graham informed the Board that Ms. Mack resigned her position on the Board effective December 31, 2012. Ms. Mack's noted in her resignation letter that, based on anecdotal information, she has concerns about unlicensed practice of respiratory care in the homecare field.

Board members requested that additional resources be made available to the Board to inform homecare companies about Board statutory and regulatory requirements. Mr. Kanter agreed to assist the Board in pursuing its concerns.

B. Election of Board Chair

Mr. Riendeau made a motion to nominate and elect Mr. Burns as Board Chair with the agreement that another election would be held in July 2013, when Ms. Mack's term as Chair would have ended; Mr. Burns seconded the motion. The motion passed

unanimously.

C. Board Member Recusals and Disclosures under Conflict of Interest Law, M.G.L. c. 268A:
Memorandum from the Office of the Governor's Legal Counsel dated January 14, 2013

Ms. Graham distributed the memorandum to Board members for review and any discussion and questions.

XIV. Adjourn

There being no other business before the Board, Mr. Riendeau made a motion to adjourn the meeting; Mr. Burns seconded the motion. The motion passed unanimously. The meeting adjourned at 3:55 p.m.

The next meeting of the Board of Respiratory Care is scheduled for Wednesday, March 20, 2013, at 1 p.m. in Boston, MA.

Respectfully submitted:

Name

Position

Date