

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**

**Tuesday, March 21, 2017
1:00 p.m.**

**239 Causeway Street ~ 4th Floor ~ Room 418
Boston, Massachusetts 02114**

Agenda

Time	Item #	Item	Exhibits	Staff Contact
1:00 p.m.	I	Call to Order Determination of Quorum Notice of electronic recording		
	II	Approval of Agenda & Conflict of Interest	Draft Agenda	Chair
	III	Approval of Minutes A. December 20, 2016 Board Meeting	Draft Minutes	Chair
	IV	Regulatory Updates A. Comments to Proposed Amendments B. Legislative Update: Change to Respiratory Care Law (Chapter 185)	Memo	MS
	V	Staff Action Policies: A. Proposed Amended Staff Action policy - GMC1-30-17	Draft Policy	MS
	VI	Board Inquiries A. RT Scope of Practice, Medication Administration	Email Inquiries	Chair
	VII	Flex Session A. Announcements B. Topics for next agenda	Verbal	Chair

2:00 p.m.	VII	<p>Executive Session (Roll call vote): N/A</p> <p>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. Specifically, the Board will discuss and evaluate the <u>Good Moral Character</u> provisions of certain applications as required for registration for pending applicants. 2. 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. 3. 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 executive session.</p>	Closed Session	Chair
3:00 p.m.	VIII	<p>Adjournment-next Board meeting scheduled for April 18, 2017</p>		

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

Tuesday, March 21, 2017

239 Causeway Street
Room 418
Boston, MA 02114

MINUTES

Board Members Present: Paul Nuccio, RT, Respiratory Therapist 1
Phillip Bort, Consumer 2
Jordan Sage Rettig, M.D., Physician 1
Martha DeSilva, RT, Respiratory Therapist 2

Staff Present: Roberlyne Cherfils, Executive Director, Multi-Boards, BHPL
Philip Beattie, Deputy Executive Director, Multi-Boards, BHPL
Mary Strachan, Board Counsel, Office of the General Counsel, DPH
Anson Chu, Office Support Specialist, Multi-Boards, BHPL
Clifford V. Pascarella II, JD, Board Investigator, BHPL

Guests: Brian Walsh from American Association for Respiratory Care
Donna Sullivan from Massasoit Community College

I. Call to Order - Determination of Quorum

A quorum of the Board was present. Mr. Nuccio, Board Chair, called the meeting to order at 1:13 p.m.

II. Review of the Agenda & Conflict of Interest

The Meeting Agenda was reviewed.

DISCUSSION: Mr. Nuccio asked the Board members to review the agenda and disclose if there are any conflicts of interest regarding the items on the agenda.

No member noted any conflict with the agenda items.

Ms. Cherfils informed the Board that Item IV-C and Probation case will be deferred in the Executive Session.

ACTION: Ms. DeSilva made a motion to approve the agenda as presented; Dr. Rettig seconded the motion. Motion passed with Board members present and voting in favor unanimously.

Document: March 21, 2017 Board Meeting Agenda

III. Approval of Minutes

A. December 20, 2016 Regularly Scheduled Board Meeting

The minutes of the December 20, 2016 regularly scheduled board meeting were reviewed.

ACTION: Mr. Bort made a motion to approve minutes as presented; Ms. DeSilva seconded the motion. Motion passed with Board members present and voting in favor unanimously.

Documents: December 20, 2016 Regularly Scheduled Board Meeting Minutes

IV. Regulatory Updates

B. Comments to Proposed Amendments

DISCUSSION: Ms. Strachan gave a summary to the Board regarding the comments and written testimonies that were given during the public hearing for the proposed amendments to the regulations. There were both oral statements as well as written testimonies. Ms. Strachan summarized each testimony individually and gave her legal advice to the Board for them to discuss.

The first comment – there is a request to provide identification such as a photo ID as a requirement on license renewal. As noted on the memo that was distributed to the Board, *“this suggestion is seemingly straightforward and reasonable, in my opinion. However, Board members should bear in mind that most licensed respiratory therapists in Massachusetts renew their license on-line, with no face to face meeting with the Board or with Board staff. Secondly, Ms. Farquharson may also be asking that the Board change the paper license it issues to licensees to include a photo I.D., but that is not explicit in her recommendation. As there is no legal bar to doing this, I have no legal advice to give on this issue other than to suggest that you solicit input from operations staff”*. Dr. Rettig commented that while this request may seem simple, it could get complicated. Ms. Cherfils also wants the Board to think about the “bigger picture” as to what does this add to the renewal process, why is this needed and how significant is this requirement. The only time the Board requires the photo ID is for extreme cases similar to the Nursing fraud cases last year in the Bureau. Mr. Bort also felt this is unnecessary for the renewal process.

ACTION: Mr. Bort made a motion to reject the photo identification comment recommendation; Ms. DeSilva seconded the motion. Motion passed with Board members present and voting in favor unanimously.

The second comment – there were actually two testimonies regarding a request to increase the 15 CE's required for license renewal.. One of the individuals gave some data which claimed that including MA, there are only 9 states required 15 or less CE's biannually. The individual wants to let the Board know that *“increasing the amount of CEUs respiratory therapist[sic] need to achieve will promote the importance of ‘improving the delivery of health care to the public by ensuring appropriate on-going activities/programs to enhance the knowledge and skills and/or attitudes of respiratory therapists.’”* Before continuing with the discussion, Ms. Strachan strongly reminded the Board that no matter what decision they make in regards to this request to increase the CE – the Board's role is to *regulate* the practice of respiratory therapists, *not* to promote the profession of respiratory therapy. Promoting the profession is a separate and

distinct activity from regulating a profession and typically falls to professional organizations. As such, the professional organizations act to promote their respective professions by lobbying legislatures, providing advice and training, etc. Ms. Strachan mentioned it is within the Board's purview to increase the CE if they agree with the comment. Ms. Strachan also advised the Board that if they do agree with the comment, the Board should notify licensees well in advance of the change. Ms. Strachan asked the Board to keep in mind during their discussion is that if they increase the number of CE required for license renewal, it will increase a financial burden on the licensees. Mr. Nuccio commented that the increasing the CE is good for the profession and does not see any problem financially. He mentioned if you are a member of AARC, part of membership allows you to take CE free of charge. If you are not a member of AARC – there are still free online CE courses licensees can take. Mr. Bort wants to know how significant it will be for the profession. Dr. Rettig informed the Board that some CEUs are useless as licensee can be taking “mindless” courses in order to meet the requirement. Ms. DeSilva gave her input and mentioned having some sort of ethics CE training will be a good idea. Mr. Bort agrees and mentioned if the Board decides to increase the number of CEUs, there should be specific courses required. With the discussion of the online “mindless” CEU courses as well as having specific courses, Mr. Nuccio wants the Board to revisit the policy and reinstate the limitation of the number of online CEs you can do. Ms. Cherfilis informed the Board that if the Board is going toward the path of increasing the CEU, the Board needs to notify the schools, professional organizations (such as AARC, MSRC, NBRC), on our website, etc.

ACTION: Ms. DeSilva made a motion to accept the comments and increase the number of contact hours from 15 to 30 effective on the 2020 renewal as well as creating a sub-regulatory guidance for licensee; Mr. Nuccio clarified that in order to meet the 2020 effective date, licensees would need to take the additional courses starting in 2018 renewal cycle. Ms. DeSilva agreed. Mr. Nuccio made a motion to adopt. Ms. DeSilva seconded the motion. Motion passed with Board members present and voting in favor: Mr. Bort abstained from voting.

Finally – the last comment is in reference to the changes to the definition of Respiratory Care. Ms. Strachan reviewed the individual's comments with regard to changing definitions of the regulations. After reviewing the comments, Dr. Rettig mentioned that on one of his comments, the individual referred to the Journal Respiratory Care and it's best to just refer to professional organizations instead and add physician's statement. Ms. Strachan also noted that journals may come and go and that adopting the positions of a national organization that is viewed as the standard set in the field makes more sense. On his comment on 1), 2), 4) and 5) as listed on Ms. Strachan's memo, the Board decided to keep the language in the regulation and not make any changes. Regarding his comment on 5), the Board is not authorized as it is based on statutory limitations. However, on his comment on 3), the Board decided to also keep the language as it is and add physician's statement on it.

ACTION: Mr. Bort made a motion to accept the recommendation above; Mr. Nuccio seconded the motion. Motion passed with Board members present and voting in favor unanimously.

Document: Memo

C. Legislative Update: Change to Respiratory Care Law (Chapter 185)

DISCUSSION: Ms. Strachan informed the Board that Governor Baker signed and passed a bill effective in August 2016 that is entitled “An Act Relative to Respiratory Therapy” and appears as Chapter 185 of the Acts of 2016. This bill will amend an existing law (statute), and allows for an employee of a DME company who “has a minimum of 500 hundred hours of positive airway pressure equipment and supply related training under the supervision of a respiratory therapist” licensed by the Board to perform the “initial set up of positive airway pressure equipment” (i.e., CPAP, BiPAP). Ms. Strachan reminded the Board that it does not specify what the 500 hours consist of, therefore, the Board must provide guidance as to how/what/where/who does the training. Ms. DeSilva commented that while she does not agree with the bill, the Board needs to come up with a plan and training plan.

ACTION: Ms. DeSilva made a motion to bring a list of core competencies to the Board for the next scheduled meeting. The Board should consider requiring that any training program that purports to provide this training must be accredited by CoARC ; Mr. Nuccio seconded the motion. Motion passed with Board members present and voting in favor: Mr. Bort abstained from voting.

Document: Memo

V. Staff Action Policies

A. Proposed Amended Staff Action policy –GMC-1-30-17N/A

DISCUSSION: Ms. Strachan informed the Board that this GMC policy was adopted on July 19, 2016. The distributed draft policy before the Board today revised the last criteria to “If there is an adverse finding on one (1) charge of Operating under the Influence of drugs or alcohol, there is no other evidence of a substance use disorder”.

ACTION: Ms. DeSilva made a motion to adopt the revised policy; Mr. Bort seconded the motion. Motion passed with Board members present and voting in favor unanimously.

Document: Draft Policy

VI. Board Inquiries

A. RT Scope of Practice, Medication Administration

DISCUSSION: Ms. Strachan reviewed the Scope of Practice inquiry with the Board. She mentioned it’s a bit complicated and partially answered the inquiry but is looking for the guidance from the Board in regards to the medication list. Ms. Strachan wants to know if the three medications mentioned are within the scope of practice of Respiratory Therapists. Board member Mr. Nuccio, Ms. DeSilva and Dr. Rettig agree. As a reminder that this inquiry is about the practice of medicine delivery and it is more of an operation process within their facility and not under the Board’s purview.

ACTION: None

Document: Email Inquiries

VII. Flex Session

A. Announcements

None

B. Topics for next agenda

1. All items that were deferred

VIII. Executive Session (Roll call vote)

At 2:47 p.m., Mr. Nuccio announced that 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 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 Good Moral Character provisions of certain applications as required for registration for pending applicants. 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.

Ms. DeSilva made a motion to enter into Executive session at 2:47 p.m.; Mr. Bort seconded the motion. Motion passed with Board members present and voting in favor: Mr. Bort-yes; Mr. Nuccio-yes; Dr. Rettig-yes; Ms. DeSilva-yes; Abstained: None; Opposed: None; Recused: None

The Board adjourned the Executive Session at 2:47 p.m. and resumed its Regularly Scheduled Board Meeting.

IX. Adjournment

There being no other business before the Board, Ms. DeSilva made a motion to adjourn the meeting; Mr. Bort seconded the motion. Motion passed with Board members present and voting in favor unanimously. The meeting adjourned at 3:14 p.m.

The next meeting of the Board of Respiratory Care is scheduled for Tuesday, April 18, 2017, at 1:00 p.m. in Boston, MA.

Respectfully submitted:

Name

Position

Date