

**Commonwealth of Massachusetts
Department of Public Health
Bureau of Health Profession Licensure
Board of Respiratory Care
250 Washington Street
Boston, MA 02108**

**October 17, 2024
Via WebEx**

GENERAL SESSION MINUTES (OPEN SESSION)

Board Members
Present: Jason Morin, Respiratory Therapist, Board Chair
William Beal, Consumer, Board Vice Chair
Brian Bloom, MD
Daniel Fisher, Respiratory Therapist
Meaghan Kaplan, Consumer
Adrian Velasquez, MD

Board Members
Not Present: None

Staff Present: Steven Joubert, Executive Director, Multi-Boards, BHPL
Tracy Tam, Assistant Executive Director, Multi-Boards, BHPL
Kayla Mikalauski, Management Analyst, Multi-Boards, BHPL
Danielle Macfarland, Office Support Specialist, Multi-Boards, BHPL
Meghan Bresnahan, Board Counsel, DPH

- I. Call to Order | Determination of Quorum | Notice of Electronic Recording
Mr. Jason Morin, Board Chair, called the General Session of the Board of Respiratory Care meeting to order at 1:05p.m. and asked for a roll call vote to determine quorum.
Mr. William Beal: present, Dr. Brian Bloom: present, Ms. Meaghan Kaplan: present, Mr. Jason Morin: present.
Absent: Mr. Daniel Fisher, Dr. Adrian Velasquez
- II. Conflict of Interest | Approval of Agenda
- Discussion:
None

Action:

Motion to approve the agenda was made by Dr. Brian Bloom, seconded by Mr. William Beal, and unanimously passed by roll call vote as follows: Mr. William Beal: yes, Dr. Brian Bloom: yes, Ms. Meaghan Kaplan: yes, Mr. Jason Morin: yes.

Document: October 17, 2024, General Session Agenda

Mr. Daniel Fisher and Dr. Adrian Velasquez joined the meeting at 1:07 pm.

III. Approval of Minutes

The General Session Minutes for September 19, 2024, were reviewed for approval.

Discussion:

N/A

Action:

Motion to approve the minutes was made by Mr. William Beal, seconded by Dr. Brian Bloom, and unanimously passed by roll call vote as follows: Mr. William Beal: yes, Dr. Brian Bloom: yes, Mr. Daniel Fisher: yes, Ms. Meaghan Kaplan: yes, Mr. Jason Morin: yes, Dr. Adrian Velasquez: yes.

Absent: None

Document: September 19, 2024, General Session Minutes

IV. Request for in-person Respiratory Care Education Services

A. Joelle Hochman, RT 9782

Discussion:

Mr. Steven Joubert welcomed Ms. Joelle Hochman to the meeting and asked her to kindly address the Board Chair, Mr. Jason Morin, followed by the remaining members of the board. Ms. Joelle Hochman stated she was in front of the board four years ago and is appreciative of the Board of Respiratory Care for allowing her to provide virtual respiratory care education. Ms. Joelle Hochman stated she has been getting requests from mainly elderly patients who have difficulty using computers and are requesting that she come to their home. Ms. Joelle Hochman stated the education is not hands on, but for things such as inhaler instruction, stress reduction, breathing techniques, and things along that scope. Mr. Jason Morin stated that he reviewed letters sent to us previously and it appears that the past instruction from the board was that her practices were approved, provided that she had access to pulmonary physician or physicians for consultation at all times. Mr. Jason Morin asked Ms. Joelle Hochman what is the current relationship status with the overseeing physicians? Ms. Joelle Hochman stated

in addition to this coaching work she renders, she also works twenty hours a week at Brigham and Women's Hospital working with two teams: the severe COPD team and the ILD team. Ms. Joelle Hochman stated she has about a dozen physicians that she works very closely with who have all made themselves available may she need any help or consultation from them. Mr. Jason Morin asked Ms. Joelle Hochman if this was a formal agreement or rather a friendly availability? Ms. Joelle Hochman stated it was the latter. Mr. William Beal asked Ms. Joelle Hochman if there was anyone overseeing her standards and practices? Ms. Joelle Hochman stated there was no one overseeing her standards and practices, and this was the reason why she came in front of the board four years ago to seek a variance. Dr. Brian Bloom stated there are no current board members that were on the board four years ago due to a complete turnaround. Dr. Brian Bloom stated he would have had some limitations approving the initial request. Dr. Brian Bloom asked Ms. Joelle Hochman if she was billing the patients that she is seeing independently? Ms. Joelle stated all costs are out of pocket. Ms. Joelle Hochman stated that she did teach pulmonary rehabilitation for 5 years prior to this. Dr. Brian Bloom stated he had no reservations regarding her qualifications, however what is somewhat troubling is patients are paying out of pocket for services that are universally covered and duplicates the services she is offering. Dr. Brian Bloom asked Ms. Joelle Hochman what is she offering to the patients that is different from the services that they can get for free? Ms. Joelle Hochman stated the gold standard is pulmonary rehabilitation and she is not offering pulmonary rehabilitation, so the patients that she does render services to are patients that are no longer eligible for insurance to cover because they were previously in a pulmonary rehabilitation. Ms. Joelle Hochman stated she always refers patients to do a full rehabilitation program, but some patients do not want to complete a full program and would much rather receive a certain amount of education. Mr. Jason Morin stated he does appreciate the type of education that Ms. Joelle Hochman is offering, however would like to see more formal arraignment with the physicians that are providing the oversight. Dr. Adrian Valasquez agreed with Dr. Brian Bloom and Mr. Jason Morin. Dr. Brian Bloom stated the board should have an internal discussion before any final decisions are made.

Ms. Meghan Bresnahan stated she would look into this, and this is something that could be heard next session in 65C and then brought back to regular session. Mr. Steven Joubert stated we can add this to the next meeting and follow up with Ms. Joelle Hochman.

Mr. Jason Morin asked Ms. Joelle Hochman if she was dispensing medication because she previously mentioned inhaler teaching? Ms. Joelle Hochman stated she does not prescribe any medication and she uses test sample when educating patients. Ms. Joelle Hochman stated before working with a patient, she faxes over release forms to the patients' pulmonologists asking for permission to render services to the patient. Mr. William Beal asked Ms. Joelle Hochman if she would describe herself as a patient advocate? Ms. Joelle Hochman stated she would not describe herself as a patient advocate, but more of a patient educator. Dr. Brian Bloom stated Ms. Joelle Hochman did the right thing by coming before the board years ago, however this matter needs to be revisited to ensure we are following the regulations. Ms. Joelle Hochman stated that

it is not her preference to bill out of pocket and four years ago spent quite some time trying to bill to insurance but was unable to do so because she does not have an NPI number for the particular service she is providing. Mr. Jason Morin asked Ms. Joelle Hochman if she only renders services in Massachusetts to which Ms. Joelle Hochman answered, yes. Mr. Jason Morin stated we will further discuss this in our 65C session and add it to the agenda for next month.

Action:

Motion to discuss matter in 65C session made by Mr. William Beal: seconded by Mr. Jason Morin: and unanimously passed by roll call vote as follows: Mr. William Beal: yes, Dr. Brian Bloom: yes, Mr. Daniel Fisher: yes, Ms. Meaghan Kaplan: yes, Mr. Jason Morin: yes, Dr. Adrian Velasquez: yes.

V. Telework Regulatory Guidance Memo:

Regarding the context application of 261 CMR 3.04 (1) and 261 CMR 5.05.

Discussion:

Mr. Steven Joubert presented the document for discussion. Mr. Jason Morin stated his first suggestion would be to replace the word “he” in the statutory reminder and replace it with gender neutral terminology. Mr. Jason Morin stated under the Policy Guidelines, the statement “All respiratory care providers offering, or providing telehealth services while physically in Massachusetts or to patients looking in Massachusetts”; be updated. Mr. Jason Morin suggested to strike the line “while physically in Massachusetts” and change it to “any patients being served”. Mr. Jason Morin stated if we would like to keep the line “while physically in Massachusetts,” then we need to add a sentence that speaks to what respiratory therapist in Massachusetts have to do. Ms. Meghan Bresnahan asked Mr. Jason Morin, if it meant serving patients in Massachusetts but not physically located in Massachusetts? Mr. Jason Morin stated that is correct and that is actually the bigger issue with telehealth is that there are telehealth services being provided for respiratory therapist that are in Massachusetts to patients in the state but in a much larger degree, and we are seeing a shift towards national companies providing respiratory services in all fifty states from a single location.

Dr. Brian Bloom stated the ability of us to oversee respiratory care in the Commonwealth will require some boundaries and would advise us to follow the mechanisms that are already in place regarding telehealth. Dr. Brian Bloom stated unless there is some type of national licensure in place, which we do not have right now, care would be very difficult to manage if the patient and Physician are not in the same state. Ms. Meghan Bresnahan stated she would look into this matter to verify if there some type of language to cover this type of scenario. Dr. Brian Bloom asked Ms. Meghan Bresnahan if a therapist is licensed in Massachusetts and provides care to someone in another state and they do something bad, do we still have the authority to regulate that care? Ms. Meghan Bresnahan stated we do still have authority because it would be under their Massachusetts license that we have jurisdiction over, but it does pose an interesting question. Ms. Meghan Bresnahan stated she would look more into this and get back to

the board. Dr. Brian Bloom stated he would hate to make it difficult for patients get the care they need if we have to rely upon Massachusetts licensed respiratory therapists that are out of state. Mr. Jason Morin stated from a patient care aspect, he does not believe there is a difference in the quality of care if he was telehealth from Massachusetts or out of state. Dr. Brian Bloom stated he feels that would be reasonable giving the shortage of manpower.

Mr. Jason stated moving onto section two, Regulatory Compliance, he asked the board if we should add a provision that whatever technical platforms, they are using must meet applicable HIPPA requirements? Dr. Brian Bloom asked when using the term “telehealth” does this means something other than a telephone? Mr. Jason Morin stated Medicare had three different definitions of care and one of them was telephonic. Ms. Meghan Bresnahan stated that under the section that says “adherence to patient privacy laws such as HIPPA informed consent protocols” that encapsulates that whatever platform is being used must be in compliance with privacy laws. Mr. Jason Morin stated he could add a sentence to the regulatory compliance to enforce that.

Mr. Jason Morin stated moving on to section three, appropriate use of telehealth, may be used be used for the assessment, monitoring and management of patients as deemed appropriate by the provider but is being used primarily as a setup device for PAP. Mr. Jason Morin stated there should be some language that speaks to the initial set up of a patient. Dr. Brian Bloom stated adding something such as “initial provision” would be good. Mr. Jason Morin stated the section that states “deemed appropriate by the provider” do we want to have the physicians included in this process? Dr. Brian Bloom stated he does not feel it’s necessary. Ms. Meghan Bresnahan stated the Physician oversight is also in the regulations as well so that will cover it on that end.

Mr. Jason Morin stated his last note, section five, should we add an “in-person” option if the patient prefers or is unable to use the t telehealth options? Dr. Brian Bloom stated this is a great idea and Ms. Meghan Bresnahan stated we could include that.

Mr. Daniel Fisher asked if wording could be added to section six, “Patient Consent”. Mr. Daniel Fisher asked if section six would state that the patient could withdraw their consents themselves for telehealth and change to in person? Ms. Meghan Bresnahan stated it is implied that you could always withdraw your consent, but we can always add specific language so it’s clear. Mr. Jason Morin asked if in regard to this policy as a whole, can we make the draft available on the website to the public? Ms. Meghan Bresnahan stated typically we would not post a draft policy because it does have to be reviewed internally however, she would look into how this may be distributed to the public before it is finalized.

VI. Discussion on Compact Licensure 261 CMR 3.05.

Mr. Jason Morin stated he did hear back from a home care agency last week regarding this and the language has been delayed again and the new estimated date for the language is some time in November. Ms. Meghan Bresnahan stated it is ultimately up to the legislator to enact the compact so it is premature for us to comment on it at this time but could table this discussion again at some point in the future.

- VII. Triage: N/A
Staff assignments(s): N/A
Complaints: N/A

VIII. Flex Session:

Mr. Steven Joubert asked who will attend the next board meeting? Mr. Jason Morin stated he would be traveling that day. Dr. Brian Bloom stated he would not be able to attend. Mr. Daniel Fisher stated he would not make it because he would be at a conference. Mr. Steven Joubert stated we would not make quorum for November, so we will have to postpone meeting until December.

Mr. Steven Joubert stated a lot of board members are having difficulty with IT, so please remember to sign into their email account 7-10 days before the board meeting and change password prior to 90-day cutoff. Mr. Jason Morin stated the challenge is that the board members are logging in every thirty days, but members are unsure of when the passwords are set to expire. Mr. Jason Morin stated a notification being sent to something other than the state email address would be helpful. Mr. Jason Morin suggested perhaps a mechanism to schedule an appointment or a time to connect. Dr. Brian Bloom agreed and stated waiting over an hour for a password reset is not standard practice anywhere. Dr. Brian Bloom stated we are a volunteer board, and he is not willing to spend hours of time outside of the board meeting for a password reset. Ms. Meghan Kaplan also stated every month she changes her password and the following month when she logs into her account, the password does not work. Mr. Steven Joubert stated he would follow up with IT and express the issues and concerns of the board.

Mr. Steven Joubert asked the board if there were any other topics the board would like to discuss for the next meeting. Mr. Jason Morin stated there were none.

IX. 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, 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 meet in executive session to approve prior executive minutes, discuss good moral character matters, and decide whether to grant respiratory care licenses to applicants. The board will not

reconvene in open session subsequent to the closed session. Mr. Jason Morin asked for a motion to move to Executive session.

Action:

Motion to move into Executive session made by Dr. Brian Bloom: yes; seconded by Mr. William Beal: yes, and unanimously passed by roll call vote as follows: Mr.

William Beal: yes, Dr. Brian Bloom: yes, Mr. Daniel Fisher: yes, Ms. Meaghan Kaplan: yes, Mr. Jason Morin: yes, Dr. Adrian Velasquez: yes.

Let the record show that the meeting was adjourned at 1:57 p.m.

Respectfully Submitted:

The Board of Registration of Respiratory Care