

KENTUCKY BOARD OF RESPIRATORY CARE

MINUTES

October 8, 2009

A meeting of the Kentucky Board of Respiratory Care was held at 5:30 p.m., on Thursday, October 8, 2009 at the KBRC, 2624 Research Park Drive, Suite 304, Lexington, KY.

MEMBERS PRESENT

Tamara G. McDaniel, Chair
Jeff W. Knight, Vice-Chair
Klaus Becker
Janet R. Vogt
Dr. Byron T. Westerfield
Dr. David Hasselbacher

KBRC STAFF

Peggy Lacy Moore, Executive Director
Rick L. Rose, Administrative Assistant

OTHER

Cheryl Lalonde, AAG
LaDawn Reynolds, RRT

Mrs. McDaniel, Chair, called the meeting to order at 5:45 p.m., at 2624 Research Park Drive, Suite 304, Lexington, KY. Mrs. Moore was called to administer the oath of office to Mrs. McDaniel, Chair and Mr. Knight, Vice-Chair serving in their leadership roles for 2009-2010 terms.

Minutes

Janet Vogt moved to approve the August 13, 2009 meeting Minutes with an amendment; seconded by Klaus Becker. Motion carried unanimously.

Mrs. McDaniel moved from the agenda and recognized LaDawn Reynolds, RRT, who is a practicing RRT at the University of Kentucky Medical Center. Mrs. Reynolds also served the Board in the past as the Chair and as Interim Executive Director. Mrs. Reynolds wished to address the Board on concerns she had regarding the random audit process; the change on the CEU process and fines levied by Agreed Orders. Mrs. McDaniel told Mrs. Reynolds the Board would take her concerns under advisement and respond to those concerns by the next meeting.

Mrs. Moore told the Board the “Directors group” met on August 27, 2009 with Rep. Rick Rand, Chair of the KY House of Representatives Appropriations and Revenue Committee. Rep. Rand advised our group to continue our efforts in educating and meeting with legislators regarding sweep of funds from restricted accounts. The Directors group also met with Secretary Mary Lassiter, Secretary of the Governor’s Cabinet, and State Budget Director, on September 8, 2009 at the Capitol and Mrs. McDaniel attended the meeting. Mrs. Moore advised the group would be appearing before Rep. Royce Adams, Chair, of the KY House of Representatives Subcommittee for Appropriations and Revenue on October 22, 2009. Several from the Directors group will testify regarding the continual practice of the Legislature’s sweeping of funds from restricted accounts before the FY 2010-2012 budget process commences.

Report from CEU Committee - Continuing Education

Mrs. Vogt updated the Board that she did not have anything new to report on CEU approvals at this time as everything was going smooth.

Old Business

Polysomnography Draft Legislation Act & Inquiry to KMLB

Mrs. McDaniel requested Dr. Westerfield and Dr. Hasselbacher to recuse themselves from the discussion on the KY Sleep Society's draft legislation on polysomnography. Mrs. McDaniel advised the members she felt the KY Society of Respiratory Care and the KY Sleep Society were collaborating and making significant changes to the first drafts we reviewed for polysomnography licensure in the state of KY. She felt the latest draft appeared more workable for our profession as well as nursing. Mrs. McDaniel also stated this Board has not addressed any draft legislation on polysomnography, nor has this Board, been formally presented with any draft legislation that would come under our jurisdiction and prevue.

Mrs. McDaniel attended the September 17, 2009 meeting of the KBML. The Board requested Mrs. Moore to request a certified copy of the June 18 and September 17, 2009 meeting minutes from the KY Medical Licensure Board. Dr. Westerfield and Dr. Hasselbacher rejoined the meeting.

Review of Annette Corio's 2009 Renewal

Ms. Lalonde advised we received a police report with information that Ms. Corio did not divulge information about a recent conviction on a DUI and went several renewals without reporting her charges/conviction. The report listed that Ms. Corio plead guilty on January 21, 2005 and she filed her renewal application on January 24, 2005. Dr. Westerfield made a motion to request legal counsel to draft an Agreed Order imposing a fine of \$100 for Annette Corio for falsifying her renewal application; seconded by Janet Vogt. Motion carried unanimously.

Review of of Dennis Pope Agreed Order 10/2008 & Petition to Reinstate

Mrs. Moore presented an Agreed Order from October 2008 for Dennis W. Pope, Jr., the Board had approved in 2008. Mr. Pope contacted the Board stating the Agreed Order came to his mother's house and he was finally reviewing his mail since he had been traveling. Mr. Pope requested the Board to modify the Agreed Order that he returned signed and dated October 4, 2009. Janet Vogt made a motion the original terms of the Agreed Order should stand and the Board did not reduce the period of probation of two years; seconded by Dr. Hasselbacher. Motion carried unanimously.

KMESA Fall Conference

Mr. Knight advised the annual KMESA (KY Medical Equipment Suppliers Association). meeting will be held at the Crown Plaza Hotel in Lexington, KY on November 19, 2009. Mrs. McDaniel state she was asked to participate on a panel discussion at the conference. Mr. Knight also mentioned an invitation would be extended to the KY Pharmacy Board to join the

meeting as it would be good to get rid of complaints through education by the KBRC and the Pharmacy Board regarding DME practices.

Complaints

Pursuant to KRS 61.810 (1) (c) and (j), Jeff Knight made a motion for the Board to go into closed session to discuss proposed or pending litigation and deliberate regarding individual adjudications. The motion was seconded by Dr. Westerfield, and carried unanimously.

Jeff Knight moved to come out of closed session; seconded by Klaus Becker. Motion carried unanimously.

Agreed Orders:

Shirley Henderson KY # 0086 Agreed Order 5/20/05 & Amendment 10/16/06

Mr. Fingerson provided documentation that Shirley Henderson has **not** been adhering to her KYPRN Agreement and KBRC Agreed Order. The Board noted that Ms. Henderson's Agreed Order requires her to document one (1) year of continued sobriety before she may be considered for reinstatement. No action required on the case. The Board agreed to drop Mrs. Henderson from our Agreed Order updates until we hear about her status.

Tami D. Balsler KY # 2181 – KYPRN Agreement & AO 8/13/2008

Ms. Lalonde reported Tami Balsler is compliant. No action on the case.

Kim Deaton KY # 3627 – AO 11/19/2008

Ms. Lalonde reported Kim Deaton is compliant. No action on the case.

Delrena G. Lucas KY # 5603 – AO 12/02/2008

Ms. Lalonde stated Delrena G. Lucas is on suspension until June 2009. No action on the case.

Scotty D. Halsey KY # 2138 – AO 12/02/2008

Ms. Lalonde reported Scotty Halsey is compliant. No action on the case.

John “Jack” Harrison KY # 0285 – AO 12/02/2008

Ms. Lalonde reported John “Jack” Harrison is compliant. No action on the case.

Charlotte Dreux KY # 0773 – AO 12/02/2008; Amended AO 2/19/2009

Ms. Lalonde reported Charlotte Dreux is compliant. No action on the case.

Terry Clark KY # 0742 – AO 12/02/2008

Ms. Lalonde reported Terry Clark is compliant. No action on the case.

Thomas W. Grant KY # 0527 – AO

Ms. Lalonde reported Thomas Grant is compliant. No action on the case.

Eric Harmon KY # 5433 – AO 2/19/2009

Ms. Lalonde reported Eric Harmon is compliant. No action on the case.

Complaint Cases:

A. Richard T. Dials – KY # 3996

Mrs. Vogt recused during the Richard Dials discussion. Mr. Dials signed the KYPRN Agreement to work with Mr. Fingerson and is ready for legal counsel to draft an Agreed Order. Mr. Knight made a motion authorizing an Agreed Order for Richard Dials with the standard and usual terms for impairment with five (5) year probation; motion was seconded by Dr. Westerfield and carried unanimously.

B. Kim Y. Murphy KY # 5038

Mr. Knight made a motion authorizing legal counsel to send a letter to Kim Murphy explaining her revocation is one year from the date of July 1, 2009 pursuant to her Agreed Order; motion was seconded by Mrs. Vogt and carried unanimously.

C. Allen Firquin Complaint Re: DME Companies

Mrs. McDaniel made a motion to send a cease and desist letter to Lincoln Medical Supply, Inc., and draft a letter to Columbia Home Medical, Inc., which Mrs. McDaniel will hand deliver. The complaints against Resp-A-Care; Praxair Healthcare Services; Pro2Respiratory Services LLC, Mobility Plus Homecare, Medi Home Care and Premier Home Care, Inc., are dismissed without prejudice to these KY Companies Mr. Firquin named in his complaint, excluding the Florida company; motion was seconded by Dr. Westerfield and carried unanimously.

New Business

LaDawn Reynolds to Address the Board on Audits, CEU's & Fines

Mrs. Reynolds, former Chair and former Interim Executive Director of the KBRC requested to address the Board on several issues she wanted clarification on since reading our website newsletter. Mrs. McDaniel suspended the agenda and asked Mrs. Reynolds to address the Board at the beginning of the meeting and would take her concerns under advisement and present at the next meeting.

Dr. Byron Westerfield made a motion authorizing legal counsel to send a letter to LaDawn Reynolds addressing the items she brought to the Board with the help of Mrs. Vogt. The Board

will review the letter at the December meeting; motion was seconded by Janet Vogt and carried unanimously.

Agenda Items Cut-Off Date

Ms. Lalonde discussed a need to set a cut-off date for agenda items for Board meetings. She did not want the Board to be blind-sided on any matters before the Board nor does it give the Board or staff time to copy material, review a matter and respond on the spot. Dr. Hasselbacher made a motion to close the agenda seven (7) days prior to any meeting, for any items to be considered by this Board at its next meeting; motion was seconded by Janet Vogt and carried unanimously.

Eva Gunasekera, Atty., DOJ – Email Re Inquiry 1998 DME Opinion Statement

Ms. Lalonde discussed a phone call she had with Carlton Shire, Office of Legal Services at Health and Family Services regarding an inquiry he had from Eva Gunasekera, Trial Attorney, Commercial Litigation Branch/United States Department of Justice. Ms. Lalonde also talked with Ms. Gunasekera who was interested in the Opinion Statement we posted on our website re: DME practices. Ms. Gunasekera is investigating the practices of a DME provider who services Kentucky and Indiana and she stated it appears the provider was setting up, fitting and educating patients about the use of CiPaP and BiPaP machines when there were no licensed personnel employed at certain locations for periods of several months at a time. Ms. Lalonde advised this would be a matter to discuss with the KY Board of Pharmacy and KY Board of Respiratory Care.

Janet Vogt made a motion authorizing legal counsel to pen a letter to Eva Gunasekera addressing our 1998 Opinion Statement she implicated in our scope of practice and address the statutes that is supportable and response in conjunction with help of Mrs. Vogt citing the authority for our scope of practice for the issues raised by Ms. Gunasekera. The Board will review the response letter at the December meeting; motion was seconded by Jeff Knight and carried unanimously.

2010 KBRC Meeting Dates Set

Mr. Knight made a motion to set the KBRC Board's meeting dates for 2010 with meetings commencing at 5:30 p.m. EST seconded by Dr. Hasselbacher. Motion carried unanimously.

Meeting Dates for 2010

Thursday, February 18, 2010 – KBRC Offices

Thursday, April 15, 2010 – At Sal's

Thursday, June 17, 2010 – KBRC Offices

Thursday, August 12, 2010 – KBRC Offices

Thursday, October 7, 2010 – KBRC Offices

Thursday, December 16, 2010 – At Murrays

Bill Wisell Email Inquiry

Mrs. Moore presented an email from Bill Wisell, with the Nebraska Department of Health and Human Services. Mr. Wisell was inquiring on the use of lasers both hot and cold in the practice of any cardiopulmonary procedures within respiratory therapy. The Board agreed independently, at this time, there is no explicit language in our scope of practice on the use of either hot or cold lasers. At this time the Board does not support their independent use by a respiratory therapist in KY. Mrs. McDaniel will reply to Mr. Wisell's email inquiry.

Missy Steele Inquiry Re: Starting IV's

Mrs. McDaniel advised this was not on the agenda but we had an inquiry from Missy Steele regarding respiratory therapists starting IV's. Mrs. McDaniel requested Mrs. Vogt to reply to Ms. Steele's inquiry by email.

Mrs. McDaniel Re: Respiratory Therapists Giving Vaccinations and Inoculations

Mrs. McDaniel stated we reviewed at the last meeting the inquiry by Jim Maynard, President of the KY Society of Respiratory Care, the need for respiratory therapists to administer flu vaccinations in their communities. The Board agreed it was not within our scope of practice to administer flu shots. Mrs. Moore emailed Mr. Maynard the Board's response.

Mrs. McDaniel requested the Board to review again the need for RT's to administer immunizations and inoculations. Mrs. McDaniel stated under *314A.100.010 (2) (b) "The administration of pharmacologic and therapeutic agents related to the cardiopulmonary care necessary for treatment, disease prevention, or rehabilitation regimes prescribed by a physician; and"*. Mrs. McDaniel requested the Board to revisit the request as she felt like the vaccinations and inoculations regarding cardiopulmonary was covered under the scope of practice she quoted. Mrs. McDaniel requested Ms. Lalonde, Legal Counsel, to pen a letter to the KY Nursing Board and the KY Medical Licensure Board since they have a stake in this and ask them how they feel about RT's administering vaccinations/inoculations. Ms. Lalonde told the Board "that the KY Board of Pharmacy had language that allowed them to administer immunizations but they were not going to be able to administer immunization without specifically opening up their law and putting in the word "immunizations". It was not enough to have general language that you could fit it under. Otherwise they were going to have a real battle on their hands without getting statutory authority if they tried to do it from the KY Board of Nursing and the KY Medical Licensure Board. The KY Board of Pharmacy changed their law and it took them two-three years to get it in their laws. It is something very protective within the other professions and you have to be very careful with general language you can fit a practice into when that practice isn't clearly respiratory care."

A motion was made by Janet Vogt to approve RT's to administer immunizations with three (3) members voting in favor: Dr. Hasselbacher, Klaus Becker and Janet Vogt with two nays: Dr. Westerfield and Jeff Knight; seconded by Klaus Becker. Motion carried unanimously

Announcements

Mrs. McDaniel wished to recognize Klaus Becker, Citizen-At-Large, who had not missed a meeting in six (6) years serving the KBRC. Dr. Westerfield and Mr. Becker's appointments expire on October 31, 2009 and the Board thanks both gentlemen for their services to the

Commonwealth, Board, staff, and profession and wants them to know they will be greatly missed.

Application Review

A motion was made by Klaus Becker to accept all **46** applications since the last meeting; seconded by Jeff Knight. Motion carried unanimously.

The following **Student applications (10)** were approved:

Lindsey J. Brown, Timothy M. Hollins, Holly R. Kruizinga, Melanie D. Leece, Brittney A. Powell, Rachel E. Rosenbaum, Lori L. Schroader, Shannon E. Smallwood, Jason L. Vanmeter and Tracy M. White.

No **Temporary applications** were approved

The following **NBRC applications (18)** were approved:

Jason D. Banks, Scott E. Bertoli, Charles C. Copley, Andrea B. Fox, Kristy A. Hall, Sarah K. Hosler, Jamie L. Howard, Elizabeth S. McVeigh, Michael J. Meska, Joshua L. Miller, Tracy H. Morgan, Charles P. Mottram, Chasity D. Patton, Ashley N. Smith, Kristen M. Stubbs, Connie G. Taylor, Cortney M. Ware and Darrell D. Yonts.

The following **Reciprocity applications (18) were** approved:

Sylvia L. Baldridge, Kayla M. Blanton, Eric W. Burton, Ruby S. Buttree, John J. Cariota, Ginger R. Clouse, Leslie K. Fox, Cynthia L. Heavin, Jennifer M. Hicks, Kelly A. Marsh, Jeremy W. Mathis, Cathy R. Meiring, Jordan S. Newsome, Jennifer L. Preece, Bethany H. Reed, Rebecca L. Roethler, Mansour Shokoohee and Pamela J. Williamson.

Janet Vogt made a motion to adjourn the meeting at 8:35 p.m.; seconded by Dr. Hasselbacher. Motion carried unanimously.

Tamara G. McDaniel, Chair
KY Board of Respiratory Care