

**BOARD OF RESPIRATORY CARE EXAMINERS  
BOARD MEETING MINUTES**

Thursday, September 15, 2005, at 9:00 a.m.  
Basement Conference Room B-1  
1400 W. Washington, Phoenix AZ

**Board Members Present:** Chair Toni Rodriguez, Vice-Chair Becky Brimhall, William Cohagen, Catherine Lindstrom, James Love and John O'Donnell

**Board Members Absent:**

Staff Present: Mary Hauf Martin, Executive Director  
Nancy Marinis, Program and Project Specialist  
Valarie Davis, Administrative Assistant

**Board's Legal Counsel:** Marc Harris, Assistant Attorney General

**I A. CALL TO ORDER** by Chair Toni Rodriguez Ed.D.

The meeting was called to order at 9:05 a.m. by Dr. Rodriguez.

**B. DISCUSSION/ACTION ON EXECUTIVE DIRECTOR'S REPORT**

The Executive Director reported Board related information to the Board Members.

**II APPROVAL OF MINUTES**

May 19, 2005, 9:00 a.m.

May 19, 2005, 2:00 p.m.

June 16, 2005

July 21, 2005

August 18, 2005, *via telephone conference call*

Bill Cohagen moved approval of the Minutes as presented. Becky Brimhall seconded. **The Motion passed unanimously.**

### III DISCUSSION/ACTION ON APPLICATIONS FOR LICENSURE

#### A. Recommended for approval by the Executive Director

Pamela Alvarez	Kimberly Argento	Charlene Begay
James Blondin	Ginger Brown	Amanda Brownlee
Glenn Bryson	Tammy Chisholm	Kevin A. Cornish
John S. Curry	Sue Damasco	Roxanne Delarosa
Erlinda Diaz-Lopez	Tiffany Duncan	Denise Ehrhart
Carmen Fields	Kathryn Forbis	Jeffery Forrest
Victoria Foulkrod	Robert Hall	Lindsay Hewitt
Joseph Khamaf	Sarah Koss	Raul W. Leon
Rebekah Limato	Darik Martinez	Nicole McClelland
Michelle L. McNab	Amy Mohr	Susan M. Morigaeu
Rolando Rances	Paul A. Rice	Eleanora Riggers
Brian Shelley	Andrea Smith	Omar Tapia
Angela M. Terrell	John Thorp	Denise Valley
Alexis T. Vega	Kathryn Volz	Carol Wermes
Mary Westlake	Barbara Wichert	David Wooten

John O'Donnell moved that the Board approve the licenses of those listed on the Agenda as recommended by the Executive Director. Bill Cohagen seconded the Motion. **The Motion passed unanimously.**

#### B. Application for Licensure/Application Interview

Jason Al-Ghareeb, Case No. 06682-05-1977, cont.

Jason Ali Al-Ghareeb filed a license application on August 17, 2004. On his application he disclosed the following background information in response to question 19, which asks, *“Omitting minor traffic violations, have you ever been convicted of, or pled no contest to, entered into any agreement concerning arrest or charge, or have an outstanding arrest or charge for any violation of any law of any state of the United States, or a foreign country?”*

- DUI 1996
- DUI 1998
- 2003 charged with DUI, plea agreement reckless driving

He was issued a temporary license valid through April 18, 2005.

The results of the FBI criminal background check received on September 2, 2004, revealed

information not disclosed by Mr. Al-Ghareeb.

Board staff originally tried to notify Mr. Al-Ghareeb of this information in writing but attempts to mail any letters or documents resulted in them being returned by the postal service.

On March 4, 2005, Mr. Al-Ghareeb submitted an address change in writing.

On April 1, 2005, he was notified in writing that his application was deficient and the results of the FBI criminal background check.

On April 14, 2005, Mr. Al-Ghareeb submitted an application for a temporary license extension. His temporary license was renewed valid through August 19, 2005.

On April 14, 2005, Mr. Al-Ghareeb also submitted some of the court information requested in the letter dated April 1, 2005. These charges were all from incidents in the State of Colorado, in the time period from 1992 to 1999.

On April 25, 2005, the Board received a letter from Mr. Al-Ghareeb's attorney, Kent Freudenberg. Mr. Freudenberg stated that all of the Colorado cases have been resolved and there are no pending issues. He also stated that there were no felony convictions in Colorado.

The Board considered Mr. Al-Ghareeb's application at the May 2005 meeting, the matter was tabled until court documents were provided.

Mr. Al-Ghareeb's Temporary License Extension expired on August 19, 2005. He indicated that he would not practice respiratory care after that date.

On August 22, 2005, Mr. Al-Ghareeb provided the Board with a packet of information to complete his application. The older cases in Colorado (Disorderly conduct/underage drinking), resulted in court costs being assessed, community service ordered and jail time spent. He described a "snowball effect" occurring for the 1996 DUI. He didn't complete his community service and ended up having repercussions from that, and getting a new case number assigned, and thirty days in jail, time served.

He had another arrest for DUI in 2003; which resulted in a plea agreement for reckless driving, and for which he completed all court requirements.

Mr. Al-Ghareeb was notified in writing, on September 8, 2005, that his application will be considered at the September meeting.

Based upon the foregoing, on September 15, 2005, the Board held a meeting to consider Mr. Al-Ghareeb's application. He attended the meeting. Board members expressed concerns that several of the incidents in his past (8/92, 4/96 and 12/03) involved illegal/excessive alcohol.

After discussion, Board Chair Toni Rodriguez moved that the Board approve the license of Mr. Al-Ghareeb on the condition that he agree to enter a stipulated order best adapted to rehabilitate the applicant. Becky Brimhall seconded. **The Motion passed unanimously.** Mr. Al Ghareeb indicated that he would agree to such an order.

Jose Madrigal, Case No. 06628-06-2066, cont.\*

Mr. Madrigal was present.

Mr. Madrigal submitted a license application on June 28, 2004. On his application he disclosed information as required. He was issued a temporary license and temporary license renewal

which expired on July 1, 2005.

The results of the FBI criminal background check revealed no further information.

Mr. Madrigal provided evidence that he had passed the entry level exam on June 24, 2005. He signed a Declaration stating he would not work after his license expires on July 1, 2005.

The Board initially considered Mr. Madrigal's license at the July 2005 meeting. At that time, the Board determined that additional court documentation was required and voted to table consideration of Mr. Madrigal's license until the information was received.

Mr. Madrigal provided the additional information requested and was notified that the Board would consider his application at the September meeting.

Mr. Madrigal appeared and participated in the discussion.

After discussion, Board Chair Toni Rodriguez moved that Board approve Mr. Madrigal's license application. James Love seconded. **The Motion passed unanimously.**

\* NOTE: Appears elsewhere on this Agenda

Franklin Minor, Case No. 06598-05-2058 \*

Mr. Minor was present.

Mr. Minor filed a license application on May 25, 2004. On his application form, he disclosed that in August 2003 he was arrested and charged with possession of marijuana. He was offered entry into a diversion program through the Tucson City Court, there was no documentation of his completion of the program. He was issued a temporary license and temporary license renewal valid through May 27, 2005.

On May 5, 2005, Mr. Minor completed his application. He had passed the entry level exam on April 5, 2005. In order to have his application placed on the agenda for the Board to consider his application, he would need to be scheduled for an interview due to his marijuana possession charge and his status with the diversion program.

On June 3, 2005, the Board received a written statement via facsimile from Mr. Minor. In his statement he claims that he had the option of completing the diversion program or pay a \$275.00 fine. He stated that he would begin paying the fine beginning the following week. He provided no documentation. He also stated that he was under the impression, as well as his supervisor, that "his case" would go before the Board on May 18<sup>th</sup>. He was not sent notification to appear for an application interview nor was he on the May agenda.

In addition to the written statement, he submitted a Declaration on claiming that he had worked May 30 and on June 1 without a license.

Mr. Minor was advised of the allegation that he had worked without a license and that the Board would consider that matter and his application at the June meeting. In addition to the written statement, he submitted a Declaration on claiming that he had worked May 30 and on June 1 without a license.

Mr. Minor was advised of the allegation that he had worked without a license and that the Board would consider that matter and his application at the June meeting.

At the public meeting of the Board held on June 16, 2005, Mr. Minor appeared and explained his situation. He did not bring any documentation of completion of a diversion program or paid any fines. After discussion, the Board voted unanimously to table consider of the matter until Mr. Minor could provide documentation.

On July 21, 2005, Mr. Minor provided a plea agreement dated, July 6, 2005, from the Tucson City Court. He will need to provide proof of payment of fines (\$750) and completion of 10 hours of drug counseling which he told Board staff he would not be able to complete until October 2005.

Based upon the foregoing, on September 15, 2005, the Board held a meeting to consider Mr. Minor's license application. He attended and stated that he has a balance owed to the court of \$312, and is scheduled to complete his 10 hours of drug counseling next week. Board members stated that they will require Mr. Minor to document his completion of his court-ordered sanctions. In addition, the Board requested that he acknowledge, through the payment of a fine, that he violated the law when he practiced respiratory care for two days after his temporary license expired.

After discussion, Board Chair Toni Rodriguez moved that the Board offer Mr. Minor a Stipulation and Consent Order in which the Board will grant his license on the condition that he documents completing his court-ordered requirements; and that he pay a penalty of \$100, for practicing without a license, within six months of the issuance date of this order. James Love seconded. **The Motion passed unanimously.** Mr. Minor indicated to the Board that he would accept the conditions.

\* NOTE: Appears elsewhere on this Agenda

Michelle Stanneart, Case No. 06744-06-2074

Ms. Stanneart was present.

Michelle Stanneart filed a license application on August 27, 2004. On her application she disclosed information as required. She was issued a temporary license and temporary license renewal valid through August 30, 2005.

The results of the FBI criminal background check revealed no further derogatory information. Ms. Stanneart participated in the interview.

After discussion, Cathy Lindstrom moved that the Board approve Ms. Stanneart's application. John O'Donnell seconded. **The Motion passed unanimously.**

C. Reapplication for Licensure

Recommended for approval by the Executive Director

Harold Breeding

Faith A. Hanner

Nicholas P. Joyner

Bill Cohagen moved that the Board approve the license reapplications listed on the Agenda as recommended for approval by the Executive Director. Becky Brimhall seconded. **The Motion passed**

**unanimously.**

D. Ratification of Temporary Licenses Issued pursuant to A.R.S. § 32-3521

Pam Andrade	Jeanne Bartfai	Kevin Cornish
Jack Damon	Roxanne Delarosa	Rose Duran
Madonna Fager	David Farlow	Amber Fisher
Victoria Foulkrod	Daryl Gillette	Debra Gutierrez
Kelly Handorf	Michelle Hoyt-Wichert	Simone Jackson
Mary Jungbluth	William Leckey	Keith Lenox
Llesaidi Linder	Beverly Maynard	Kathleen McLaughlin
Delores Mata	Angelica Mendoza	Ryan Nguyen
Jessica Novak	Lance Norfleet	Edward Owens
Paul Rice	April Sarten	Tianna Smith-Jones
Jandi Spann	Deborah Stenger	John Thorp
Sean Walker	Dennis Warford	Mindy Wiles

Jim Love moved that the Board ratify the temporary licenses listed on the Agenda. Becky Brimhall seconded. **The Motion passed unanimously.**

E. Application For Reinstatement of Revoked License

Rebecca Siebert Cook, Case No. 05158-05-2027

Ms. Seibert Cook was present. The Executive summarized the background of Ms Cook's application. On September 18, 2003, Ms. Siebert's license revoked based on the following:

1. Unauthorized removal of property from Paradise Valley Hospital on two separate occasions, May 30 and June 4, 2003.
2. Results from a urine drug screen collected on August 21, 2003. The drug screen was positive for Cocaine, Amphetamine and Methamphetamine. The results were confirmed by GC/MS.

On February 25, 2005, Ms Cook submitted a complete application for reinstatement of her revoked license.

Ms Cook appeared before the Board in March 2005.

At that time, the Board decided to table consideration of her application until she can demonstrate a longer history of sobriety.

Ms Cook was notified in writing that the Board would continue consideration of application for reinstatement of her revoked license at the September 2005 meeting.

Ms Cook told the Board members that she has been maintaining her sobriety, and felt ready to return to practice. Board members were pleased to see that Ms Cook began submitting 12-step meeting attendance logs in May, and that she had obtained a sponsor in July. Board members

expressed concern that Ms Cook needs to demonstrate a longer period of time of being clean and sober. After discussion, Becky Brimhall moved to Table consideration of Ms Cooks' application until the December meeting. Jim Love seconded. **The Motion passed unanimously.**

F. Ratification of Temporary License Extensions Issued pursuant to A.R.S. 32-3521

Raynal Du Bois-Harris          Jennifer Jaeger

#### **IV DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF APPLICATION FILES**

The Executive Director stated that two names that had appeared on the agenda, Jose O. Madrigal and Franklin D. Minor needed to be removed since both were present to have application interviews.

Barbara J. Barrett          Crystal S. Snider          Clara-Ellen G.P. Stant

Jim Love moved that the Board administratively close the application files of these three remaining names on the agenda. Bill Cohagen seconded. **The Motion passed unanimously.**

#### **V DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF TWO YEAR INACTIVE FILES**

The Executive Director stated that these were routine two year inactive license files.

Vanessa E. Calkins          Jennider L. Celardo          Joseph A. Frawley  
Heath m. Hairr          Blaise A. McLaughlin          Tracy D, Power  
Phillip S. Putnam          Amy Marie Rausch

John O'Donnell moved that the Board administratively close the two year inactive files of all the items on the agenda. Bill Cohagen seconded. **The Motion passed unanimously.**

#### **VI DISCUSSION/ACTION ON NOTICES OF LICENSE EXPIRATIONS**

The Executive Director stated that these were routine license expirations.

Daniel Aguirre          Carl Block          Carolyn Cummings  
Donna H. Curtis          Keat B. Dean          Jerome L. Dupuis  
Susan D. Hegwood          Jeffrey G. Hunter          Byron G. Kellogg  
Robert E. Leitz          Michael C. Milliron          Daniel J. Mills

Terence S. Pike  
Gail Waddleton

Daniel F. Salmons  
A. Michelle Williams Homer S. Wimberly

Prakash Tralshawala

Jim Love moved to approve to note these license expirations, and the approval of the mailing of notices of license expirations. Bill Cohagen seconded. **The Motion passed unanimously.**

## **VII DISCUSSION/ACTION ON REINSTATEMENT OF EXPIRED LICENSES**

The Executive Director reported that these were routine license reinstatements.

Pamela E. King  
Anna L. Thomas

Eric D. Knox

Lisa S. Palmer

John O'Donnell moved to ratify these reinstated licenses. Bill Cohagen seconded. **The Motion passed unanimously.**

## **VIII CONSIDERATION AND ACTION ON INVESTIGATIONS OF UNPROFESSIONAL CONDUCT**

1. Amy Manley, Case No. 06258-05-2047

Ms. Manley was present, along with an attorney from the facility where she is employed as a supervisor in respiratory. The Executive Director summarized the situation where Ms. Manley reported that another licensee of the Board had practiced, very briefly, after the individual's license had expired. Ms. Manley had no part in the fact the other individual practiced without a license, and took the appropriate steps to remedy the situation. Board members expressed an interest in knowing what the facility was doing to prevent future occurrences. Ms. Manley explained, and provided documentation to establish an improved tracking system. After discussion, John O'Donnell moved to dismiss the allegation. Bill Cohagen seconded. **The Motion passed unanimously.**

2. Franklin Minor, Case No. 06598-05-2058 \*

This item appears elsewhere on the Agenda. Please see Item III. Application for Licensure/Interview.

## **IX CONSIDERATION AND ACTION ON INFORMAL INTERVIEWS PURSUANT TO A.R.S. 32-3553(G)**

1. Scott A. Reed, Case No. 05567-05-2031

Mr. Reed was not was not present. The Executive Director reviewed the allegation of unprofessional conduct against Mr. Reed as follows.

### **BACKGROUND**

#### **Initial License Application**

On November 28, 2000, Board received a license application from Mr. Reed. Review of the application showed that Mr. Reed had answered yes to Question Number 19 which asks, *“Omitting minor traffic violations, have you ever been convicted of, or pled no contest to, entered into any agreement concerning arrest or charge (even if the agreement resulted in dismissal or expungement), or having an outstanding arrest or charge for any violation of any law of any state of the united States, or a foreign country?”* Mr. Reed attached a written statement and court documents establishing a lengthy criminal history from 1988 through 1994.

Mr. Reed appeared for the December 2000 meeting and addressed the Board. He assured the Board members that his criminal and substance abuse problems were behind him. When asked, Mr. Reed assured the Board that he needed no counseling or 12 step programs because he had his life under control and worked out his problems by talking.

After a lengthy discussion, the Board approved his license application.

#### **2003 Biennial License Renewal**

On his license application received on June 12, 2003, Mr. Reed answered “yes” to question #1 which asks, “Have you since your initial application or last renewal been arrested, pled guilty to or no contest to or been convicted of a felony, misdemeanor or undesignated offense?” He attached court documents showing that he was under stipulation and order for suspension of prosecution in Mojave County Arizona for a domestic violence charge. According to the documentation, the State would agree to dismiss the prosecution after a period of 9 months if Mr. Reed remains a law-abiding citizen and completes domestic violence counseling. No written explanation of the events resulting in his arrest were attached.

In a letter addressed August 6, 2003, Mr. Reed was requested to provide a full written explanation of the events leading to his arrest.

On August 19, 2003, the Board received Mr. Reed’s response along with a letter from the alleged victim and a court document and letter from the alleged victim asking that the prosecution be dropped. According to Mr. Reed, he would complete the Counseling in February 2004.

In the course of an informal interview held on October 16, 2003, the Board voted unanimously to issue a non-disciplinary order of probation that would run concurrently with Mr. Reed’s current agreement through the court to monitor his progress and completion of that order.

On September 2, 2004, Mr. Reed faxed a change of address and his certificate of completion. The certificate indicated program completion on July 7, 2004.

#### **Current Allegation of Unprofessional Conduct**

On March 9, 2005, the Board received written notification from Heather Cowl, Executive Director of Human Resources at Kingman Regional Medical Center, that Mr. Reed had been terminated following an investigation into allegations of sexual harassment.

Mr. Reed was advised of the allegation in writing on March 28, 2004. No response has been received.

A subpoena was issued on March 28, 2005, for documentation. That information was received on April 11, 2005.

On April 19, 2005, the Board received Mr. Reed's written response. He denies any sexual harassment.

On April 20, 2005, Mr. Reed notified the Board in writing that he would not be able to attend the meeting.

Mr. Reed was advised in writing that the Board would consider the allegation at the April meeting but did not appear.

The Board reviewed all of the information and voted to invite Mr. Reed to an informal interview.

The notice advising Mr. Reed of the date, time and location of the informal interview was sent to his address of record certified mail. The return mail receipt indicated delivery on May 3, 2005.

In addition, he was informed that he could request copies of the documents that the Board would use in its determination by requesting those documents in writing within 14 days of the informal interview. He was advised that use of those documents for matters not related to the Board business is considered unprofessional behavior.

Mr. Reed appeared for an informal interview at the May 2005 Board meeting. He adamantly denied sexually assaulting any staff at KRMC. He was provided with the copy with names redacted to protect the privacy of the individuals. He stated that he is now employed in an area other than respiratory therapy. At that time, the Board voted to table the informal interview.

After the May Board meeting, Board staff was contacted by staff at Kingman Regional stating that Mr. Reed had appeared at the facility, with the documents he received at the Board meeting and was attempting to talk to people there. They felt threatened and intimidated.

Mr. Reed was notified, in writing, that the Board would continue the informal interview at the September meeting.

Since Mr. Reed was not present, Board members reviewed A.R.S. § 32-3553(G) which is the law that provides that if the Board believes an individual has engaged in an act of unprofessional conduct, and if the individual refuses a Board request to appear for an informal interview, the Board shall issue a complaint and notice of hearing for a formal hearing. After discussion, Board Chair Toni Rodriguez moved that the Board issue a formal complaint and hold a formal hearing pursuant to A.R.S. §32-3553. Cathy Lindstrom seconded. **The Motion passed unanimously.**

2. Sang K. Hutchinson, Case No. 05423-05-2051

Ms. Hutchinson was present, along with her attorney Terry F. Hall. The Executive Director summarized the allegation, and the statements and evidence submitted by Ms. Hutchinson denying the allegation. The Board reviewed all the information, and discussed it with its licensee. After discussion, Board Chair Toni Rodriguez moved to dismiss the allegation. Jim Love seconded. **The Motion passed by a vote of 3 ayes and 2 nays.**

**X      CONSIDERATION AND ACTION ON FORMAL COMPLAINT HEARINGS  
PURSUANT TO A.R.S. §32-3553(G)**

1.    Craig D. Bryant, Case No. 06851-06-2065

Mr. Bryant was not present. The case was presented, on behalf of the State of Arizona, by Assistant Attorney General Marc Harris. Mr. Bryant has been the holder of a Temporary License for the practice of respiratory care in the State of Arizona, issued on January 4, 2005. He was issued a temporary license valid through September 5, 2005. Mr. Bryant was restricted from practicing respiratory care due to an Interim Order of Summary Suspension issued to him on July 21, 2005, pursuant to a Board decision at its public meeting on the same date. Under A.R.S. §32-3202, since Mr. Bryant failed to renew his temporary license on or before September 5, 2005, the Board retains jurisdiction over its temporary licensee until this matter is resolved.

Mr. Bryant filed a license application on January 4, 2005. He was issued a temporary license valid through September 5, 2005.

License verification received from the state of Ohio revealed no derogatory information.

The results of the FBI criminal background check received on January 26, 2005, revealed information not disclosed by Mr. Bryant on his license application.

On February 28, 2005, Mr. Bryant was advised of the information contained in the criminal background check, and that his application is incomplete pending receipt of the information.

On March 28, 2005, Mr. Bryant filed a response. He explains that the matter revealed on his background check to have occurred on April 11, 1999, related to an incident in which he was traveling by car with a friend in the jurisdiction of the Sheriff's Office of Warner Robins, GA. He arrested and charged with misdemeanor possession of marijuana. Mr. Bryant states that his friend was the one driving, and was pulled over for suspicion of driving while impaired. A search of the vehicle resulted in the discovery of a "small" amount of marijuana in the friend's car. Mr. Bryant states that he did not know that his friend was in possession. He paid a fine. He stated that he will obtain court documents as soon as possible.

On July 6, 2005, the Board received written notification from Rick Savage, Director of Cardiopulmonary Services at Yuma Regional Medical Center, that Mr. Bryant had been terminated from that facility on June 30, 2005. Mr. Savage states that Mr. Bryant was placed on investigatory leave to determine fitness for duty on June 19, 2005. On June 30, 2005, Mr. Savage was notified by the coordinator of employee health that Mr. Bryant had tested positive on his drug/alcohol screen.

On July 6, 2005, a subpoena was issued for more documentation including a copy of the drug/alcohol screen.

Mr. Bryant was notified of the allegation in writing of the allegation, and that the Board would consider the allegation at the July meeting.

On July 15, 2005, the Board received the subpoenaed information from Yuma Regional Medical Center. Included with a cover letter were several documents:

- Documentation by Pat Miller – this note, dated June 19, 2005, indicates that Pat Miller, the House Supervisor, was contacted by “Judy in Resp. Therapy” because an employee “suspected Craig (resp therapy) of being impaired. And describes the process by which he was called for a drug screen, including that, for a period of time, the hospital was “unable to locate Craig.” Once he was located, and while they proceeded to take him to a drug screen, “Craig verbalized concerns that he had taken an RX of Darvocet for which he no longer had the bottle.”
- Documentation by Mark Davis – this undated note recounts the events of June 19, 2005, and is Mr. Davis’ account of Mr. Bryant’s behavior leading up to the request for a drug screen: “I was giving the end of shift report to Craig when I noticed his overall physical appearance seemed (to) indicate a person was moderately sedated. His head bobbed down towards his chin and his eyelids appeared droopy. I asked if he was ok and at that time he did not respond. I continued to give report and again he did not seem appropriate. He spoke to ask a question and his speech was slightly slurred. (I did answer his question, which was appropriate). I asked again if he was ok. He turned his head towards me and said he was tired and did not sleep well. At that time, I noticed his pupils appeared to be like pinpoints.”
- Documentation by Judie McGinnis – this note, dated June 21, 2005, and recounts Ms. McGinnis being informed by Mr. Davis about his concerns. She states that when she asked him if he was safe to practice, he said he was “fine,” and that “he had forgotten he was supposed to work tonight, and had gone to a pool party Saturday night and was having a difficult time ‘waking up’ at report. Craig appeared nervous (tremors?) and at time had difficulty articulating. During the course of the approximately 40 minute conversation, Craig indicated he sometimes has tremors due to ALS, and he was taking Darvocet on occasion for pain. He also indicated he may have trouble providing a legal prescription for the Darvocet.”
- Summary of Documentation – this document verifies the information in the other notes, and describes the human resources procedures that were used by the facility to handle this matter, including when Mr. Bryant’s drug screen came back positive, and the resultant termination of Mr. Bryant’s seasonal employee contract.
- Consent and Release Form – filled out by Mr. Bryant on June 19, 2005. His handwriting lists the following drugs he had taken in the prior seven days: “darvocet, vicoden/percoset (not sure which), flexoril, tylenol/advil, amoxicillin.” The form was witnessed by Mr. Wade.
- Forensic Drug Testing Custody and Control Form – from Quest Diagnostics, dated June 19, 2005.
- Four page Laboratory Report from Quest Diagnostics – this Laboratory Report does the following results for a Reasonable Suspicion/Cause Drug screen conducted on a biological fluid specimen collected from Mr. Bryant on June 19, 2005. The results were confirmed by the GC/MS methodology:

<u>Substance</u>	<u>Result</u>
Amphetamines	
Amphetamine	POSITIVE
Methamphetamine	POSITIVE
Opiates	

Morphine	POSITIVE
Hydrocodone	POSITIVE
Propoxyphone	POSITIVE
Oxycodones	
Oxycodone	POSITIVE
Oxymorphone	POSITIVE
Benzodiazepines	
Alprazolam Metabolite	POSITIVE
Other	
Meporobamate	POSITIVE

- Letter from attorney Larry Suci regarding Medical Review Officer – this letter is from an attorney, who gives a legal opinion that the facility has a right to monitor its own drug screens internally, rather than having an external Medical Review Officer.

At the public meeting held on July 21, 2005, evidence was presented to the Board that Mr. Bryant tested positive for nine substances that can cause impairment while on duty. And that his physical condition was observed to be impaired, which was what led to the drug screen being conducted. The evidence establishes that Mr. Bryant's behavior establishes an immediate threat to the public health and safety. Therefore, the Board voted to issue an interim order of summary suspension of Craig D. Bryant's temporary license to practice respiratory care in Arizona. The Board also voted to issue a Formal Complaint and Notice of Hearing. The Board's Complaint directed Respondent to respond to the Complaint in writing. While Mr. Bryant submitted a letter in response to the allegation, he did not file a written response to the Complaint. The Board found that a preponderance of evidence was presented to support the information in its Complaint due to Mr. Bryant's violation of:

A.R.S. § 32-3552(A)(3) in conjunction with A.R.S. §§ 32-3501(10):

- (c) Illegal use of narcotic or hypnotic drugs or substances.
- (i) Any conduct or practice which is contrary to recognized standards of ethics of the respiratory therapy profession or any conduct or practice which does or might constitute a danger to the health, welfare or safety of the patient or the public.
- (j) Any conduct, practice or condition which does or might impair the person's ability to safely and skillfully practice respiratory therapy.

And Board Rule R4-45-214(11): Using or being under the influence of alcohol, illegal drugs or substances, or drugs or substances that impair judgment, while on duty in any health care work location.

Therefore, Cathy Lindstrom moved that the Board accept the Findings of Fact and Conclusions of Law as set forth in the Board's Complaint. Bill Cohagen seconded. **The Motion passed unanimously.** After discussion, Board Chair Toni Rodriguez moved to revoke Mr. Craig D. Bryant's license. Jim Love seconded. **The Motion passed unanimously.**

2. Elizabeth "Libby" Hegg, Case No. 06882-06-2073

Ms. Hegg was present. The case was presented on behalf of the State of Arizona by Assistant Attorney General Marc Harris. The State called Executive Director Mary Hauf Martin as a witness. Ms. Hegg testified on her own behalf. Ms. Hegg was restricted from practicing respiratory care due to an Interim Order of Summary Suspension issued to her on August 18, 2005, pursuant to a Board decision at its public meeting on the same date.

On August 3, 2005, the Board received an allegation of unprofessional conduct against Ms. Hegg from Havasu Regional Medical Center, via facsimile. Included in the information was a type-written transcript of an investigation at that facility; and documentary evidence to support the following:

1. Ms. Hegg tested positive, on a post-accident drug screen conducted on a urine sample collected on July 12, 2005, for the following substances: Diazepam and Oxycodone. The drug screen report was issued by OccuPatient. The MRO date is August 1, 2005, by Renata E. Bluhm, MD, PhD, MROCC, Certified Medical Review Officer.
2. The July 12, 2005, urine sample was collected as the result of an internal investigation at Havasu Regional Medical Center, due to the fact that a syringe, partially full of morphine, was detected missing from the ICU. Which resulted in drug screens being conducted on all ICU staff, including Ms. Hegg. She was sent for further testing because her initial test was positive.
3. Ms. Hegg was seen, on July 15, 2005, in the Med Room, kneeling by the sharps container, then quickly leaving the room when she was noticed.
4. On July 15, 2005, after the lock was changed on the Med Room, Ms. Hegg was seen attempting to enter Med Room several times.
5. On July 16, 2005, Ms. Hegg was seen in the PACU, a secure location where she had no cause to enter, stating she was looking for an O2 gauge.
6. On July 20, 2005, Ms. Hegg was interviewed by Lake Havasu Samaritan Regional Hospital Staff about being sighted in the ER and OR, and possibly tampering with boxes and syringes. She was asked to bring a statement to the facility the following day.
7. Ms. Hegg failed to provide a statement, regarding the accusation that she was seen tampering with boxes and syringes, as requested.
8. Ms. Hegg failed to return phone calls from the Lab that conducted the drug screen, when she was being contacted to produce verification of prescriptions for the substances detected.
9. As of July 29, 2005, Ms. Hegg had still failed to call the facility, or verify prescriptions.
10. Ms. Hegg used the narcotics Diazepam and Oxycodone.
11. Ms. Hegg does not have prescriptions for these extremely addictive, impairment-causing drugs.
12. Ms. Hegg was under the influence of Diazepam and Oxycodone while on duty as an RCP on July 12, 2005.

On August 4, 2005, Ms. Hegg was informed, in writing, of the allegation and that the Board would consider the matter at its public meeting on August 18, 2005. She did not respond.

In light of the above, and pursuant to A.R.S. § 32-3553(H), the Board held a public meeting on August 18, 2005, via telephone conference call, to determine whether there was good cause to believe that Elizabeth "Libby" Hegg, RCP, used the narcotics Diazepam and Oxycodone, and was

under the influence of the narcotic drugs Diazepam and Oxycodone, while on duty as an RCP, on July 12, 2005. Ms. Hegg does not have prescriptions for these extremely addictive, impairment-causing drugs. And that Ms. Hegg was witnessed tampering with a sharps container, boxes and syringes. The Board's Executive Director duly caused the meeting to be noticed in accordance with the Arizona Open Meeting Law. Ms. Hegg did not appear before the Board personally or by legal counsel. Evidence was presented to the Board that Ms. Hegg had committed the acts of unprofessional conduct outlined above. The evidence establishes that Ms. Hegg's behavior establishes an immediate threat to the public health and safety. Therefore, the Board finds it is necessary to invoke the Board's authority, pursuant to A.R.S. § 32-3553(E), to summarily suspend Elizabeth "Libby" Hegg's Board license to practice respiratory care, and voted, unanimously, to do so.

The Board's Complaint directed Respondent to respond to the allegation in writing. While Ms. Hegg filed a letter regarding the allegations against her, she did not file a written response to the Complaint. All of the subpoenaed information received from Havasu Regional Medical Center was entered into the record. Ms. Hegg denied all the allegations. The Board members Board found that a preponderance of evidence was presented to support the information in the Complaint regarding her violation of:

- A.R.S. §32-3501(10)(c): Illegal use of narcotic or hypnotic drugs or substances;
- A.R.S. §32-3501(10)(i): Any conduct or practice which is contrary to recognized standards of ethics of the respiratory therapy profession or any conduct or practice which does or might constitute a danger to the health, welfare or safety of the patient or the public;
- A.R.S. §32-3501(10)(j): Any conduct, practice or condition which does or might impair the person's ability to safely and skillfully practice respiratory therapy; and
- A.A.C. R4-45-214(11): Using or being under the influence of alcohol, illegal drugs or substances, or drugs or substances that impair judgment, while on duty in any health care work location.

This vote removed an allegation from the Complaint, as it was written, about having enough evidence to find that Ms. Hegg had removed property from the facility without permission. Therefore, Board Chair Toni Rodriguez voted to accept the Findings of Fact and Conclusions of law as set forth in the Complaint as modified above. John O'Donnell seconded. After discussion, Board Chair Toni Rodriguez moved to revoke the license of Ms. Hegg. John O'Donnell Seconded. **The Motion passed unanimously.**

## **XI. CONSIDERATION AND ACTION ON PREVIOUS BOARD ACTION**

Frank Bostwick, Case No. 03328-05-2018

Mr. Bostwick was present. Mr. Bostwick's license is currently suspended, under a Stipulated Order of License Suspension.

On April 21, 2005, the Board held its regular, monthly, public meeting, in part to conduct an

informal interview. Mr. Bostwick was present. He stated that he was aware that his conduct regarding the pediatric patient was unprofessional. He stated that he had recently come to the conclusion that he needed to see a mental health professional, and had begun counseling sessions. He provided the Board with a copy of an outline of a treatment plan his counselor provided to him. After reviewing all the information, and interviewing its licensee, Board members found that Mr. Bostwick's inability to control his temper had resulted in him physically striking a pediatric patient, and that the Board requires an evaluation by a qualified medical health professional of Mr. Bostwick's ability to safely and skillfully practice respiratory care. The Board also found that if Mr. Bostwick is evaluated and determined to be able to resume the practice of respiratory care, he will be required to limit his practice to adult patients – no pediatric or elderly patients. The Board found that Mr. Bostwick's behavior constituted unprofessional conduct; under:

A.R.S. § 32-3501(i): Any conduct or practice which is contrary to recognized standards of ethics of the respiratory therapy profession or any conduct or practice which does or might constitute a danger to the health, welfare or safety of the patient or the public; and

Board Rule R4-45-214(6): Endangering a patient's or the public's physical or emotional health or safety or engaging in conduct or practice that may reasonably be expected to do so.

The Stipulated Order was entered on April 25, 2005.

On August 16, 2005, the Board received, via facsimile, a Psychological Evaluation done by Robert A. Block, PhD, on June 27, 2005. Dr. Block provided a diagnosis for Mr. Bostwick, and recommended further medical evaluation.

No further information was received from Mr. Bostwick regarding whether he had followed Dr. Block's recommendation.

He was informed on the telephone, and in writing, that the Board would be considering the matter today. And asked to provide any additional information.

Board members spoke with Mr. Bostwick, thanking him for the information he provided. However, the Board did not have a statement from a doctor stating that Mr. Bostwick is safe to resume the practice of respiratory care. After discussion, Board Chair Toni Rodriguez moved to table the discussion, thereby keeping the suspension of Mr. Bostwick's license in place, until a further time when he can provide more information about following up on recommendations from Dr. Block. Cathy Lindstrom seconded. **The Motion passed unanimously.**

## **2. Informal Interview Regarding Probation Compliance**

### **1. Bradley Budd, Case No. 00390-05-1972**

Mr. Budd was present. The Board reviewed his terms of probation and his progress, noting that he is doing very well. No action was taken.

### **2. Dennis Mayer, Case. No. 06675-05-1988**

Mr. Mayer was present. The Board reviewed his terms of probation, noting that he continues to make progress. Issues regarding his phone number and address, which led to some difficulty in contacting Mr. Mayer were discussed. No action was taken.

3. Travis H. Dschaak, Case No. 06577-05-1967

Mr. Dshaak was present. The Board reviewed his terms of probation, noting that he continues to make progress. Board members were concerned about the fact that Mr. Dshaak's CNA Certificate, issued by the State Board of Nursing, had been revoked for not complying with conditions of probation established by that regulatory entity. Board members noted that Mr. Dschaak has been compliant with his Order of Probation for several months now. After discussion, Bill Cohagen moved to issue a Letter of Concern to Mr. Dshaak for his failure to follow through with the requirements set by the Nursing Board; and the subsequent revocation of his CNA certificate. Cathy Lindstrom seconded. **The Motion passed unanimously.**

**XII. CONSIDERATION AND ACTION ON REQUEST TO ALLOW LICENSED THERAPISTS TO TAKE VERBAL ORDERS FOR AMBIEN FOR SLEEP STUDIES**

Bernie W. Miller RRT/RPSGT, Mayo Clinic Hospital Sleep Center, Supervisor, 9:30 am

Mr. Miller was present, and had provided the Board with a proposed policy for this procedure to review.

Board members noted that taking verbal orders from licensed physicians (M.D.'s or D.O's), for medications that impact the respiratory system, falls within the scope of practice for respiratory care practitioners as set forth by the Arizona Legislature. The Executive Director advised the Board members that in the past when the Board has been to render an opinion regarding an issue they answered the request by recommending that the facility's legal counsel review the statutes and determine if a license of some type is needed to perform the procedure. If no other health regulatory license is required, then, in the presence of facility policies and procedures along with documentation of a training program and a method of tracking continuing competency respiratory care practitioners in the State of Arizona may perform this procedure.

**XIII. CONSIDERATION/ACTION ON POSSIBLE VIOLATION OF A.R.S. § 32-3556 AND A.A.C. R4-45-214.(13.)**

I. Western Medical, Case No. 000-05-002, 1:30 p.m.

Within the past few months, several phone calls had been received from therapists claiming that Western Medical's policies, especially those regarding prescription verifications, were not in compliance with the Respiratory Care practice Act. Those calling were urged to put the information in writing. One anonymous letter was received on April 20, 2005.

The respiratory clinical manager, Grayson Cartwright, a licensee of this Board, was contacted by telephone, on a number of occasions, regarding these complaints and provided copies of policies and procedures which are in compliance with State law.

Mr. Cartwright was invited to address the Board regarding Western Medical's policies and procedures for the record at the June 2005 meeting. After discussion, the Board voted unanimously to invite Mr. Cartwright back for the September to report back on auditing procedures for verification of orders and delivery of O2 for Hospice patients.

Mr. Cartwright provided that information, and was invited to the September meeting to discuss the information.

Mr. Cartwright went over the information regarding Western Medical's operations, and recent technological improvements.

The Board took no action.

## II. Breathing Disorders Services, Inc., Case No. 000-05-003, to follow

It had come to the attention of the Board that Breathing Disorders Services, Inc. (BDS) based in Oklahoma City, is operating a DME outlet in Kingman. Among supplies provided by BDS are CPAP units and oxygen. Reportedly, BDS in Kingman did not employ a licensed person to provide this equipment.

Robert Walton manages BDS in Kingman. He was notified in writing of the allegation that his company does not employ licensed people and that this may be in violation of State law.

On June 7, 2005, the Board received a response to the allegation from Andrew Macias, CEO of BDS. Mr. Macias denied that the Kingman office is in violation of State law, but stated that their corporate therapists, who are not licensed in Arizona, verify the prescriptions. Included in his response and attachments is the syllabus for a 2 week training program, it did not indicate what type of background or education is required to enter this training program.

A representative from Breathing Disorders Services, Inc. was invited to discuss this matter with the Board at the June meeting.

At the June Board meeting, a representative from BDS, Robert Kitchell addressed the Board. He admitted that they did not employ a licensed healthcare provider in the Kingman office since they were under the impression that a licensed person was not required. He stated that they were in the process of recruiting such a person.

The Board voted unanimously to table consideration of the matter until the September meeting.

On August 25, 2005, the Board received written notification from Robin Peck, Chief Operating Officer for BDS that an Arizona licensed LPN had been hired by BDS in Kingman effective August 31, 2005.

BDS was notified in writing that the Board would consider this new information at the September 2005 meeting.

Mr. Kitchell was present. The Board reviewed the information he had submitted to document that BDS now has a licensed LPN on staff. No action was taken.

**XIV. CALL TO THE PUBLIC**

An individual who has filed a license re-application, Pam Daniels, addressed the Board.

**XV. ESTABLISH DATE AND TIME OF NEXT BOARD MEETING**

Thursday, October 20, 2005 at 9:00 a.m.

**XVI ADJOURNMENT**

Board Chair Toni Rodriguez adjourned the meeting at 2:20 p.m., without objection.

DATED this \_\_th day of October 2005.

---

Mary Hauf Martin, Executive Director