

# Board of Respiratory Care Examiners Board Meeting Minutes

## Regularly Scheduled Meeting of October 15, 2009

Thursday, October 15, 2009, 9:00 a.m.  
Basement Conference Room B-1  
1400 W. Washington, Phoenix, AZ 85007

**Board Members Present:**

Board Chair Toni Rodriguez

Vice Chair Becky Brimhall

Catherine Lindstrom  
–Joined at 9:35

James Love

John O'Donnell

David Sanderson

Bill Cohagen

**Board Members Absent:**

**Staff Present:**

Mary Hauf Martin

David Geriminsky

Valarie Davis

**Legal Counsel:**

Keely Verstegen

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Authored by: David Geriminsky

Recommended by: Mary Hauf Martin

Approved by the Board on November 19, 2009

# Board of Respiratory Care Examiners Board Meeting Minutes

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Regularly Scheduled Meeting of October 15, 2009

## CALL TO ORDER

The Meeting was called to order at 9:00 a.m. by Board Chair Toni Rodriguez.

## CONSENT AGENDA

### CONSENT AGENDA:

All items listed with “C” are considered to be routine or have been previously reviewed by the Board of Respiratory Care Examiners, and will be enacted by one motion. There will be no separate discussion of these items unless a Board member so requests; in which event the item will be removed from the Consent Agenda, and placed in the Regular Agenda under Item R-2.

### MOTION ON THE CONSENT:

There being no items requested to be removed, a motion was made by **John O’Donnell** to approve all items on the Consent Agenda. **Bill Cohagen** seconded. **The Motion Passed**

### C-1 APPROVAL OF MINUTES

Recommended for Approval

September 17, 2009

### C-2 ACTION ON APPLICATIONS FOR LICENSURE

#### i. Permanent License Issuance

Recommended for approval by the Executive Director

Emily Aydelotte	Jacqueline Brogdon	Elizabeth Brooks	James Bryant
Natalia Carmack	Stacey Casler	Kay Chamberlin	Adriana Christensen
Karalyn Corder	Carmele Dowell	Paula Gipson	Michael Jarrett
Victoria Jones	Marc Lapham	Amelia Mendoza	Mary Pedraza
Kaelyne Peterson	Ann Rice	Joseph Rivera	Bobby Seaton
Donald Schiller	Christopher Schwartz	Jacquelyn Scott	Roger Shank

Emanuela Sirghi  
Timothy Toney

Samantha Sperry

Barbara Stice

Jason Trinklein

**ii. Re-Application for Permanent Licensure**

Recommended for approval by the Executive Director

Jeff Harris

**iii. Ratification of Temporary Licenses Issued Pursuant to A.R.S. § 32-3521**

Recommended for Ratification by the Executive Director

Barbara Beall

Elizabeth Brooks

Christopher Cannizo

Jeshiva Clark

Megan Cooper

Gary Elliott

Charito Espinosa

Shon Grice

Henry Lopez

John Marchard

Holly Nieves-Wolford

Ann Rice

Donald Schiller

Justin Slabaugh

Priscilla Sotomayor

Alexandra Valentin

Luis Valerio

Susan Veglahn

Brittany Washington

Casey Winterrowd

**iv. Ratification of Temporary License Extension Issued pursuant to A.R.S. § 32-3521**

Recommended for Ratification by the Executive Director

None

**C - 3 ACTION ON ADMINISTRATIVE CLOSING OF APPLICATION FILES**

Recommended for closing of application files

Lisa Disalvo

Adrienne Herrera

Emina Lubovac

Sheila Marshall

Melinda Nunn

**C - 4 ACTION ON ADMINISTRATIVE CLOSURE OF TWO-YEAR INACTIVE FILES**

Recommended for closing of inactive files

Megan Accordino

Cathleen Bilczewski

Daniel Caponera

David Davis

Kimberly Engard

Susan Everett

Barrington Facey

Robert Hardesty

Thomas Helm

Melanie Lewis

Bentley Lloyd

Phyllis Minton

Jaime Miron

Jacquelyn Phillips

Mary Taft

Tommy Tippit

Denise Valley

Rochelle Wilcox

## **C- 5 ACTION ON NOTICES OF LICENSE EXPIRATIONS**

Recommend sending notice of License Expirations to the following individuals:

Roel Angeles	Margaret Arnold	Stacey Broome	Joyce burchwell
Peggy Busby	Peggy Cameron-Effort	Stephanie Campos	Jeremy Canary
Zenaida Cervantes	L.Susan Faber	Victoria Fabris	Jamie Faretta
Jeanette Ferren	Christian Freese	Lorna Gross	Gina Hansen
Candida Iannelli	David Koda	Kimberly Lambert	Laurie Miller
Michael Pfeifer	Stephanie Rodriguez	Greg Sanvik	Sara Selby
George Travis	Miquel Valdez	Carol Wermes	

## **C -6 ACTION ON RATIFICATION OF RENEWAL OF LAPSED LICENSES**

Recommended to ratify licenses issued by the Executive Director to individuals who met requirements for renewal

Ruth Aspen                      Marisa Keeley                      Justin Perry

Items listed here will be proposed documents for the Board's consideration. The Board may choose not to ratify these documents, remove them from the Consent Agenda, and place them in the Regular Agenda under Item R-2.

Stipulation and Consent Orders, and Letters of Warnings Issued, once ratified by the Board shall constitute public records which may be disseminated as formal actions of the Board.

### **A. Decision on Accepting Proposed Consent Agreements**

1. Denise Ehrhart                      Case No. C002508-10-007134

### **B. Decision on Accepting Proposed Letters of Warning Issued**

1. Jodi Nicola                      Case No. C002510-10-008299  
2. Dawn Coleman                      Case No. C002512-10-004202  
3. John Widder                      Case No. C002514-10-001735  
4. Linda Dugan                      Case No. C002513-10-006707

## **C -8 ESTABLISH DATE AND TIME OF NEXT BOARD MEETING**

Scheduled date of next Board Meeting

Thursday, November 19, 2009, at 9:00 a.m.

## REGULAR AGENDA

### **R-1 DISCUSSION/ACTION ON EXECUTIVE DIRECTOR'S REPORT**

#### **i. Budget Update**

The Executive Director stated that the crisis regarding the budget of the State of Arizona continues as the Governor and Legislature are at a stalemate as to how to resolve the issue. She assured the Board that if there is any attempt to take the licensing fees paid by Respiratory Care Practitioners, and use those monies to fund other programs causing the Board to be unable to function, they will be reported as soon as possible. Board Members expressed their willingness to petition the Governor and Legislators, and to fight to retain the monies paid in good faith by licensees for the purpose of licensing and regulating the profession.

#### **ii. Report on NBRC Meeting**

Valarie Wallace of Board Staff provided the following report:

The NBRC has changed its policy when it comes to individuals who do not renew credentials by the due date. The NBRC starts to notify any individual whose CRT/RRT renewal is approaching in writing. This starts at 1 year prior to the date; then continues to occur at the 6 month, 90 days and 30 days prior to the expiration date. The individual has the option of renewing their credential online or by paper. The 5 year renewal fee is \$125. Under the previous policy, if the individual failed to renew by their scheduled renewal date, their credential was no longer valid and the licensee had to retake the test in order to be considered CRT or RRT. Now the NBRC is giving individuals a 6 month grace period to renew. The fee is doubled to \$250 and the continuing education units are required.

Also, as of December 2008, the NBRC no longer has a signed agreement with the Canadian Society of Respiratory Care that recognized the Canadian CSRT Exam as equivalent to the NBRC's CRT Exam. Thus, the Arizona State Board of Respiratory Care can only grandfather any applicants that had taken the CSRT prior to December 2008. Any applicants who have taken the CSRT exam after the December 2008 date, will have to take the Arizona State Licensing Exam through this Board.

#### **iii. Scope of Practice Issues**

##### **a. Use of Lasers in Respiratory Therapy**

Board members reviewed an email regarding the use of lasers in several medical fields, including respiratory therapy. After discussion, Board members stated that the appropriate regulatory body to review the issue is the Medical Radiologic Technology Board of Examiners.

### **b. Performance of EKG by non Respiratory Therapists**

The Board reviewed the information in an email submitted regarding this issue.

Board members reviewed the legislative intent clause which states:

#### **Laws 1990, Chapter 256, § 1. Legislative Intent**

*“The legislature also recognizes that the practice of respiratory care is a dynamic and changing art and science which is continually evolving to include new developments and more sophisticated techniques in patient care, thus creating a need for continuing education and maintenance of minimum standards of competence for those who practice this area. The intent of the legislature in this act is to provide clear legal authority for functions and procedures which have common acceptance and usage. In this act, the legislature also intends to recognize the existence of overlapping functions between physicians, registered nurses, physical and occupational therapists, respiratory care practitioners and other licensed health care personnel and to continue to allow appropriate sharing of functions among the various health care professions.”*

After discussion, Board members unanimously agreed that the licensing of Respiratory Care Practitioner is not intended to limit, preclude or otherwise interfere with the practice of other persons performing procedures within the defined scope of practice as long as those persons are formally trained and hold a health care license and/or credential and who document completion of a training program and who have a method of tracking continuing competency.

### **c. Pulmonary Function Testing by Non-Respiratory Therapists**

The Board reviewed the information in an email submitted by a pulmonary group in Phoenix regarding PFT.

Board members reviewed the legislative intent clause which states:

#### **Laws 1990, Chapter 256, § 1. Legislative Intent**

*“The legislature also recognizes that the practice of respiratory care is a dynamic and changing art and science which is continually evolving to include new developments and more sophisticated techniques in patient care, thus creating a need for continuing education and maintenance of minimum standards of competence for those who practice this area. The intent of the legislature in this act is to provide clear legal authority for functions and procedures which have common acceptance and usage. In this act, the legislature also intends to recognize the existence of overlapping functions between physicians, registered nurses, physical and occupational therapists, respiratory care practitioners and other licensed health care personnel and to continue to allow appropriate sharing of functions among the various health care professions.”*

After discussion, the Board unanimously agreed that an individual must either be a licensed Respiratory Care Practitioner or hold an equivalent license and/or credential in the performance of PFT. The law is not intended to limit the performance of PFTs to only respiratory therapists, but to health care providers who document completion of a training program and who have a method of tracking continuing competency.

**d. Use of Central Venus Catheter by Respiratory Therapists**

Board Members reviewed information received in an email from Teri Davis. It was agreed that the matter has already been addressed by the Board. Please see the Board Meeting Minutes from the Public Meetings held on April 19, 2007, and on December 18, 2008.

**iv. Board Office Highlights**

The Executive Director gave a brief report, updating the Board on office matters.

**R-2 DISCUSSION/ACTION ON ITEMS REMOVED FROM THE CONSENT AGENDA**

None

**R-3 DISCUSSION/ACTION ON APPLICATIONS FOR LICENSURE/RENEWAL**

**A. Application for Licensure/Interview**

- 1. Brian Curdo                      Case No.      C002502-10-008833
- 2. Kelly MacNeil                  Case No.      C002416-09-008850
- 3. Brandy Renfro                  Case No.      C002515-10-008594

- 1. Brian Curdo                      Case No.      C002502-10-008833

Mr. Curdo was not present. After discussion **Board Chair Toni Rodriguez** moved to table this matter until a later meeting. **David Sanderson** Seconded. **The Motion Passed.**

- 2. Kelly MacNeil                      Case No.      C002416-09-008850

Ms. MacNeil was Present. The Executive Director summarized; adding that this is an unusual situation where it must be determined whether or not to grant Ms. MacNeil a Temporary License. Ms. MacNeil has a license in California that is on Probation. An incident occurred while she was on duty in that state. It resulted in her license being placed on a three year term of probation that will not be completed until November 2010.

Ms. MacNeil has complied with all parts of her probation, excepting that she has not yet completed her education courses. She is current on her payment plan. She indicated that she would like to relocate to Arizona. After discussion, **Catherine Lindstrom** moved to offer Ms. MacNeil a Consent Agreement that would grant her Temporary License. The Consent Agreement would require her to comply with all terms of her California Probation; Notify her Employer(s) of this probation and provide quarterly employer reports; and restrict her practice from home health or working as a supervisor. She further moved to deny Ms.

MacNeil a Temporary License if she fails to sign this Consent Agreement. **Bill Cohagen** Seconded the Motion. **The Motion Passed.**

3. Brandy Renfro Case No. C002515-10-008594

Ms. Renfro was present. The Executive Director stated that Ms. Renfro had provided all documentation providing that she is eligible for permanent licensure. After discussion **Bill Cohagen** moved to Grant the license of Ms. Renfro to practice Respiratory Care in the state of Arizona. **David Sanderson** Seconded. **The Motion Passed.**

#### **R-4 CONSIDERATION AND ACTION ON INVESTIGATIONS OF POSSIBLE UNPROFESSIONAL CONDUCT**

1. Karen Hart Case No. C002516-10-005162
2. Jaclyn Lucht Case No. C002509-10-007967

3. Karen Hart Case No. C002516-10-005162

Ms. Hart was present. The Executive Director explained the allegations placed against Ms. Hart. After discussion **David Sanderson** moved to dismiss this allegation. **Catherine Lindstrom** Seconded the Motion. **The Motion Passed.**

4. Jaclyn Lucht Case No. C002509-10-007967

Ms. Lucht was present. The Executive Director explained the allegations placed against Ms. Lucht. After discussion **Jim Love** moved to place this Item on the next Consent Agenda. **John O'Donnell** seconded. **The Motion Passed.**

## **R-5 CONSIDERATION AND ACTION ON INFORMAL INTERVIEWS PURSUANT TO A.R.S. § 32-3553(G)**

- **These Informal Interview are scheduled for the afternoon session, which begins at 1:00 p.m.**

1. Raynaldo Obregon Case No. C002430-09-001193
2. Michael Fitzgerald Case No. C002477-09-007197

3. Raynaldo Obregon Case No. C002430-09-001193

Mr. Obregon was not present. After discussing Mr. Obregon's Case **Bill Cohagen** moved to direct Board Staff to obtain additional documents. **John O'Donnell** Seconded. **The Motion Passed.**

4. Michael Fitzgerald Case No. C002477-09-007197

Mr. Fitzgerald was present. Mr. Fitzgerald, in a written statement to the Board, indicated that a nursing assistant approached him, and asked if he could give a breathing treatment to another nurse. He asked the nurse with the breathing issue if she thought a breathing treatment would help. She stated that it would and they went to the medication room. He states that he highlighted the first name he saw and pulled out one dose of Albuterol then administered that dose.

Mr. Fitzgerald states that he is aware that he made a "bad decision" and that this is the only time that he has ever taken action without the proper order from a doctor. He provided documentation to prove that he has made his new employer aware of the incident.

After discussion, **Cathy Lindstrom** moved to issue a non-disciplinary order of probation to Mr. Fitzgerald. The Order would require him to get quarterly reports from his employer on his job performance, and for him complete a course on Medicare billing. Dr. Lindstrom indicated that while the term of probation would be for a year, the Board would accept a report from Mr. Fitzgerald's employer, essentially setting the starting date of probation on June 30, 2009; with a scheduled completion date of June 30, 2010. Dr. Lindstrom also emphasized that if Mr. Fitzgerald violates any of the provisions of his probation his license would be subject to disciplinary action. **John O'Donnell** seconded. The motion passed unanimously.

## **R-6 CONSIDERATION AND ACTION ON FORMAL COMPLAINT HEARINGS PURSUANT TO A.R.S. § 32-3553(H)**

1. Anthony McDonald Case No. C002444-09-003562
2. David Coss Case No. C002350-09-004179
3. Patrick Murray Case No. C002425-09-006554

1. Anthony McDonald Case No. C002444-09-003562

Evidence was presented to establish that Mr. McDonald violated Terms Number 1, 3 and 7 of his Order.

Term 1: Compliance with Court-Ordered Probation...

- Monthly copies to the Board, beginning in May 2009, documenting his payment of court-ordered fees.

**Violation: Mr. McDonald failed to provide any monthly documentation related to his court ordered fines.**

Term 3. Drug Testing

Licensee shall comply immediately (i.e., within 2 hours) with requests from the Board, or its agents or designees, to submit to witnessed random biological fluid collection. This test must be, at a minimum, a 10-Panel. And, he shall authorize any person or organization conducting tests on these collected samples to provide testing results to the Board.

**Violation: Mr. McDonald failed, entirely, to comply with a request for a drug screen; the request was made on July 9, 2009.**

Term 7. Interview with the Board or its Designee

Licensee shall appear in person or if residing out of state, telephonically for interviews with the Board or its designee upon request and with at least 2 days notice.

At the conclusion of the case, Board Member Cathy Lindstrom moved to accept Findings of Fact and Conclusions of Law as set forth in the Complaint and Notice of Hearing. **Bill Cohagen** seconded. The motion passed unanimously. After further discussion, Bill Cohagen moved to revoke Mr. McDonald’s license to practice respiratory care in Arizona. **John O’Donnell** seconded. **The motion passed**

2. David Coss Case No. C002350-09-004179

Mr. Coss was present and represented by his legal counsel Ms. Alonna Godfried. Mr. Coss’s attorney submitted a motion to postpone this meeting to a later date. The Board directed the Executive Director to issue a new Notice of Hearing for a later date and took no action.

3. Patrick Murray Case No. C002425-09-006554

Mr. Murray was not present. Mr. Murray was terminated from Kingman Regional Medical Center for acts of unprofessional conduct, including perceived sexual indecency. A patient was received in the Emergency department. Respiratory treatments were ordered and then administered by Mr. Murray. Mr. Murray, although knowing that the patient had a broken nose, administered the treatment through a mask despite the patient’s requests to use a mouth piece. Mr. Murray obtained a breath sound assessment by listening to the patient’s lungs as described by the patient “... through my nipples and throat.”

Evidence was presented to substantiate the allegation against Mr. Murray. It was noted that Mr. Murray did not deny the allegation. At the conclusion of the case, the Board found that a preponderance of evidence was presented to support the information in the Board’s Complaint and Notice of Hearing.

After discussion, **Cathy Lindstrom** moved to revoke Mr. Murray's license to practice respiratory care in Arizona. **Jim Love** seconded. **The motion passed.**

## **R-7 CONSIDERATION AND ACTION ON PREVIOUS BOARD ACTION**

### **Informal Interview Regarding Probation Compliance**

- **These Informal Interviews are scheduled to begin at 1:30 p.m.**

- |                      |  |
|----------------------|--|
| 1. Nikii Johnstun    | Case Number C002488-10-004427                      |
| 2. James Craig       | Case Number C002255-08-6754                        |
| 3. Jerry Meade       | Case Number C002299-09-004904<br>C002300-09-004904 |
| 4. Wesley Peterson   | Case Number C002417-08-002053                      |
| 5. Ricardo Espinoza  | Case Number C002258-08-7440                        |
| 6. Jennifer Mennenga | Case Number C002437-09-005967                      |

1. Nikii Johnstun Case Number C002488-10-004427

Ms. Johnstun was present. The Board Took No Action.

2. James Craig Case Number C002255-08-6754

Mr. Craig was present. The Board Took No Action.

3. Jerry Meade Case Number C002299-09-004904  
C002300-09-004904

Mr. Meade was not present. Because of Mr. Meade's failure to follow through with the requirements of his probation, and due to his history of substance abuse, the evidence established that his behavior establishes an immediate threat to the public health and safety.

Therefore, **Board Chair Toni Rodriguez** moved to issue an interim order of summary suspension of Mr. Meade's license to practice respiratory care in Arizona and issue a Formal Complaint and Notice of Hearing. **Bill Cohagen** Seconded. **The Motion Passed.**

4. Wesley Peterson Case Number C002417-08-002053

Mr. Peterson was present. The Board Took No Action.

5. Ricardo Espinoza Case Number C002258-08-7440

Mr. Espinoza was present. Mr. Espinoza had placed a request before the Board to lift the probationary order from his license. The Board reviewed Mr. Espinoza's history and compliance with probation. After discussion, **Bill Cohagen** moved to Lift the probation from Mr. Espinoza's license. **John O'Donnell** seconded. **The Motion Passed.**

6. Jennifer Mennenga Case Number C002437-09-005967

Ms. Mennenga was not present. Evidence was presented to the Board that Ms. Mennenga was in violation of the following terms of her Probation:

- Complete an evaluation and forward the results to the Board.
- Notify Her employer of the probationary order and have that employer notify the Board that they have received a copy of the probationary order.
- Submit to random drug screenings
- Provide proof of prescriptions for any drugs being taken.
- Appear at any Board meeting the Board invites the licensee to
- Provide a current phone number and inform the Board of any change in address or phone

Furthermore, the evidence established that due to the Board's finding that Ms. Mennenga needs careful monitoring, and especially in light of the Board's inability to communicate with Ms. Mennenga, her behavior establishes an immediate threat to the public health and safety.

Therefore, **Bill Cohagen** moved to issue an interim order of summary suspension of Ms. Mennenga's license to practice respiratory care in Arizona and issue a Formal Complaint and Notice of Hearing. **Catherine Lindstrom** Seconded. **The Motion Passed.**

## **R-8 CALL TO THE PUBLIC**

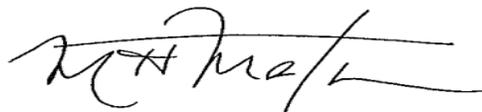
Those wishing to address the Board do not need to request permission in advance. Each person wishing to address the Board will be given five (5) minutes to do so. The Board can only take action on matters listed on the agenda. Persons who wish to raise issues or concerns not on the noticed agenda should be aware that the only procedural action that can be taken is directing staff to study the matter or to schedule the matter for further discussion at a later date.

There was no public presentation to the Board.

## **R-9 ADJOURNMENT**

Board Chair Toni Rodriguez adjourned the meeting at 2:50 p.m., without objection

DATED this 05th day of November, 2009



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MARY HAUF MARTIN

Executive Director

