

**Oregon Health Licensing Agency
Respiratory Therapist Licensing Board
Minutes of October 19, 2007**

MEMBERS PRESENT

Richard Larson, Chairperson
Cheryl Vial, Vice Chairperson
Marilyn Barclay, Respiratory Care Practitioner
Bruce Kromer, Respiratory Care Practitioner
Michael Nurre, Respiratory Care Practitioner

STAFF PRESENT

Susan Wilson, Director
Trish Allbritton, Policy and Strategic Planning Division
Cerynthia Murphy, Program Coordinator

CALL TO ORDER

Richard Larson, Chair, called the meeting of the Respiratory Therapist Licensing Board Meeting to order at 10:01 a.m., October 19, 2007, at the Department of Agriculture Building, Basement Hearing Room, 635 Capitol St. NE, Salem, Oregon.

APPROVAL OF AGENDA
MOTION

Board members discussed moving Executive Session on the agenda before the working lunch, Marilyn Barclay made a motion to approve the agenda with the changes; Cheryl Vial seconded the motion. The motion passed with Mr. Larson, Ms. Vial, Ms. Barclay, Mr. Kromer and Mr. Nurre voting aye.

MINUTES
MOTION

After discussion to amend the wording to the Executive Session of the February 9, 2007, board meeting minutes. Ms. Vial made a motion to approve the minutes with the discussed changes; Marilyn Barclay seconded the motion. The motion passed with Mr. Larson, Ms. Vial, Ms. Barclay, Mr. Kromer and Mr. Nurre voting aye.

MESSAGE FROM DIRECTOR

Ms. Wilson stated the Oregon Health Licensing Agency (OHLA) is undergoing internal reorganization to lay a foundation to provide boards, customers and regulated professionals with the best regulatory services and resources. As OHLA's strategic plan develops, the first shift will occur in agency divisions and staff roles. The Business Administration Division is headed by Richard McNew who oversees agency-wide licensing responsibilities, fiscal management, budget and contract management, economic forecasting, human resources and payroll, information technology and systems management, and facility and property control.

Ms. Wilson added the result of reorganization and review will position the agency to maximize on existing benefits of economies of scale and to make adjustments smoothly and effectively. The agency will carry forward to the 2009 Legislature proposed refinements and promote the value of streamlining and standardizing services and fees. For the record the Board supports legislation to streamline and lower fees.

REPORTS

Richard McNew, Business Administration Division Manager introduced himself to members and provided a report of the agencies budget, revenues and expenditures. Mr. McNew stated the Oregon Health Licensing Agency's (OHLA) budget is \$6,131,235. Mr. McNew explained that OHLA is in the process of reviewing every process and position within the agency and explained that OHLA's objective in the reorganization process is geared toward efficiencies; eliminating unnecessary or redundant processes, and centralizing work functions to best serve the needs of our customers. He stated the more efficiencies the agency implements, the more beneficial the effect on license fees. Mr. McNew stated a cost allocation model should be completed within the next 45 days, which will be provided to OHLA's Director, Susan K. Wilson.

Mr. McNew reported the 2007-09 current agency-wide revenues are \$1,410,646. He explained there are new reporting tools for agency-wide expenditures and revenues based on actual figures, which will be prepared monthly and sent via email or regular mail to all OHLA board/council members.

Mr. Larson stated he was under the impression the uniform licensing fee did not pass. Ms. Wilson confirmed his impression, but explained the agency has chosen to go through a justification process through the legislature.

Mr. Larson requested the agency enact a fee reduction since the estimated biennium balance was \$438,000. Mr. McNew informed members that a fee change would require justification to the Department of Administrative Services (DAS), Budget and Management (BAM) and through the legislature. Ms. Wilson added that a reduction of fees would require a similar process and that the agency is looking at a 10-year, agency-wide plan and would like to ensure the budget is sustainable throughout the agency before a permanent reduction of fees is requested. Ms. Barclay asked if a determination could be made regarding a reduction by the next board meeting and if a cost-accounting of how the figures had changed could be provided. Mr. McNew answered affirmatively and explained that revenues fluctuate and the importance of keeping a three-to-six month carryover reserve available.

Ms. Wilson stated as a result of the new agency organization structure, the shifting emphasis is to policy and planning as well as offering additional efficiencies.

ONLINE RENEWALS

Ms. Murphy explained the percentage of renewals completed online for January through September, 2007 and pointed out the increase for the months of February and June. She explained the agency is working on ways to encourage licensees to renew online and is considering providing incentives for future use of the online renewal system. Ms. Murphy stated the Respiratory Therapy Licensing Board has one of the highest rates for online renewal.

Ms. Larson asked if the online renewal system has saved the agency money. Ms. Wilson replied the primary purpose of the online renewal system is for convenience, however, it is good for the environment as it saves on paper and saves driving time for the customer.

LICENSING

Ms. Murphy provided the Board with statistics from January 1, 2007 through October 15, 2007, which included the following;

- Total number of **active** licenses – 1,415
- Total number of **inactive** licenses– 515
- Total number of **expired** licenses – 683

Ms. Murphy presented a four-year comparison report detailing the increase and decrease in licensing transactions from 2003 to 2006.

Ms. Vial asked why there were so many inactive licenses. Ms. Murphy explained the information includes license status records for a 10-year period. Ms. Wilson noted the number encompasses licensees who have retired, switched careers, moved out-of-state, etc.

Ms. Murphy then provided statistics for January 1, 2006 to December 31, 2006 which reflects the licensing totals in the following areas:

January 1, 2007 through August 31, 2007

- Original Licenses Issued – 104
- Licenses Renewed – 789
- Late Renewals – 29
- Original Temporary Licenses Issued – 39

ENFORCEMENT

Larry Peck, Regulatory Operations Division Manager, reported the Respiratory Therapy Licensing Board's percentage of overall OHLA complaints received for 2007.

January 1 through August 31, 2007:

- Total Number of Licenses – 1,422
- Total Number of Complaints – 2
- Overall Percent of OHLA Complaints – 2%

Mr. Peck presented statistical complaint information for January 1, 2007 through August 31, 2007;

January 1, 2007 to August 31, 2007

- Complaints received – 2
- Proposed Orders – 5
- Final Orders – 5

Mr. Peck also presented the Board with a four-year comparison report detailing the increase and decrease of complaints received by the agency and number of orders written from 2003 to 2006.

Mr. Peck provided the Board with a summary of four complaints closed since the February 9, 2007, board meeting. The summary is as follows:

97-02

September 4, 1997; licensee was placed on probation by the Board of Medical Examiners for a period of 10 years for reporting to work with a positive blood alcohol level. Probation concluded September 4, 2007 and the case was closed.

00-09

January of 2001; OHLA received a complaint regarding a licensee that was arrested and convicted of possession of a controlled substance (methamphetamine). Licensee was referred to a physician for evaluation of drug dependencies. The case was then referred to the Board for review and recommendation on taking action against the licensee. The Board voted to place licensee on probation with stipulations in a Settlement Agreement and Final Order. Licensee complied with all stipulations. The case was closed on April 9, 2007.

05-4565

August 18, 2005; OHLA received a complaint regarding a person providing respiratory care services without a license. The case was investigated and the person of interest was interviewed. No violations were found and the case was closed.

06-4949

November 21, 2006; OHLA received a complaint regarding a licensee providing services to her estranged husband while visiting him in the hospital. The case was investigated and no violations were found. The case was closed on January 21, 2007.

Mr. Peck then drew the Board's attention to the four open files. He stated three of the files are under investigation. The file numbers are as follows:

- 05-4536 – Under investigation
- 07-4991 – Under investigation
- 07-5086 – Under investigation
- 05-4632 – Investigated, at the mediation stage with the attorneys, hearing date will be set.

Board members requested the meeting convene to Executive Session to review case 05-4632.

EXECUTIVE SESSION

Richard Larson called for the Board to enter Executive Session under ORS 192.660(2)(f) at 12:33 p.m. for the purpose of considering information or records exempt from public inspection. The Board will review enforcement file number 05-4632. No recommendations will be made during Executive Session.

Michael Nurre recused himself from Executive Session due to an Actual Conflict of Interest regarding enforcement file number 05-4632; the Respiratory Therapy Licensing Board's outcome to the case would directly and specifically affect his financial interests, that of his relatives or a business with which he or a relative is associated with, as file number 05-4632 is a complaint that a previous employer filed against an employee of a business his relative owns.

Recusal refers to a public official or employee declining to participate in a matter because of an actual conflict of interest which means that the action taken would directly and specifically affect the financial interest of the official, the official's relative or a business with which the official or a relative of the official is associated. For the record, recusal means the board members do not engage in deliberations or debates, make recommendations, give advice, consider findings, or in any other way assume responsibility for or participate in any aspect of the work or decision making relating to the matter where there is an actual conflict of interest.

Executive Session concluded at 1:37 p.m. and the following actions were taken:

MOTION

Ms. Barclay made a motion to change the February minutes to reflect the Board's understanding of the following conditions to be made as a last offer:

- Probation for five years and random drug/alcohol testing.
- Submit to test to determine the presence of unauthorized substances immediately upon requires.
- Participate in continued care treatment.
- Inform agency in writing of his employment.
- Licensees shall not be employed for home care services unless working within home care facility and not providing services to patients in their home.
- Agency will review licensees file yearly during probationary period.
- Licensee agrees that the continued conduct and/or violation of this settlement agreement will result in revocation of his license and waives all rights to a hearing or to challenge the revocation order.
- Licensee is responsible for any costs incurred.

Cheryl Vial seconded the motion. The motion passed with Mr. Larson, Ms. Vial, Ms. Barclay and Mr. Kromer and voting aye. Mr. Nurre recused himself from the proceeding and therefore did not vote or recommend any action on the file.

OUTREACH AND COMMUNICATION

Kraig Bohot, Communications Officer, presented an article from the Oregonian which referred to the Oregon Board of Nursing's undergoing problems from a state investigation. The article concluded the board's actions lacked a sense of urgency to protect the public. This investigation spurred the Department of Administrative Services (DAS) and the Governor's Office to review all state agencies that oversee boards. Ms. Wilson referred to a September 12, 2007 memo from the Governor's Office requesting all health-related licensing boards attend a special meeting on September 24, 2007 to discuss regulatory performance, particularly as it relates to the disciplinary process. OHLA was represented at this meeting.

The Governor's Office expressed a desire for statewide consistency and increased measures of accountability. They requested the following information.

- Number of licensees issued annually,
- Number of complaints received annually,
- Average time elapsed between receipt of complaints and resolution,
- Number of disciplinary actions taken,
- Whether there are clear disciplinary guidelines for determining sanctions,
- What actions are taken on cases with suspected criminal behavior and
- What options are used with providers who are impaired and how impaired providers are monitored.

In a memorandum dated October 2, 2007, OHLA provided the Governor's Office with the information requested. Mr. Bohot stated a second phase of this project has been to put all final orders on the web site. Ms. Wilson added that the agency has a two-year strategic plan to continue improving agency processes. Tim Molloy has been assigned to review these processes to ensure OHLA has a streamlined operation and can identify areas in need of change.

Mr. Bohot then provided a tour of the new 3.0 version of the Oregon.gov Web site, which included added features that are compliant with the Americans with Disabilities Act. He highlighted some of the new features, such as scrolling topics, navigation panes and other details. He then demonstrated one of the most notable of the new features-- the ability to make the text size larger. Mr. Bohot reminded members, as stated above, that the OHLA Web site "*License Inquiry*" had been updated to add the current disciplinary status of a license, all final orders and the removal of personal address information from being disclosed.

Ms. Murphy reported that in an effort to keep the boards and councils apprised of the agency's continued communication efforts, OHLA will be providing a Web Analysis Report at the next scheduled board meeting, which will identify the following areas of interest:

- The most popular web pages on the agency's web site,
- The number of visits for each web page,
- The average length of time each page was visited and
- The most popular files downloaded.

Mr. Bohot reported that OHLA now oversees its ninth volunteer citizen board – the Sex Offender Treatment Board (SOTB). Ms. Wilson explained the Board was created by the 2007 Legislative Session. The Attorney General's Sexual Assault Task Force has been in existence for five years and is well-established. Mr. Bohot stated that board members have been appointed by the Governor and confirmed by the Senate. Since Oregon is one of the few states with a Sex Offender Treatment Board, the board will be responsible for establishing statewide treatment models. He referred members to the agency's Web site for more information on the new regulatory program.

2007 LEGISLATION

Ms. Wilson reported that the agency's budget, which included a policy package requesting five additional positions, passed. The legislature approved one permanent and four limited-duration positions. OHLA will be requesting the positions be made permanent during the 2009 Legislative Session.

Ms. Wilson also confirmed passage of HB 3233 by the 2007 Legislature (as mentioned above). HB 3233 established a regulatory program for sex offender therapists under a Board within the Oregon Health Licensing Agency's jurisdiction.

Ms. Wilson noted that legislation promoted by OHLA during the 2009 Legislative Session will be presented as an agency bill. She advised that legislation pertaining to public protection will need to be solidified by April 4, 2008.

OTHER COUNCIL OR BOARD BUSINESS

Ms. Murphy informed the Board that she had been talking with Marilyn Barclay about adding the review of continuing education to the 2008 schedule due to the type of education listed, which included adding additional associations to the list. Ms. Vial stated Joint Commission Accreditation Healthcare Organization (JAYCO) actually has reporting requirements as part of their basic public safety. So if an entity like a hospital has something happen, there is a sentinel clearance report that JAYCO requires. As an example, she stated a piece of equipment that might be a potential risk to a patient must be reported. Ms. Wilson asked if those requirements would work under the current framework of the law. Ms. Vial replied that one way to ensure these requirements work under the current law is The Safe Medical Device Act. Ms. Wilson explained that if the information regarding the reporting capabilities between JAYCO and the other mandated hospital reporting rules could be obtained, outreach could be conducted.

ITEMS FOR BOARD ACTION

LEGISLATIVE MEETING UPDATES

Mr. Larson asked that members be advised of relevant bills and the time and place the public hearings or meetings are being held. Ms. Murphy stated she would keep them updated by e-mail.

2008 SUBCOMMITTEES

Ms. Murphy stated the purpose of subcommittees is to provide review and discussion of specific issues, which usually require more in-depth fact-finding and deliberation than can be scheduled at board meetings. She then gave the board members an overview of previous subcommittee members:

Ms. Wilson said there was some question as to Ms. Vial's positions on the committees regarding her term limit. Ms. Murphy explained Ms. Vial's term ends November, 2007. Ms. Wilson stated that although applications have been sent to the Governor's Office, the agency does not have control as to when the governor appoints new members. Ms. Murphy stated Ms. Vial could remain on the committees until a new member is appointed, at which time the Board could readjust the committees. Suggestions included:

- Replacing Cheryl Vial on the Enforcement Committee with Richard Larson. Ms. Vial stated she would like to remain on the committee until her term was up.
- Leaving the rest of the committee's assignments the same.

MOTION

Ms. Vial made a motion to leave the sub-committees assignments as they are and Ms. Barclay seconded it. The motion passed with Mr. Larson, Ms. Vial, Ms. Barclay, Mr. Kromer and Mr. Nurre voting aye.

The subcommittee assignments for 2008 are as follows:

Legislation/Rules/Practice/Standards:

Mike Nurre, Richard Larson

Enforcement:

Marilyn Barclay, Cheryl Vial

Licensing/Continuing Education:

Marilyn Barclay, Bruce Kromer

Public Protection, Safety and Communication:

Cheryl Vial, Richard Larson

Customer Connection:

Marilyn Barclay

2008 BOARD MEETING DATES

MOTION

Since there was a conflict of schedule with the February 8, 2008 meeting, the board decided to move the meeting to February 22, 2008. Ms. Vial made a motion to approve the board meeting dates of February 22, 2008 and October 17, 2008. Ms. Barclay seconded the motion. The motion passed with Mr. Larson, Ms. Vial, Ms. Barclay, Mr. Kromer and Mr. Nurre voting aye.

2008 CHAIR AND VICE CHAIR

MOTION

Ms. Barclay made a motion that Richard Larson serve as chairperson for 2008. Mr. Kromer seconded the motion. The motion passed with Mr. Larson, Ms. Vial, Ms. Barclay, Mr. Kromer and Mr. Nurre voting aye.

Ms. Barclay nominated Michael Nurre serve as vice-chairperson for 2008. Mr. Larson seconded the motion. The motion passed unanimously.

The 2008 Chair and vice-chair persons are as follows:

Chair person: Richard Larson

Vice-chair person: Michael Nurre

PUBLIC COMMENT

There was no public comment at this time.

BOARD INTEREST FILE

Mr. Larson directed the Board's attention to a letter from Lori Tinkler, Associate Executive Director of The National Board for Respiratory Care, Inc. (NBRC). He stated the meeting was held in Kansas on September 7-8, 2007, and liaisons from licensing agencies from many different states attended. He was under the impression that information was not received until after the conference and as a result our state was unrepresented. Ms. Murphy stated that the information was reported through the association, so our agency did not receive notice until after the meeting was held. NBRC would like for OHLA to send a state representative for future State Licensure Group meetings.

Ms. Vial explained the meeting was credential-related. Mr. Larson requested that annual events might be something the agency should be involved in. Ms. Wilson stated the agency receives a lot of invitations to attend meetings and would like to make sure that the meeting would benefit the agency before committing to attending. Ms. Barclay volunteered to conduct research and report back to Ms. Murphy. Board members will be updated as to the findings before the next meeting.

The meeting adjourned at 3:12 p.m.

I attest that the Respiratory Therapist Licensing Board minutes of October 19, 2007, are a true and accurate reflection of the matters discussed and the views of the participants.

(Signature on file)

Cerynthia Murphy, Program Coordinator