

**Oregon Health Licensing Agency
Respiratory Therapist Licensing Board
Minutes of October 20, 2006**

MEMBERS PRESENT

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

STAFF PERSENT

Susan Wilson, Director
Larry Peck, Regulatory Operations Manager
Samantha Patnode, Board Liaison

CALL TO ORDER

Richard Larson, Chair, called the meeting of the Respiratory Therapist Licensing Board to order at 10:08 a.m. October 20, 2006, at the Oregon Health Licensing Agency (OHLA) in the Rhoades Conference Room, 700 Summer St NE, Suite 320, Salem, Oregon.

INTRODUCTION TO NEW BOARD MEMBERS

The Board welcomed Bruce Kromer and Michael Nurre as new board members.

APPROVAL OF AGENDA

MOTION

Ms. Barclay made a motion and Ms. Vial seconded to approve the agenda. The motion passed with Ms. Vial, Mr. Larson, Ms. Barclay, Mr. Kromer voting aye.

MINUTES

MOTION

Ms. Barclay made a motion and Ms. Vial seconded to approve the minutes of February 10, 2006. The motion passed with Ms. Vial, Mr. Larson, Ms. Barclay, and Ms. Kromer voting aye.

REPORTS

Revenues and Expenditures (tape 1, counter number 36)

Ronald Riggs, OHLA Fiscal Services Division Manager, provided members with an overview of the Board's fiscal status for the July 1, 2005 – August 31, 2006 biennium, reporting a \$315,072 ending biennium balance.

Mr. Riggs explained the two main categories of interest. **Personal Services** are employee compensation and related benefits. **Services and Supplies** are non-personnel expenses for agency operations. Charges are divided into two types – direct and indirect – for each program. Indirect costs are for agency operation and include office supplies, rent, telephones, data processing hardware and software, etc. and are distributed by a prorate. Direct charges include attorney general counsel, postage, and rules, instate travel or investigative costs etc. and are distributed at actual rates.

Online Renewals

Mr. Riggs stated there were a total of 280 online renewals from June through August 2006 for respiratory therapists and encouraged more usage in the future.

Mr. Riggs stated if the OHLA budget is approved by the 2007 Oregon Legislature, the new fee structure would be implemented possibly in late 2007. OHLA's 2007-09 Agency Budget Request was discussed. Ms. Wilson stated recent changes made by the Legislature have placed focus for accountability and assessment of services with the central organization to help align and promote the priorities and objectives determined by the

Governor. The agency-wide biennial budget represents a new look at how the State of Oregon licenses professionals and proposes to equalize licensing fees that now range from as high as \$1,500 to as low of \$16.50. She added the strategic plan for OHLA places emphasis on getting people to work quickly while maintaining and monitoring performance and services.

Mr. Larson asked if there could be a fee decrease earlier since there is a surplus of revenue. Ms. Wilson noted that the OHLA Fiscal Services Division reviews cash flow and spending history to determine if reductions are feasible. Mr. Kromer asked when the fee reduction for respiratory therapists would become effective. Ms. Wilson replied that if determined feasible, earlier in 2007. Ms. Vial inquired if there were any more changes in the near future that would cost the Respiratory Therapy Licensing Board more money. Ms. Wilson stated a surplus in revenue is necessary for unanticipated costs. Even with a license fee reduction each program will continue to pay "actual" costs for examinations and legal expenses outside normal program usage and the necessary costs for OHLA operations.

Compliance (tape 1, counter number 124)

Mike Tryon, Chief Enforcement Officer, provided an overview of the OHLA statewide complaint report, which reflects the total number of registrants, total complaints received and the overall percentage of complaints for each board, council and program operated by the OHLA. Mr. Tryon reported on the 2006 complaint percentage for the Respiratory Therapist Licensing Board, which included:

January 1, 2006 through August 31, 2006

Total Number of Licenses – 1,337

Total Number of Complaints – 3

Percent of Complaints – 2%

Mr. Tryon provided a OHLA statewide comparison report on complaints received and orders written from 2002 through 2005. In response to board member concern pertaining to one particular case involving a respiratory therapist licensee cited by the police for possession of a controlled substance, Ms. Wilson stated use of the diversion program is a viable means of imposing a disciplinary sanctions. She provided examples, such as practicing under the influence of a controlled substance, abuse of prescription medicines, or an employer's report of terminating a licensee for unprofessional conduct, and proposed closing a potential gap for ensuring consumer protection by ensuring fitness to practice in those cases. Ms. Vial commented that a licensee who is cited for working while impaired or for possession of a controlled substance should be required to complete a diversion program before returning to practice. She noted that more cases involving abuse of alcohol and drugs are coming before the Enforcement Committee. Mr. Larson suggested conducting random drug screening for licensees who have confirmed cases of substance abuse. Ms. Wilson confirmed that the law allows OHLA impose these types of sanctions.

Members discussed whether employers check a practitioner's licensing record and status includes disciplinary history as a prerequisite to hiring. Ms. Wilson noted a potential problem due to the time lapse between when a licensee is terminated for misconduct and OHLA's investigation, disclosure and final action. She noted that while the complaint is being investigated and processed another employer could conceivably hire the individual without knowledge of pending disciplinary action.

In response to Ms. Murphy's inquiry on whether all employers conduct a background and licensing check before hiring an individual, the Board concurred it should be a prerequisite for employment. They noted each employer/hospital may exercise different hiring practices.

Ms. Barclay inquired about the time it takes to revoke a license following OHLA review and determination on a case. She referenced a disciplinary case that was reported October 21, 2005 and expressed concern for the lengthy delay because the individual was still practicing respiratory care. She questioned the delay and what steps could be taken to shorten the time between determination and actual revocation of license to practice. OHLA staff recapped procedures necessary to ensure individuals receive appropriate due process prior to discipline. Mr. Tryon explained that the file in question is currently undergoing review by OHLA legal counsel in the Department of Justice. It was suggested further discussions take place in Executive Session.

MOTION

Ms. Barclay made a motion and Ms. Vial seconded to enter into Executive Session. The motion passed with Ms. Barclay, Ms. Vial, Mr. Kromer, and Mr. Larson voting aye.

EXECUTIVE SESSION – Enforcement ORS 192.660(2)(k) (tape 1, side 1, counter number 379)

Executive Session commenced at 10:59 a.m. pursuant to ORS 192.660(2)(k) for the purpose of considering information obtained as part of an investigation of a licensee or applicant by a health professional regulatory board.

Executive Session concluded at 11:21 p.m. and the following actions were taken:

File Number 05-4632 – The Board concurred the October 21, 2005 action by OHLA was appropriate to proceed and provide a report to the Enforcement Committee as soon as possible.

Licensing (tape 1, side 1, counter number 403)

Cerynthia Murphy, OHLA Licensing Supervisor, provided statistics on the total number of active, inactive, and expired status counts.

She presented a yearly licensing comparison report from 2002 through 2005, and two reports that show the activity monthly for the years 2004, 2005 and 2006.

Full Year Comparison between 2004 and 2005

Original **Permanent** Licenses Issued – Increase of 54

Original **Temporary** Licenses Issued – Decrease of 11

Licenses Renewal – Decrease of 18

Late Renewals – Decrease of 17

Ms. Murphy presented a 1998-05 Workload Trend Report that shows licenses issued, temporary licenses and licenses renewed.

She reported that at the February 10, 2006 meeting, the Education Committee was asked to review the continuing education requirements listed in OAR 331-720-0010 and the proposed OHLA amendments to address specific continuing education providers. OHLA revised language and it will be placed in the administrative rule file pending for review in 2007.

Continuing Education Audit (tape 1, side 1, counter number 440)

Ms. Murphy stated that a continuing education audit was conducted on 39 licensees. She reported licensees are required to attest to meeting CE hourly requirement for renewal. The OHLA audits the records of each renewal cycle and notifies licensees requiring they submit verification of completion of 15 hours of continuing

education during the renewal period under review. She noted that out of the 39 licensees audited, 29 licensees complied with continuing education hours to meet the audit requirements with the initial 30 day period and four licensees were sent a "final chance" offering notice to comply with the audit to avoid disciplinary action. The four licensees were placed in suspended status and forwarded to the enforcement section to impose possible suspension, probation or revocation.

Outreach and Communication (tape 1, side 1, counter number 467)

Kraig Bohot, OHLA Communications Officer, presented two updated brochures. The OHLA brochure for the practice of respiratory therapy contains more detailed information and fast facts on qualifications for licensure and continuing education requirements. The OHLA central agency brochure contains an overview of the agency's mission, goals and role in shaping program activities in addition to a snapshot of all the volunteer citizen boards and councils. Mr. Bohot reported that education requirements were updated and posted on the Web site at www.oregon.gov/OHLA/RT, to include hourly requirements, type of courses and subject matter allowed for continuing education credit.

Mr. Bohot provided the Council with an overview of the OHLA's Annual Performance Report for the fiscal year 2006.

- Percentage of contested case disciplinary action be resolved informally
- Percentage of critical status complaints investigated within one week of receipt
- Percentage of applicants who attain same-day licensing status
- Percentage of licensee who renew online
- Percentage of customers rating the agency's customer service as good or excellent

Mr. Bohot reported completion of the OHLA orientation handbook, which was designed for training board and council members about their role in the OHLA organization. He reported filming for the training new board/council member video begins on November 6, 2006 and will be completed in 2007.

He addressed e-mail received from Dale and Arlyce Ten Broeck of California, regarding a sunrise report for the California Respiratory Care Board that supports licensure and regulation of polysomnographic personnel. OHLA was contacted to investigate the feasibility of regulating sleep centers in Oregon. Mr. Bohot suggested that regulation on a national basis would have to be pursued by the association. Mr. Larson acknowledged interest on regulating polysomnographic technologists, and Mr. Kromer stated that the Association of Polysomnographic Technologists (www.aptweb.org) oppose being regulated under the respiratory therapists.

Mr. Bohot noted an e-mail that questioned why respiratory therapy was not considered a "medial professional" in the state of Oregon. He recapped his response, stating that the Respiratory Therapist Licensing Board was previously a committee under the Board of Medical Examiners. Legislation moved them to OHLA as an advisory board.

Michael Nurre, board member, was connected by phone at 12:00 p.m.

Larry Peck, Regulatory Operations Division Manager, raised public safety question regarding lack of requirements for safety and sanitation in administrative rule for respiratory therapists, specifically fitting one-use masks for CPAP machines. He asked if CPAP machine masks are commonly used from patient to patient. Ms. Vial stated that the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) requires the demo kit being used to undergo a sterilization process before reuse. Ms. Patnode emphasized sleep labs are not required to be JCAHO certified. Ms. Vial agreed smaller companies may not follow the advised protocols. Mr. Peck stated OAR 331-715-0030 (3) Professional Standards states, "*Respiratory care*

practitioners shall observe the Standard Precautions adopted by the Centers for Disease Control.” Ms. Vial stated the mask is single use item and if used for demo purposes, it should undergo a cleaning process to avoid cross contamination. Ms. Wilson proposed amending the rules to enable the Regulatory Operation Division to take the necessary steps to ensure public safety. The issue was referred to the Rules Subcommittee. Mr. Peck suggested Professional Standards include the following, “...when fitting equipment licensees must safeguard the client against any cross contamination.”

MOTION

Ms. Vial made a motion and Mr. Kromer seconded to review of safety/sanitation requirements to the Rules Subcommittee. The motion passed with Mr. Nurre, Ms. Vial, Mr. Larson, Ms. Barclay, Mr. Kromer voting aye.

ITEMS FOR BOARD ACTION

2007 Board Meeting Dates (tape 1, side 2, counter number 164)

MOTION

Ms. Vial made a motion and Mr. Kromer seconded to approve the board meeting dates of February 9, 2007 and October 19, 2007. The motion passed with Mr. Nurre, Ms. Vial, Mr. Larson, Ms. Barclay, Mr. Kromer voting aye.

2007 Subcommittees (tape 1, side 2, counter number 171)

MOTION

Ms. Vial made a motion and Ms. Barclay seconded to accept the 2007 subcommittees. The motion passed with Mr. Nurre, Ms. Vial, Mr. Larson, Ms. Barclay, Mr. Kromer voting aye.

- **Legislation/Rules/Practice Standards:** Mike Nurre, Richard Larson
- **Enforcement:** Marilyn Barclay, Cheryl Vial
- **Licensing/Continuing Education:** Marilyn Barclay, Bruce Kromer
- **Public Protection, Safety & Communications:** Cheryl Vial, Richard Larson

2007 Chair and Vice Chair (tape 1, side 2, counter number 234)

MOTION

Ms. Barclay made a motion and Mr. Kromer seconded to retain Richard Larson as 2007 Chair and Cheryl Vial as 2007 Vice Chair. The motion passed with Mr. Nurre, Ms. Vial, Mr. Larson, Ms. Barclay, Mr. Kromer voting aye.

Miscellaneous/Public Comment

Board Interest File

Mr. Larson addressed the board interest file. He invited OHLA to come to the State meeting.

Meeting adjourned at 12:45 p.m.

Samantha Patnode, Board Liaison