

IOWA BOARD OF RESPIRATORY CARE
Regular Meeting
March 1, 2010, 10:00 AM
5th Floor Board Room
Lucas State Office Building
Des Moines, IA 50319

MINUTES

Note: Meeting rescheduled from February 9, 2010 due to inclement weather

Call to Order:

Kerry George, Chair, called the meeting to order at 10:00 a.m. by roll call vote: Kerry George, RCP; Kathy Semke, RCP; Robert Zeman, RCP, and Arlene Lee. Absent: Akshay Mahadevia, M.D.¹

Reinstatement Hearing:

10:00 Susan Flores reinstatement hearing

Motion: Robert Zeman moved to go into closed session by unanimous roll call vote at 10:07 a.m. for deliberation pursuant to Iowa Code 21.5(1) “f.”

Motion: The board returned to open session at 12:14 p.m. and moved the ALJ draft the decision and order for Susan Flores based on deliberation (MSC: Semke/Lee).

Reconvened in Open Session at 12:15 PM:

Board members present: Board Chair, Kerry George, RCP; Kathy Semke, RCP; Robert Zeman, RCP, Arlene Lee; and Akshay Mahadevia, M.D.

Staff present: Ella Mae Baird, Board Executive; Eileen Gloor, Bureau Chief, Emily Kimes-Schwiesow, AAG; Marvin Firch, Outreach and Compliance Educator; and Karla Hoover, Licensure Specialist.

Approval of Minutes

Motion: Approve minutes of the November 10, 2009, board meeting. (MSC: Mahadevia/Lee)

Public Present:

Randy Gorres, Iowa Health, Des Moines

Reports

Chair: No report

Board Executive, Ella Mae Baird

1. Change in AAG assignments. Emily Kimes-Schwiesow replaces Julie Bussanmas as legal counsel for the board.

¹ Dr. Mahadevia’s arrival was detained due to traffic conditions in Iowa City and he was unable to participate in the reinstatement hearing.

2. Board members were provided an updated copy of the administrative rules that were effective January 6, 2010. The amendments were technical revisions due to the separation of the Committee on Accreditation for Respiratory Care from the Commission on Accreditation of Allied Health Education Programs; and the word “felony” was replaced with the word “crime” in subrule 263.2(11).
3. Respiratory care practitioner licenses are scheduled for renewal. Renewal notices were sent to 1,529 licensees on approximately January 29.

Bureau Chief, Eileen Gloor

A copy of the full report is attached as an addendum to these minutes.

AAG, Emily Kimes-Schwiesow: Assistant Attorney Generals who work with licensure boards will report to boards on topics to be decided by the AAG’s Office. The topic for this board meeting was Iowa Code (law or statute) vs. Administrative Code (rules).

1. Iowa Code is determined by the legislature. Administrative rules further define statute. Boards cannot write rules without the authority of statute to do so.
2. Each board has its own specific rule chapters and there are also common chapters that cover the administrative process relating to all boards.
3. Administrative rules may be waived by the board; statute cannot be waived.

Old Business: None

New Business:

1. Kerry George explained that licensure requirements for respiratory care practitioners are unique in that voluntary national credentialing is required as a condition for licensure. Prior to July 1, 2002, credentials earned by respiratory care professionals had no expiration and now credentialing must be renewed every five years by either passing the examination or completing 30 hours of continuing education.

Currently an individual seeking licensure in Iowa has to show proof of passing the credentialing examination administered by NBRC. The board will continue to require applicants obtain national credentialing, but the credential may or may not be valid at the time the applicant applies for licensure.

2. Marvin Firch explained the complaint process:
 - a. All complaint information is confidential.
 - b. Most boards have a discipline committee that reviews complaints and reports to board members.
 - c. The full board reviews discipline committee recommendations and determines if the licensee should be sanctioned.
 - d. The board discusses complaints in closed session and comes to a consensus decision then returns to open session. If based on the preponderance of the evidence the board decides to issue formal sanctions, it becomes public information.
3. Annual Report of disciplinary cases in 2009. Ella Mae Baird reported there are currently 1,541 licensed respiratory care practitioners in Iowa. In 2009, the board reviewed nine new discipline cases. Two cases rose to the level of formal discipline, and included a voluntary surrender of license and a probationary license. Informal actions are not public and include cases that are closed with a “Letter of warning” or “letter of education.” The number of cases closed with informal action and the number of cases closed without any action were less than 10; thus the

actual number of cases cannot be disclosed to preserve the confidentiality of licensees and the intent of the informal action category. Actions taken by the board in 2009 involved cases that were opened in 2008 as well as in 2009. Some cases opened in 2009 are still under review.

Iowa Code and Administrative Rules

1. Technical Revision to Iowa Code chapter 152B was submitted as part of the department's technical bill. The proposed revision rescinds 152B.13 because the requirements are outdated and not in agreement with Iowa Code section 147.12 that was revised in 2008.
2. The proposed amendments to chapter 4 and the rescinding of chapters 14 and 15 were published as Notice of Intended Action, ARC 8334B, on December 2nd. The proposed amendments incorporate into Chapter 4 the adoption by reference of Department of Public health's administrative rules relating to child support noncompliance, and noncompliance of loan repayment. Interested parties were invited to submit written comments; but none were received.

Motion: Move to adopt amendments published as ARC 8334B. (MSC: Zeman/Mahadevia)

3. The bureau is suggesting a revision to the audit administrative procedure identified in bureau chapter 4. The amendments clarify audit information must be submitted within 30 days after the licensee is notified of the audit. Licensees have been allowed 120 days to obtain make-up credit and that timeframe is being reduced to 90 days. The revision clearly identifies that the licensee will be subject to a re-audit if they obtained make-up continuing education during the next compliance period. Board approved by consensus the noticing of the amendments to subrule 4.11(3).

Closed Session.

In accordance with Iowa Code 21.5(1) a & d, the Board went into closed session at 1:46 p.m. by unanimous roll call vote to discuss closed session agenda items (MSC: Lee/Zeman. The Board returned to open session at approximately 2:07 p.m. and took the following actions.

Future Board Meetings

May 11, 2010
August 10, 2010

Adjournment

Motion: Adjourn meeting at 2:08. (MSC: Mahadevia/Zeman)

Respectfully submitted,

Kathy Semke, RRT

Bureau of Professional Licensure
Bureau Chief Report
1/01/10 – 3/31/10

- 1. Legislation and rulemaking** The 2010 legislative session convened on January 11. The funnel dates that allow bills to progress are February 12 and March 5. The 80th day of the session will be March 31. Primary issues to be addressed by the legislature include health care health care reform and the state budget. The Bureau of Professional Licensure submitted four requests for legislative changes in the Department's 2010 Technical Bill. These were for the Boards of Barbering, Cosmetology, Respiratory Care and Optometry. As we receive requests to make statutory changes or administer new licensure boards, I submit legislative assessments and fiscal notes with the input of the board executives, and we attend legislative subcommittee meetings upon request. When proposed legislation impacts with other boards such as medicine or nursing, the boards work together to provide consistent information regarding the impact of a proposed bill on public protection. When administrative rule changes are reviewed by the year round Administrative Rules Review Committee, the Board Executives provide information about the content of the changes, outcome of the public hearing, and public comment received. In some instances, Board members participate in the meetings to provide a professional perspective and articulate how rule changes proposed by the board benefit public protection.
- 2. Budget** The Department will continue to evaluate and respond to the impact of the overall state budget on public health services and workforce in SFY10. To date, IDPH has not experienced a substantive reduction in force. Our professional licensure staff is taking either 5 or 7 mandated unpaid days through June 30, depending on whether they are contract or non-contract employees. Thus far, all requests for the boards' professional memberships have been approved. No travel request for board members or staff may be submitted. PL staff members have been diligent in selecting furlough days that are spread over the coming months to assure the person who serves as their backup is informed about priority issues, allowing our work to progress as seamlessly as possible. Although the absence of any staff member is felt in an environment as busy as ours, we do not anticipate the boards will be significantly disadvantaged by the budget restrictions and we do not anticipate changes in our staff through the remainder of this fiscal year.
- 3. Activities of the Bureau Outreach and Compliance Educator** Marvin Firch has met with the 19 boards to describe the purpose of this new position and offer his services to improve compliance with Iowa's licensure statutes and rules. Marvin is currently accepting invitations to present information about the work of the licensure boards. He is developing educational materials that will be accessible to the public to better explain the complaint and disciplinary processes, and reinforce the link between licensure and public protection. Several boards have identified projects that target Marvin's availability to travel within the state and meet with licensees,

professional organizations, employers, students, and consumers. I encourage you to tap into his expertise and his focus on the positive aspects of licensure.

- 4. New Look on the Boards' Public Web Pages** The Bureau has changed the look of two public web pages to make information more accessible and easier for users to navigate. Since 2001 the boards have posted, on their individual Discipline and Public Actions page, those documents related to board actions that are public by law. Until now, the only way users could access information was by calendar year. This often made it difficult to link items that extended into another year. Under the new Channels system, users may select a board and sort disciplinary and public actions by licensee name, date, or location. The system does not provide a search option. However, users may use the Ctrl F function to insert a name that will be highlighted on the list. This option allows our Discipline Office staff to manage web postings, eliminating the need to submit requests to our IM Bureau. As in the past, public actions taken before October 2001 are available in hard copy and via CD. Additionally, the Bureau is using the Channels system to post meeting agendas, minutes, and related documents together under the date of the board meeting. Under the new system, which is also managed by our own staff, information will be available for the current year, the upcoming year, and the past year. Users who seek minutes from meetings two or more years in the past will be directed to contact the board office.
- 5. Internship Opportunity Posted** The Bureau has posted an internship opportunity for a graduate student to develop a program designed to educate salon owners, managers, and employees on matters related to Cosmetology licensure rules. In this case, the Bureau is interested in an individual who is familiar with Asian languages and customs. If such an intern is found, he/she will formulate a written plan to integrate a special populations component into other licensure boards' educational materials, and will recommend enhancements to board websites that increase their usefulness to diverse populations.
- 6. Measures of Success** Twice each year the Bureaus are required to report how well they have met performance measures. Our 19 boards have met or exceeded projected their targets for both licensure and discipline. The Bureau prints renewal notices and licenses in house, and licensure fees are processed and reconciled every business day. During SFY2009, the Bureau printed and mailed 22,177 licenses and wallet cards. In almost 100% of cases, printing and mailing is conducted within three business days when all required items are on file in the board office. In SFY09, the 19 boards in total received 415 complaints. The boards respond to 100% of signed complaints. Throughout the year, total of 213 cases were referred to the Department of Inspections and Appeals for investigation and 202 investigations were completed. Our ability to work efficiently is largely the result of experienced staff and the commitment of board members to assuring public protection through licensure, rulemaking, and discipline of incompetent or unethical practitioners. On behalf of our Bureau I would like to thank you for the work you do and encourage you to help us identify areas for improvement.

- 7. Microsoft 2007** The Department of Public Health upgraded to Microsoft 2007 in fall 2009. Board members are encouraged to consider a similar upgrade in order to receive materials.