

Board of Respiratory Care Minutes

- Date:** February 11, 2016
- Time:** 9:00 a.m. C.S.T.
- Location:** Iris Conference Room
Ground Floor
665 Mainstream Drive
Nashville, TN 37243
- Members Present:** Anna Ambrose, RRT, Chair
Delmar Mack, RRT, Ed. D, Secretary
Troy Hamm, RRT
Lisa Caldwell, RRT
L. Gail Braddock, Consumer Member
- Members Absent:** John Schario, Hospital Administrator
Jeffrey P. McCartney, MD
Winston Granville, RRT
- Staff Present:** Michael Sobowale, Board Director
Lakita Taylor, Board Manager
Mary Webb, Board Administrator
Vanessa Crutcher, Financial Officer
Tracy Alcock, Assistant General Counsel
Nichelle Dorroh, Disciplinary Coordinator, Office of Investigations
Antoinette Welch, Director of the Office of Investigations
- Guests Present:** Mike Harkreader, Executive Director, TnPAP
John Williams, Attorney, Tennessee Society for Respiratory Care
Candace Partee, Board Consultant
Colleen Schabacker

A quorum being present, Madam Chair, Anna Ambrose, called the meeting to order at 9:00 a.m.

Contested Case Hearing – Phillip Tidwell, LRRT

A contested case hearing was held in the case of Phillip Tidwell, LRRT. The Honorable Kim Summers requested a roll call vote for this case. The following members were present: Dr. Delmar Mack, Lisa Caldwell, Anna Ambrose, L. Gail Braddock, and Troy Hamm.

This matter came to be heard before the Tennessee Board of Respiratory Care with the Honorable Kim Summers, Administrative Judge, assigned by the Secretary of State. The Division of Health Related Boards of the Tennessee Department of Health was represented by Tracy Alcock, Assistant General Counsel. Mr. Phillip Tidwell was present and represented by counsel, Jason Creasy, Esq. After consideration of the Notice of Charges, evidence presented by the State and the Respondent, arguments by counsel for the State and the Respondent, and the record as a whole, the Board finds as follows:

Findings of Fact:

1. Mr. Tidwell is licensed by the Board as a Registered Respiratory Therapist in the State of Tennessee.
2. Mr. Tidwell's Tennessee respiratory care license is 395.
3. The Board granted Mr. Tidwell's license on October 1, 1989.
4. On March 12, 2014, Mr. Tidwell damaged six(6) vehicles, including police officers' and correction officers' vehicles in the Walton County Jail parking lot in Defuniak, FL.
5. The vehicles sustained damage totaling approximately one thousand six hundred and eleven dollars (\$1,611.00) and the damage ranged from slashed tires, a broken windshield, and body damage.
6. Mr. Tidwell was intoxicated at the time of the incident.
7. On September 8, 2014, Mr. Tidwell received pre-trial diversion in Walton County, FL, to violations of Florida Statute Annotated 806.13(1)(b)(3), for felony criminal mischief of \$1,000.00 or more, felony in the third degree.
8. Since the incident, Mr. Tidwell has voluntarily undergone an evaluation approved by the Tennessee Professional assistance (TnPAP).
9. TnPAP recommended that Mr. Tidwell enter into a TnPAP monitoring agreement for a term of thirty six (36) months and that he attend intensive outpatient treatment.
10. Mr. Tidwell completed a twenty session Cumberland heights Intensive Outpatient Program on September 29, 2015, but he did not sign a TnPAP monitoring agreement.

Conclusion of Law:

11. The allegations of fact in section 1, paragraphs four (4) through seven (7), constitute grounds for disciplinary action against Mr. Tidwell's license to practice as a respiratory therapist in the State of Tennessee pursuant to TENN. CODE ANN. 63-27-112(a)(2), which authorizes disciplinary action against a licensee who is engaged in immoral, unethical, unprofessional or dishonorable conduct.

Final Order:

It is therefore Ordered and Adjudged and decreed as follows:

12. An Administrative fine of Five Hundred Dollars (\$500), which will not be reported on Mr. Tidwell's professional profile, unless required by law, is hereby IMPOSED upon the Tennessee respiratory care license of Phillip D. Tidwell, RRT, license number 395.

13. Mr. Tidwell must execute a monitoring agreement contract with TnPAP.
14. Mr. Tidwell must maintain 100% compliance with the terms of his TnPAP monitoring agreement for the duration of thirty (30) months, and shall maintain the advocacy of TnPAP until the completion of the monitoring agreement and any amendments thereto.
15. A violation of this Order, including any noncompliance with the TnPAP monitoring agreement, shall constitute a separate violation of TENN. CODE ANN 63-27-112(a)(5) and will be grounds for further disciplinary action by the Board.
16. Furthermore, Mr. Tidwell must pay, pursuant to TENN. CODE Ann. 63-1-144 and 63-27-112, the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the Division's Bureau of Investigations in connection with the prosecution of this matter. These costs will be established by an Assessment of Costs prepared and filed by the counsel for the Department. The maximum amount for the assessment of costs shall be Three Thousand Dollars (\$3,000.00).

Policy Statement:

The Board is charged with protecting and promoting the public health, safety, and welfare, which charge it accomplishes in part through Board orders restricting impaired professionals and requiring them to receive assistance in order to maintain their license. The Board made the decision in this case after reviewing the facts of the case and taking into consideration that Mr. Tidwell has practiced for over twenty-five (25) years as a respiratory therapist in good standing in the State of Tennessee, and that at no time has his license been revoked or placed on probation.

This contested case hearing concluded at 1:12 p.m.

Election of Officers

A motion was made by Mr. Hamm, and seconded by Dr. Mack, to elect Anna Ambrose, as the Board Chair. The motion carried.

A motion was made by Dr. Mack, and seconded by Ms. Ambrose, to elect Lisa Caldwell, as the Board Secretary. The motion carried.

Office of General Counsel

Tracy Alcock, Assistant General Counsel, presented the office of General Counsel report to the Board.

Conflict of Interest

Ms. Alcock discussed the board's conflict of interest policy. She reminded members of their obligation to recuse themselves from any matter in which they might have a personal or financial interest, or from participating in any matter in which there might be an appearance of a conflict in any contested case, a rulemaking issue or any other board decision. Board members are required to disclose such existence or appearance of a conflict to the Board so that a decision may be made regarding the need for recusal.

All board members will be requested to sign the Conflict of Interest following the board meeting.

Rules

The Board's rule changes regarding continuing education had an effective date of November 26, 2015, requiring twelve (12) hours annually of continuing education. The board will begin the monitoring process for the twelve (12) hours by the year end in December 2016.

The Board's rule change regarding the fee reduction went before the Joint Government Operations Committee on January 27, 2016. The rule change will have an effective date of February 16, 2016. The new fee structure as of February 16, 2016 will be as follows:

Total Application Fee: \$150. This fee consists of the application fee and license fee, a breakdown of which is provided as follows:

Application Fee:	\$70
License Fee:	\$80
Renewal Fee:	\$100

Litigation

OGC currently has six (6) open cases pertaining to the Respiratory Care Board. One trial was held today and also, one Consent Order is to be presented for board approval.

Consent Order

Mrs. Alcock, presented a consent order on Stephanie Mallonee, RRT. On or about November 11, 2014, while working the night shift as a licensed respiratory therapist at Gateway Medical Center, Ms. Mallonee was observed stumbling, leaning against a wall for support, and nearly falling. A blood sample collected that evening from her place of employment showed that she had an alcohol level of 0.25%, and Gateway Medical Center terminated her employment due to violation of Substance Testing/Fitness for Duty Policy for having a positive alcohol test result while working.

A motion was made by Dr. Mack, and seconded by Ms. Caldwell, to place Ms. Mallonee's license on probation with terms, assessed costs to not exceed \$500, based on the following grounds for discipline: Immoral, unethical, unprofessional or dishonorable conduct; habitual intoxication or personal misuse or narcotics, controlled substances or any other drugs or the use of alcoholic beverages or stimulants in such manner as to adversely affect the person's ability to practice respiratory care; violation or attempted violation, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate, any provision of the rules chapter or any lawful order of the board or any criminal statute of this state; engaging in the practice of respiratory care when mentally or physically unable to safely do so. The motion carried.

Agreed Citations

Mrs. Alcock presented the board with two Agreed Citations for licensee Patricia Edwards and James Brown, due to being found deficient on a random audit for their continuing education hours. A motion

was made by Mr. Hamm, and seconded by Ms. Caldwell, to accept the Agreed Citations as presented. The motion carried.

Approval of Minutes

A motion was made by Mr. Hamm, and seconded by Ms. Caldwell, to accept the November 12, 2015 minutes as amended. The motion carried.

Administrator's Report

Mary V. Webb, Board Administrator, presented the administrator's report with the following statistical information as of February 11, 2016:

Active Respiratory Therapists

- RRT—3406
- CRT—1458
- RCA—11

Board licensure activity totals from November 2, 2015 through February 8, 2016:

RRT	CRT
New applications received-47	New applications received-17
New licenses issued—68	New licenses issued—23
Number of renewals-paper-69	Number of renewals-paper-37
Number of renewals online-287	Number of renewals online-121
Reinstatements—7	Reinstatements—6
Number of licensees who retired—6	Number of licensees who retired—3
Expired—33	Expired—35
Closed Files - 0	Closed Files - 0

Ms. Webb reported that the number of RRTs renewals processed online during this period constituted a usage rate of 81%. For CRTs the number of online renewals constituted a usage rate of 77%.

Ms. Webb reported the list of licenses suspended due to Tennessee Student Assistance Corporation (TSAC) student loan Default Orders to the board from 11/12/2015 through 2/11/2016:

Andrea McGhee, CRT

Ms. Webb reported the list of TSAC suspensions lifted from 11/12/2015 through 2/11/2016:

Rebecca Johns, RRT

Andrea McGhee, CRT
Michael Blockley, CRT

Ms. Webb reported the number of licensees who were audited for continuing education (CE) from January 2015 through June 2015:

There were thirty-four (34) licensed registered respiratory therapists audited and thirty (30), were found compliant and four (4), were not.

There were sixteen (16) licensed certified respiratory therapists audited and fourteen (14), were found compliant and two (2), were not.

There were three (3) certified respiratory care assistants audited and all three (3) were found compliant.

Conferences

Ms. Webb reported the conferences for 2016:

FARB Leadership – July 15-16 at the Sheraton Hotel, Nashville, TN.

FARB Regulatory Law – September 29-October 02, at the Palmer House Hilton, Chicago, IL - A motion was made by Dr. Mack, and seconded by Mr. Hamm, to approve Mrs. Alcock to attend the conference. The motion carried.

AARC Congress – October 1-18 in San Antonio, TX

AARC Summer Forum – June 26-28 in Ponte Vedra Beach, FL

AARC Pulmonary Disease Education Course – March 19-20 at Rush University Armour Academic Center

TSRC State Conference – April 7-8 at St. Francis Hospital in Memphis, TN

TSRC Chattanooga Conference – April 29, 2016 – A motion was made by Ms. Caldwell, and seconded by Mr. Hamm, to approve Tracy Alcock to attend the conference. The motion carried.

Ms. Webb reported the 2017 Board meeting dates:

February 16th

May 11th

August 17th

November 15th

Financial Report

Vanessa Crutcher, fiscal officer, reported to the Board the financial statement for fiscal year ending June 30, 2015:

Total Direct Expenditures for FY 2015 were \$147, 143.72. The total allocated expenditures were \$87, 261.77 and the grand total expenditures were \$234,405.59. The Board fee revenue was \$336,209.75 and the current year net was \$101, 804.26 for a cumulative carryover of \$918,149.77.

Investigative/Disciplinary Report

Nichelle Dorroh, Disciplinary Coordinator, in the Office of Investigations, presented the Investigative and Disciplinary reports as follows: There are currently seven (7) active cases for registered respiratory therapists and four (4) active cases for certified therapists. Twenty-three (23) practitioners are currently being monitored.

Tennessee Professional Assistance Program Report (TnPAP)

Mike Harkreader, TnPAP Coordinator, gave the following report:

Statistics from July 1, 2015 through December 31, 2015

Monitoring	3
Referral Source - TDOH	1
Employer referral	1
Monitoring Type - TDOH	1
Non-voluntary	3
Declined services; evaluated; TDOH notified	2

Applicant Interview/File Review

1. Diedra Bartczak – Ms. Bartczak was present. Ms. Bartczak’s application file was brought before the Board due to a record of multiple misdemeanor convictions listed on her criminal background check. After discussion with Ms. Bartczak, a motion was made by Dr. Mack, and seconded by Mr. Hamm, to approve Ms. Bartczak for a license. The motion carried.

Ratifications

Dr. Mack made a motion, seconded by Ms. Caldwell, to approve the list for newly certified, and registered respiratory therapists, and reinstatements. The motion carried:

REGISTERED RESPIRATORY THERAPISTS

New Licenses

Baoni, Sharon

Davis, Melissa

Jordan, Danielle

Smith, Christopher

Beemer, Pamela
Begin, Melissa
Bermudes, Florina
Billett, Rebecca
Blair, Evan
Borden, Kelley
Brummette, Coty
Burson, Tiffany
Burton, Britanie
Butler, Brittany
Byrd, Allasica
Cecil, Amanda
Cunningham, Cassandra
Darnell, Jimmy

Dawes, Ashleigh
Dotson, Ashley
Estany, Michael
Fleenor, Melissa
Gibbs, William
Gillenwater, Amy
Gingrich, Robert
Hammonds, Wendy
Hargis, Will
Hargrove, Angela
Haun, Christine
Henderson, Kelly
Hopson, Kristi
Hoskins, Wille

Kecev, Nicolette
Livingston, Elisa
McDaniel, Malissa
McGaughey, Robert
McKinney, Tonya
Mitchell, Chitquitta
Morris, Kristina
Morrow, Blythe
Page, Frederick
Edwards, Miranda
Radar, Stephanie
Sandlin, Hunter
Sellers, Robbie
Shackleford, Susan

Smith, Rita
Smith, Tracy
Stovall, Felainer
Sullivan, Amanda
Taylor, Joneita
Thomas, Kristin
Thurman, Philip
Thurman, Stephan
Vaughn, Jeri
Walker, Jordan
West, Lisa

Reinstatement (s)

Baran, Andrea
Blue, Laketha
Byrd, Bryan
Corum, Wendell
Croft, Joseph
Parish Borchardt, Kimberly
Slover, Lisa

CERTIFIED RESPIRATORY THERAPISTS

New Licenses

Bird, Eric
Carroll, Charley
Evans, Lauren
Fermenich, Carla
Graham, Gabrielle
Hyder, Shirley
Lawton, Timothy
Small, Ciara
Smith, Amy
Speegle, Julia

Staley, Rachel
Vance, Ross
Washington, Tashara
White, Lee Ann
Trotter, Patrice
Morris, Teresa

Reinstatement (s)

Bennett, Michael
Dobbyn, Carrie
Klenk, Aleshia
Miller, Michael
O'Connor, Joani
Wilson, Keisha

The Board requested that Ms. Webb bring a total count of the number of polysomnography endorsements that the Board has approved since 2010 to the next meeting.

Adjournment

There being no further business, the meeting was adjourned at 2:45 p.m.

These minutes were ratified at the May 12, 2016 board meeting.