

FINAL
SUNSET REPORT

*BOARD OF RESPIRATORY
CARE EXAMINERS*

1996

LG 9-21-83710
10/23/96

*Senate Health Committee of Reference &
House Health Committee of Reference*

**REPORT ON THE BOARD OF
RESPIRATORY CARE EXAMINERS**

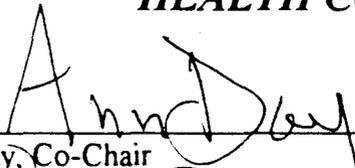
Date: October 23, 1996

To: *JOINT LEGISLATIVE AUDIT COMMITTEE*
Patricia Noland, Co-Chair
Sue Grace, Co-Chair

Pursuant to Title 41, Chapter 27, Arizona Revised Statutes, the Committee of Reference, after performing a sunset review and conducting a public hearing, recommends the following:

*The Board of Respiratory Care Examiners be
continued for ten years.*

HEALTH COMMITTEE OF REFERENCE



Ann Day, Co-Chair



Sue Gerard, Co-Chair



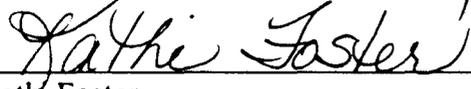
Janice Brewer



Don Aldridge

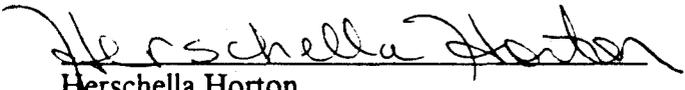


James Henderson



Kathi Foster

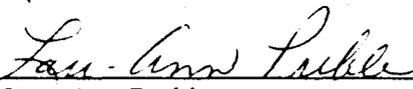
Sandra Kennedy



Herschella Horton



David Petersen



Lou-Ann Preble

COMMITTEE OF REFERENCE REPORT
ON THE
BOARD OF RESPIRATORY CARE EXAMINERS

I. BACKGROUND

Pursuant to section 41-2953, Arizona Revised Statutes, the Joint Legislative Audit Committee (JLAC) assigned the sunset review of the Board of Respiratory Care Examiners to the Committee of Reference comprised of members of the Senate Health Committee and the House of Representatives Health Committee. A performance audit of the Board was conducted by the Health Committee of Reference and is included (Attachment).

II. COMMITTEE SUNSET REVIEW PROCEDURE

The Committee of Reference held one public hearing on Wednesday October 23, 1996, to consider the sunset report and receive public testimony regarding the Board of Respiratory Care Examiners. The Committee heard testimony from Ms. Mary Hauf Martin, Executive Director of the Board of Respiratory Care Examiners, David Feuerherd, Program Director, American Lung Association, and John Coleman, RCP and Member of the Board.

Ms. Hauf Martin testified:

- that the Board compares favorably to similar boards as indicated by an independent study performed by the Auditor General;
- that the Board is adapting to a changing health care delivery system environment;
- that a majority of the Board is not made up of practitioners and takes its responsibility to protect the public health very seriously;
- that there is a gradual increase in the number of complaints against practitioners and the biggest problem is substance abuse by practitioners. She noted that facilities routinely perform preemployment and "for cause" drug screens.

Mr. Feuerherd expressed his support for continuing the Board.

Mr. Coleman indicated that the issue of benefits being cut back in the managed health care environment requires that home care companies adapt their contracts with managed care health plans.

Minutes of the public hearing held on October 23, 1996, are attached.

III. COMMITTEE RECOMMENDATIONS

The Health Committee of Reference recommends that the Board of Respiratory Care Examiners be continued for ten years.

IV. STATUTORY REPORT PURSUANT TO SECTION 41-2954 (F), ARS

1. Identification of the Problem or the Needs that the Board is Intended to Address.

The Board of Respiratory Care Examiners was established in 1990 to regulate the practice of respiratory care. The Board's primary purpose is to protect the public from unauthorized and unqualified practice of respiratory care and from unprofessional conduct by persons licensed to practice respiratory care. The Board consists of 3 practitioners, 1 medical doctor, 1 hospital administrator, and 2 public members all of which are appointed by the governor.

2. A Statement, to the Extent Practicable, in Quantitative and Qualitative Terms, of the Objectives of Such Board and Its Anticipated Accomplishments.

The objectives of the Board of Respiratory Care Examiners are to process respiratory care license applications and review and adjudicate complaints against licensees. In addition, Board subcommittees are established to work on subjects such as practice issues and rule drafting. The Board also is to mandate continuing education requirements and maintain minimum standards of competence for those who practice respiratory care.

3. Identification of Any Other Boards Having Similar, Conflicting or Duplicating Objectives.

The Board of Respiratory Care Examiners has no other boards, agencies, or councils with conflicting or duplicating objectives.

4. Assessment of the Consequences of Eliminating the Board or of Consolidating it with Another Board.

Regulation of respiratory care practitioners is necessary for the protection of the public health, safety and welfare. The need for control, guidance, intervention, monitoring and supervision of practitioners is well established. Regulatory oversight ensures that practitioners are continuing their educations. In addition, the Board must ensure that a practitioner who enters the homes of patients, and care for and evaluate those patients, can effectively respond to their needs.

V. ATTACHMENTS

- A. Cover Letter
- B. Meeting Notice
- C. Performance Audit
- D. Minutes of Committee of Reference Meeting
- E. Attendance List

COVER LETTER

(Section A)



Arizona State Legislature

1700 West Washington

Phoenix, Arizona 85007

June 13, 1996

Ms. Meryl Salit
Board of Respiratory Care Examiners
1400 West Washington
Suite 200
Phoenix, AZ 85007

Dear Ms. Salit:

The sunset review process prescribed in Title 41, Chapter 27, Arizona Revised Statutes, provides a system for the Legislature to evaluate the need to continue the existence of state agencies. Under the sunset review process, an agency is reviewed by a legislative committee of reference. Upon completion of the sunset review, the committee of reference recommends to continue, revise, consolidate or terminate the agency.

The Joint Legislative Audit Committee (JLAC) has assigned the sunset review of the Board of Respiratory Care Examiners to the Committee of Reference comprised of members of the Senate Health Committee and the House of Representatives Health Committee.

ARS section 41-2954 requires the Committee of Reference to consider certain factors in deciding whether to recommend continuance or termination of an agency. Please provide your response to those factors as provided below:

1. The objective and purpose in establishing the Board.
2. The effectiveness with which the Board has met its objective and purpose and the efficiency with which it has operated.
3. The extent to which the Board has operated within the public interest.
4. The extent to which rules adopted by the Board are consistent with the legislative mandate.
5. The extent to which the Board has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its actions and their expected impact on the public.

Board of Respiratory Care Examiners
June 13, 1996
Page 2

6. The extent to which the Board has been able to investigate and resolve complaints that are within its jurisdiction.

7. The extent to which the Attorney General or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.

8. The extent to which the Board has addressed deficiencies in its enabling statutes which prevent it from fulfilling their statutory mandate.

9. The extent to which changes are necessary in the laws of the Board to adequately comply with the factors listed in this subsection.

10. The extent to which the termination of the Board would significantly harm the public health, safety or welfare.

11. The extent to which the level of regulation exercised by the Board is appropriate and whether less or more stringent levels of regulation would be appropriate.

12. The extent to which the Board has used private contractors in the performances of its duties and how effective use of private contractors could be accomplished.

In addition to responding to the factors in ARS section 41-2954, please provide the committee of reference with copies of minutes from your meetings during fiscal years 1994 through 1996, and an annual report, and respond to the attached questionnaire by **July 30, 1996** so that we may proceed with the sunset review and schedule the required public hearing.

Thank you for your cooperation. Please contact me if you have any questions.

Sincerely,

Senator Ann Day
Co-Chair
Health Committee of Reference

Sue Gerard
Co-Chair
Health Committee of Reference

AD/SG/cmh
Attachment
cc: Mary Hauf-Martin

BOARD OF RESPIRATORY CARE EXAMINERS

Please respond to the following questionnaire:

1. Describe the role and function of the board including major activities/projects, accomplishments and obstacles to success.
2. Provide financial data such as number of full time employees, expenditures and revenues and fee structure.
3. Provide information regarding board composition including number of members, number of public members and method of appointment.
4. Discuss the need for licensure including potential harm to the public and examples of complaints.
5. Provide licensing data including number of licenses by category, number of out of state licenses, number of limited or restricted licenses and reciprocity agreements.
6. Provide examination data such as use of a national exam, use of oral and practical exams and weighing of exams.
7. Provide disciplinary data, including the number of complaints (by type), number dismissed (by reason), number of hearings held and number of actions (probations, suspensions and revocations).

MEETING NOTICE

(Section B)

ARIZONA STATE LEGISLATURE

MEETING NOTICE

OPEN TO THE PUBLIC

SENATE AND HOUSE HEALTH COMMITTEES OF REFERENCE

SUNSET REVIEWS OF THE

BOARD OF RESPIRATORY CARE EXAMINERS

ARIZONA COUNCIL ON ARTHRITIS & MUSCULOSKELETAL DISEASES

**JOINT LEGISLATIVE COMMITTEE FOR THE ARIZONA HEALTH
CARE COST CONTAINMENT SYSTEM (AHCCCS)**

DATE: Wednesday, October 23, 1996

TIME: 9:00 a.m. - Noon

PLACE: Senate Hearing Room 2

AGENDA

- I. Board of Respiratory Care Examiners
- II. AZ Council on Arthritis & Musculoskeletal Diseases
- III. Joint Legislative Committee for AHCCCS

MEMBERS:

Senator Day, Co-chair
Senator Brewer
Senator Petersen
Senator Henderson
Senator Kennedy

Representative Gerard, Co-chair
Representative Aldridge
Representative Preble
Representative Foster
Representative Horton

KB/ak

**Title II of the Americans With Disabilities Act prohibits the Arizona Senate from discriminating on the basis of disability in the provision of its services and public meetings. Individuals with disabilities may request reasonable accommodations, such as interpreters or alternative formats, by contacting the Senate Secretary's Office at (602) 542-4231 (voice) as soon as possible. Please be specific about the agenda item in which you are interested and for which you are requesting an accommodation. The Senate may not be able to provide certain accommodations prior to the meeting unless they are requested a reasonable time in advance of the meeting. This agenda will be made available in an alternative format on request.

PERFORMANCE AUDIT

(Section C)

Meryl S. Salit, R.C.P., Chair
Kit Mehrtens, Vice-Chair
Sheilah N. Bowen, R.C.P.
John E. Coleman, R.C.P.
Mary Lynn Kelly
Gerald Schwartzberg, M.D.
Karen L. Staudenmier



State of Arizona
Board of Respiratory Care Examiners
1400 W. Washington, Suite 200
Phoenix, Arizona 85007

Mary Hauf Martin
Executive Director
Dee Doyle
Administrative Assistant

Telephone No. (602) 542-5995
Fax No. (602) 542-5900

July 30, 1996

Honorable Ann Day
Honorable Sue Gerard
Co-Chairs
Health Committee of Reference
Arizona State Legislature
1700 West Washington
Phoenix, Arizona 85007

Dear Co-Chairs and Members of the Committee of Reference:

The Arizona Board of Respiratory Care Examiners is pleased to have this opportunity to provide information in response to your letter and questionnaire dated June 13, 1996, regarding the Board's sunset review.

In response to the questions posed by A.R.S. §41-2954:

1. *The objective and purpose in establishing the Board.*

The Board was created by the Thirty-ninth Legislature, Second Regular Session, 1990 (A.R.S. §32-3501 et seq.). The Board's purpose is evident in the Legislative intent clause provided at the time the Board was created:

"The legislature finds and declares that the practice of respiratory care in this state affects the public health, safety and welfare and should be subject to regulation and control by the board of respiratory care examiners in the public interest to protect the public from unauthorized and unqualified practice of respiratory care and from unprofessional conduct by persons

licensed to practice respiratory care."

2. *The effectiveness with which the Board has met its objective and purpose and the efficiency with which it has operated.*

The Board has been meeting its overall objective to protect the public health, while processing license applications and complaints against licensees in a fair and expedient manner. A review of the recent independent audit of all health regulatory boards, released by the Auditor General in December 1995, reveals a very favorable comparison between the Board and other, similar entities. While the initial estimate (in 1990, during the legislative enactment) was that the Board would have regulatory oversight of approximately 1,400 Respiratory Care Practitioners (RCP), the number is closer to 4,000. This number does not include the many, and widely fluctuating number, of Temporary Licensees under the Board's jurisdiction. The Board issues Temporary Licenses, to qualified persons, 24 hours after the receipt of a complete license application. Currently, from the time a complaint against an RCP is received, it takes 60 days, on average, for final Board action to occur. 26% (73 out of 280) of complaints have resulted in disciplinary action, while 34% (96 out of 280) complaints resulted in a warning being given to a licensee (this warning is called a Letter of Concern.)

The Board makes a resolute effort to receive public input on its activities by providing an opportunity for the public to speak at every monthly Board meeting. The Board has established working subcommittees, with a large percentage of licensees participating, on subjects such as scope of practice issues and rule drafting. The

Board staff makes a concerted effort to provide easy access to all public information to Arizona citizens.

3. *The extent to which the Board has operated within the public interest.*

The Board of Respiratory Care Examiners has an ongoing commitment to operating in the public interest. The Legislature established the Board with an excellent blend of membership: 3 practitioners, 1 medical doctor, 1 hospital administrator, and 2 public members. Because a majority of the Board is not made up of practitioners, the public is consistently well served. The 3 practitioner members serve a very important, and valuable, role in providing expertise on the complicated issues involved in the practice of respiratory care. Board meetings are well attended by the public, health care facilities and interested licensees. The licensed public is treated fairly and expediently by the Board's administrative process. Allegations against licensees that prove to be without merit are dismissed; and when the Board finds that a licensee has engaged in unprofessional conduct, it results in discipline fitting the particular level of seriousness of the offense. The Board periodically reviews its disciplinary history in an effort to be consistent and fair in its deliberations and decisions.

4. *The extent to which rules and regulations promulgated by the Board are consistent with the legislative mandate.*

The only rules and regulations promulgated by the agency have been the administrative rules necessary to administer the enacting legislation.

5. *The extent to which the Board has encouraged input from the public before promulgating its rules and regulations and the extent to which it has informed the public as to its actions and their expected impact on the public.*

During the development of the Board's administrative rules, a Rules Committee was established. The Rules Committee met for many months. Representatives from every segment of the licensed population, were on the Committee, along with a representative of the State Society for Respiratory Care and public members. Every reasonable and practicable recommendation by members of the Committee was incorporated into the rules package. The proposed rules were so well accepted that during the required comment period, and oral hearing, there was no additional input to the Board.

6. *The extent to which the Board has been able to investigate and resolve complaints within its jurisdiction.*

The Board is committed to fair and expedient resolution of complaints. Due to the very large number of licensees, and the small staff, the Board has had to place special emphasis on the aggressive pursuit of serious complaints. The Legislature responded to the Board's needs and established an FTE, in fiscal year 1997, to accommodate the Board's need for fair and expedient determination of jurisdiction, investigation and resolution of complaints. Until now, the Board had been managing, but had been using contract employees on a part-time basis. Being able to utilize in-house staff will provide stability and allow the Board to have better, consistent, and more frequent, state-wide inspections; and more constant oversight of the Board's probationary licensees.

Board Statistics

Total number of licensees:

Total RCP licenses issued	4,056	
Current active RCP licenses	3,805	
Inactive RCP Licenses (Expired)	251	
Current Temporary Licenses	124	
Total Temporary Licenses expired	662	*

(* Individuals who held Temporary licenses, but failed to or never met criteria for licensure)

Total number of license denials	18
Total number of complaints	
1992	30
1993	74
1994	52
1995	84
1996 (six months only)	<u>40</u>
<u>Total</u>	280
Letters of Concern	96

Disciplinary Actions:

Decrees of Censure	17	
Probation		
Board Ordered	2	
Stipulated		
Disciplinary	27	
Non-Disciplinary	5	
Suspensions	2	
Surrendered license	1	
Revocations	<u>19</u>	
Total Disciplinary Actions		73
Cases dismissed		35
Cases referred to another agency		8

[Note: please see attached Exhibit A for a full summary of Board activity.]

7. *The extent to which the Attorney General, or any other applicable agency of State government has the authority to prosecute actions under enabling legislation.*

The Attorney General and the county attorneys all have authority under the Board's enabling statutes to prosecute unlawful actions. Depending on the type of unlawful act that is committed, the Board contacts the appropriate agency.

8. *The extent to which the Board has addressed deficiencies in its enabling statutes which prevent it from fulfilling its statutory mandates.*

In 1995, the Board attempted to have a bill passed that would have "cleaned up" the enabling statutes. All the changes recommended by the Board were simple things; i.e. technical, language and clarity changes. Unfortunately, the bill was amended in such a way as to be detrimental to the public health. The amendment language was so harmful to the public that the State Society for Respiratory Care urged the Board to allow the bill to fail, rather than accept the amendment language. In the end, that is exactly what happened. The legislative sponsor asked the Board for input. The Board asked the bill's sponsor to allow the bill to die; and it did.

9. *The extent to which changes are necessary in the laws of the Board to adequately comply with the factors in the Sunset Law.*

The Board can continue to operate as it has since its inception. The technical, language and clarity changes proposed by the Board in 1995 would be helpful, but are not necessary at this time.

The Board would also propose that the Legislature allow the Board to study the situation regarding Temporary Licensees. While the

original intent was to allow **students** to receive Temporary Licenses while they waited to take the credentialing exam (Note: by law, Temporary Licensees must only practice under the direct supervision of a licensed RCP or licensed physician), the current statutory language provides for a Temporary License to be issued to all qualified persons who apply. The Board could report back to the Legislature in the 1998 Legislative Session with proposed statutory changes.

10. The extent to which the termination of the Board would significantly harm the public health, safety and welfare.

Regulation of RCPs is necessary for the protection of the public health, safety and welfare. The need for the control, guidance, intervention, monitoring and supervision of RCPs is well established. Forty-two states (and the District of Columbia and Puerto Rico) have laws regulating the practice of RCPs. RCP's are trained to use high-technology medical equipment and perform procedures which may strongly affect the health, welfare and safety of their patients. Respiratory care often calls for the use of complex medical equipment such as mechanical ventilators, which requires special training and on-going education regarding the new technologies upon which the medical industry will increasingly depend. Regulatory oversight ensures that RCPs are continuing their educations. RCPs currently provide services in settings covering the full continuum of health care -- from hospitals to skilled nursing facilities to home health care. As RCPs are following their patients into the community, a strong licensure and enforcement act is especially critical. The Board must ensure that RCP who enters the homes of patients, and care for and evaluate those patients, can effectively respond to their needs.

11. *The extent to which the level of regulation exercised by the Board is appropriate and whether less or more stringent levels of regulation would be appropriate.*

In the Board's enabling statutes, the legislative intent clause makes it clear that:

"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."

Therefore, the Board has endeavored to be strong, yet flexible, in exercising its regulatory responsibilities. RCPs are, by training, adaptable to the evolving health care environments and have historically worked collaboratively with interdisciplinary health care teams. The Board has made every effort to find the appropriate balance between oversight and interference.

12. *The extent to which the Board has used private contractors in the performance of its duties and how effective use of the private contractors could be accomplished.*

Due to the small size of the Board's staff, the only current use of private companies is in the area of court reporting for disciplinary hearings. This is a necessary utilization of a private company, because when a licensee appeals a Board decision (as all licensees are entitled to do), a transcript must be available for the appeal process.

In response to the survey entitled "BOARD OF RESPIRATORY CARE EXAMINERS":

1. *Describe the role and function of the board including major activities/projects, accomplishments and obstacles to success.*

As stated above, the Board's function is to protect the public health while fairly and expediently processing license applications and complaints against licensees. In the process of carrying out these functions, the Board has participated in various activities. Some of these activities have included the obligation of the Board to define the scope of practice of the Respiratory Care Practitioner.

One special project which has been undertaken is the organization of a subcommittee to address the fast-growing medical specialty for the diagnosis and treatment of sleep disorders. The role of the RCP is essential to the field, and it has been necessary to determine the relationship of other non-licensed providers who are employed in this field. A multi-disciplinary committee was set up which included two practitioner members of the Board, one public member, a Board Certified sleep physician, and two certified polysomnographic technicians who supervise the sleep disorder centers at major community hospitals. A recommendation for the definition of practice by the disciplines in the diagnosis and treatment of sleep disorders was made by the subcommittee, and is now being reviewed by the Attorney General's office.

The Executive Director and Chair of the Board frequently speak at programs for the continuing education of the RCPs. These presentations serve to inform the licensed public about the law and about their responsibilities in servicing and protecting the public health. The Board also uses these opportunities to give the licensees

instructions on how to fulfill their obligations as licensees, while explaining the functions of the Board and familiarizing the licensees on its operations.

The Board has also been involved in contracting with the National Board of Respiratory Care (NBRC) national disciplinary data base. Participation in this database will allow the Board access to disciplinary information about RCPs throughout the nation. This information will be valuable in the issuance of licenses to new residents, and in conducting investigations. Annually, a representative of the Board meets with the NBRC and representatives from respiratory boards from all over the country. This has allowed the Board to give input in the development of the database, and make recommendations to the NBRC.

Obstacles to the success of the Board may include only the constraint of limited staff to explore the numerous opportunities available to the Board to further its mission.

2. *Provide financial data such as number of full time employees, expenditures and revenues and fee structure.*

	<u>FISCAL YEAR 1995-1996</u>	<u>FISCAL YEAR 1996-1997</u>
		<u>(Projected)</u>
FTE's	3	4
Expenditure's	\$164,000	\$165,700
Budget	\$166,000	\$165,700

FEEs

	<u>Fiscal Year</u>	<u>Fiscal Years</u>
	<u>1994 & 1995 Combined</u>	<u>1996 & 1997 Combined</u>
		<u>Projected</u>
Application	\$95,600	\$110,000
Foreign Application	\$600	\$900
Initial license	\$48,555	\$68,000
Renewal	\$121,000	\$178,500
Extension to Temporary	N/A	\$8,750
License Verification	N/A	\$3,400
Duplicate License	\$80	\$100
Purchase RCP List	\$300	\$625
Insufficient funds	\$360	\$725
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1994 & 1995	\$266,595	\$371,000
	90%	\$330,900
		yearly avg. \$166,950

3. *Provide information regarding board composition including number of members, number of public members and method of appointment.*

As stated above, the Legislature established the Board with an excellent blend of membership: 3 practitioners, 1 medical doctor, 1 hospital administrator, and 2 public members. Board members are appointed by the Governor to staggered 3 year terms. No individual may serve more than 2 consecutive terms.

4. *Discuss the need for licensure including potential harm to the public and examples of complaints.*

A well-known example of the importance of RCPs can be found in the actor Christopher Reeve who suffered a tragic accident that left him paralyzed.* (Note: Mr. Reeves lives in Virginia, which licenses RCPs. See footnote for source.) Reeves required around the clock care by an RCP while he was hospitalized (for nearly five weeks) following the accident because he could not breathe for himself at all, and then again for several months in a rehabilitation center. Now that he has been able to go home, he uses a portable ventilator when away from home, which is housed in the back of his wheelchair. According to Reeves, "Really, (with this) what you have is mobile life support," adding that ventilator technology in the past few years have been "a remarkable achievement" because it allows paralyzed persons to do all kinds of things that otherwise wouldn't be possible. "I'm trying to do everything I can to remind myself I'm a person, not a patient" says Reeves. Reeve's RCP started out with home care visits twice a week, but now only it's only twice a month. Reeve says he only agreed to work with his RCP for "as long as his services were necessary." At home, Reeves has two ventilators and his RCP makes sure that all of his equipment is functioning properly. He calls his

RCP his "terrific therapist, who comes to my house and pushes me and challenges me." Reeve says of his RCP: "We'll go at the pace that we can go, and the partnership is the most important aspect of it. It all has to fit together in a plan, where the patient and the therapist work together, first to overcome the fearful aspects of being on a vent, and then to push the patient -- but not too hard -- to find a comfortable quality of life level."

RCPs are on duty in hospitals seven days a week, 24 hours a day. They work in skilled nursing facilities and, more and more, in the home. In order to protect the public health, the Board must ensure that only individuals with the education and skills necessary to provide respiratory treatments and evaluations of patients are permitted to practice in Arizona. We have an ever-increasing elderly population who are particularly at risk of respiratory disease. The Board must ensure that RCPs have the necessary abilities to operate technically advanced equipment and work with health care teams to ensure quality patient care and cost containment. In addition, because more and more RCPs are going out into the community, into people's homes, that the Board ensure that individuals with histories of criminal activity or illegal drug use are carefully screened to protect the public.

With the advent of managed care, many patients are being released from the hospital in a condition that in the past would have required them to stay in the hospital for treatment. It is important that we have qualified personnel to care for these people after their discharge from the hospital. Licensing can only assure that this qualified care will continue.

[* Source: AARC (American Association for Respiratory Care) *Times*, June 1996, pages 34,35,36,37,38,71]

Here are some examples of cases over the last few years:

EXAMPLE 1: License denial for cause (felony conviction on record)

Mark S. Goldstone

Mr. Goldstone applied for a license on October 3, 1995. He received a Temporary license, and an Extension, valid from October 4, 1995 through October 5, 1996. He passed the CRTT exam in March 1996. On his application, Mr. Goldstone answered yes to Question 19 by attaching copies of court documents. He wrote a letter stating that on January 1, 1993 and March 10, 1993 he was found driving without a license, or driving while his license was suspended in Massachusetts. He stated (and documents confirm) that all fines were paid, time took its course and his license was reinstated. He stated that on January 8, 1993 he was found "uttering a forged instrument." His explanation was that "it was a joke that a friend of mine and I got carried away with, and the other party did not take it lightly. We all make stupid mistakes. I got a \$50 fine that was paid and I did 2 years of probation (unsupervised) that ended on April 28, 1995."

In the course of the normal staff review of this license application, staff determined that Mr. Goldstone's offense of "uttering a forged instrument" is a felony. Staff wrote to Mr. Goldstone informing him that he was, and would be, ineligible to receive a permanent license while he has a felony on his record. Staff informed Mr. Goldstone that he needed to petition the court in Massachusetts to see if he can have the offense expunged from his record or designate a misdemeanor. In April, the Board voted to hold Mr. Goldstone's application until more information could be gathered. In response, Mr. Goldstone wrote to the Executive Director in a letter

received on April 29 and again in a letter received on May 23, 1996 to which he attached a copy of the Massachusetts court documents which state that he is ineligible to have his conviction reduced to a misdemeanor for 15 years. The Board met to consider Mr. Goldstone's Application on June 27, 1996. The Board's Executive Director duly caused the matter to be noticed in accordance with the Arizona Open Meeting Law. Pursuant to A.R.S. §32-3552(B) in conjunction with A.R.S. §32-3523(4), the Board denied Mr. Goldstone's license application.

EXAMPLE 2: Revocation for failure to comply with probationary order

Sheila Marshall

Sheila L. Marshall applied for a license on April 21, 1995. Ms. Marshall's application for licensure contained information the Board had deemed necessary to determine the qualifications of the applicant. Ms. Marshall acknowledged in her application form that she has a previous addiction to crack cocaine and has sought mental health and substance abuse counseling.

Based upon the foregoing, on April 27, 1995, the Board held a meeting to determine whether or not Ms. Marshall had violated any of the provisions of A.R.S. § 32-3552(A). Ms. Marshall was present at the February 16, 1995 Board Meeting and admitted to having violated the Arizona Respiratory Care Practice Act and consented to the imposition of an Order in which the Board approved her application for licensure based upon her license being placed on probation for a two year period.

On May 5, 1995, the Board's office sent, by certified mail, the Board approved Stipulation and Consent Order for Approval of License,

Probation and Rehabilitation. Ms. Marshall signed and returned the Board Order on July 5, 1995. At that time, Ms. Marshall also paid the requisite licensure fee. The Board's Executive Director signed the Order on July 28, 1995 placing the Order into effect.

On September 21, 1995, the Board's office sent Ms. Marshall a letter reminding her that her first quarterly report, as part of her Stipulation, was to have been filed on September 15, 1995. No report was received. On October 23, 1995, the Board's office sent Ms. Marshall a letter informing her that her failure to comply with the Stipulation and Consent Order necessitated her attendance at the next scheduled meeting of the Board. On or about November 16, 1995, the Board held its monthly meeting to consider this matter. Ms. Marshall was informed of the date, time and location of the meeting; she was informed that she was required to attend; but she did not attend. Ms. Marshall failed to comply with the requirements of the Order, including: her failure to file a report to the Board regarding her employment as a respiratory care practitioner, (the report was due on September 15, 1995); and her failure to appear in person for interviews before the Board upon request. After discussion, the Board voted to hold a formal hearing for possible disciplinary action with Sheila L. Marshall, pursuant to A.R.S. §32-3553(G), and the explicit provision in the Board Order which states that any violation of the Consent Order constitutes unprofessional conduct within A.R.S. §32-3501(10)(I) and (k), and may result in disciplinary action pursuant to A.R.S. §32-3553(H).

On December 21, 1995, the Board held the formal hearing in this matter. The Board's Executive Director duly caused the matter to be noticed in accordance with the Arizona Open Meeting Law. Ms. Marshall

was subpoenaed to attend, and did attend. The Board took testimony from Ms. Marshall. The Board found substantial evidence was provided to establish the facts set forth above. The Board issued an order revoking Sheila Lorraine Marshall's, license (number 03579) pursuant to A.R.S. § 41-1062(B).

EXAMPLE 3: Decree of Censure (for unprofessional conduct) and Probationary Order for Rehabilitation (drug diversion and use while on duty)

Kevin J. Marquis

Kevin J. Marquis, RCP, is the holder of license number 02343 initially issued on June 15, 1994 and currently valid through June 15, 1998. On December 27, 1995, the Board received a notice from Boswell Hospital that Mr. Marquis was terminated from his job for cause. Mr. Marquis was terminated for unacceptable job performance, sleeping on the job, and for the admitted use of Halothane on the job. Halothane is an anesthetic agent. The Board's investigator determined that Mr. Marquis had received several written reprimands. These reprimands were placed in his employee file. The documentation establishes poor job performance for the following reasons: not following departmental procedures; not answering pages; sleeping on the job; and admitted use of Halothane while on duty. The Board's investigator further determined that during the latter period of his employment, Mr. Marquis was tested for drugs, but no positive reports were found. The Board's investigator was told, by a representative of Sun Health, that Halothane does not appear on a standard drug screen. When Mr. Marquis was terminated, Sun Health advised him to contact a Dr. Mike Cofield at employee counseling because of his admitted drug use. The Board's

office wrote to Mr. Marquis on January 23, 1996 asking him to confirm or deny the following questions related to the allegations: 1) whether he was terminated from Walter O. Boswell on December 27, 1995; 2) requesting him to describe the circumstances surrounding the termination; 3) if he has now, or has ever had, a substance abuse problem; 4) asking him if he is currently, or has recently, participated in a substance abuse program; and 5) whether he is currently employed, and, if so, by whom. The Board received a written response from Mr. Marquis on February 2, 1996. He answered the above questions the following way: 1) yes, he was terminated from Walter O. Boswell Hospital; 2) he was terminated due to the use of an inhaled anesthetic; 3) "I do not have nor have I ever had a substance abuse problem; 4) "I have received counseling for this particular incident and will seek further counseling in the future if needed; 5) yes, Immediate Respiratory Staffers (IRS). Mr. Marquis also expressed his willingness to be of assistance in the Board's investigation, and to appear in person or accommodate the Board. On March 5, 1996, Mr. Marquis called the Board's office and reported that he would be bringing his counselor, Judy Creecy, to the Board meeting.

In response to the Board's subpoena, Sun Health Corporation provided substantial documentation on Mr. Marquis. The materials contain the following:

A) Notes containing the following:

(1) From an evaluation done on June 1, 1995. It is hospital policy "to assure pages are responded to promptly, and if they can't be handled personally at the time, ask personnel present to return calls and take a message and relay when you can expect to

assure those paging that the page was received." From an anecdotal record on June 14, 1995 -- "co-workers not able to obtain a response when paging in the morning to receive a page and on several of these occasions they found you in the OPS ECG procedures room with door locked - respond to all pages promptly "if sleeping on the job is occurring this is a serious offense and will be dealt with as such and must stop immediately"

(2) Second warning. October 4, 1995. October 1, 1995 found him sleeping in the physician's lounge. October 2, 1995 nursing unable to get response from him with paging. September 28, 1995 not checking the oximeter.

(3) November 28, 1995 report. November 25, 1995 found sleeping in department, also not responding to pages (he requested transfer to another shift).

(4) December 8, 1995 report. December 7, 1995 suspicious behavior, not responding to pages, emerged from IABP (Inter Aortic Balloon Pump) room observed - looked like drugs. Drug tested. December 23, 1995, at 07:15 a.m. found sleeping in OPS ECG room, rag over face, had difficulty waking up, disoriented, stumbling, off duty. Mike stated that night before he was not responding to pages from nursing:

December 23, 1995. Last check IABP at 02:30 a.m., found by day shift at 07:00 a.m.

December 24, 1995. Not responding to pages for ABG's and A-lines, overhead paging too.

B) The Boswell Nursing Department's Anecdotal Record for Employee Evaluation dated June 14, 1995. This document includes the policy

regarding response to pages noted above along with an occurrence "on numerous occasions your co-workers have not been able to obtain a response when paging in the morning to receive the page and on several of these occasions they have found you in the OPS ECG procedures room with the door locked. It also mentions an occurrence on June 8, 1995 when a request was sent down for ABG's at 22:30 at 21:40 and ABG was not drawn until after 11:30 by Mr. Marquis after a nurse pointed out that ABG had not been drawn. Also in incident on June 11, 1995 when a code was called on 5C and Mr. Marquis responded and intubated a patient without being checked off on intubation or providing documentation to his supervisor that he had been checked off at Del Webb. Suggested resolutions included: as discussed previously, all pages need to be responded to promptly; requisitions left by the previous shift must be verified that they are completed or not, and assumptions must not be made that RCP will get ABG's on their patients; Mr. Marquis should get checked off at Boswell for intubation or obtain approval from Doctor Dunbrow for check-off from Del Webb if it exists; if sleeping on the job is occurring, this is a serious offense and will be dealt with as such and must stop immediately.

C) *The Second Warning:* A Sun Health Employee Reprimand, dated October 4, 1995, personnel present for interview included Craig Walter, Penny Schmiede and Mr. Marquis. The reprimand was written by Craig Walter and states that on October 1, 1995 at 6:20 a.m. the O.R. personnel found Mr. Marquis sleeping in the physician's lounge in the O.R. On June 14, 1995, Mr. Marquis had been counseled and this offense was discussed and cannot be tolerated and represents a serious offense. Also, the O.R. lounge is off-limits to non-O.R. staff. Also, on

October 2, 1995, a complaint was received from the nursing unit that they attempted to contact Mr. Marquis for over an hour for an ECG and no response was received until the A.M. ECG tech arrived and performed the ECG. This had also been addressed before about the importance of answering pages promptly. Additionally, on September 28, 1995, a sleep study oximetry was ordered. Mr. Marquis was told that it needed to be checked Q1 hour. It was not checked all night and the patient study had been repeated because the patient did not have the study on room air as ordered. This would have been noticed if the patient had been checked. The results ordered at that time included: answer pages promptly; be available when on the clock; perform procedures when ordered, and check when indicated. Sleeping on the job will not be tolerated.

D) A message from Diane Seago, written on November 27, 1995 at 5:29 a.m., to Bernie Swietnicki and Rita Borden at Boswell Administration, and Penny Schmiede, regarding "napping on the job." It relates an incident which occurred on November 25, 1995. At 2200 hours she received a call that a STAT ECG had been ordered but the ordering personnel had been unable to reach cardiology. No one was responding to the beeper. Ms. Seago tried different numbers and several locations in the hospital, but could not locate Mr. Marquis. Ms. Seago then had Cardiology paged on the overhead system. Still, no response. She then went to the department and searched. She reports finding Mr. Marquis sleeping in 112, the pulmonary function testing room. He was stretched out on the floor behind the screen with the door locked. He was sleeping so soundly that he did not hear Ms. Seago unlock the door and enter. At that point, Ms. Seago decided to

call Barb the day shift supervisor to be a second witness. Mr. Marquis slept through that phone call. However, when she closed the door to leave and meet Barb in the hall, he must have woken up. A few seconds later, he exited the room and Ms. Seago informed him that they had been attempting to reach him for a STAT ECG. She states that she stressed that he has a responsible job and is not to be sleeping on the job. Mr. Marquis then went to 2A to do the ECG and Barb arrived. Barb asked Ms. Seago where she had found him so that if she should have a similar problem, she would know where to find Mr. Marquis. Ms. Seago showed Barb the room and they found the pillow still on the floor with a head shaped indent. Ms. Seago also states she would be forwarding a report about not being able to reach Mr. Marquis from the personnel that requested the ECG.

E) The Final Warning: A Sun Health Employee Reprimand, dated November 27, 28, 1995, personnel present included Penny Schmiede, Craig Walter and Mr. Marquis. This document states that on November 25, 1995, at approximately 22:30 Mr. Marquis was found sleeping in room D-112 of the department by a nursing supervisor after repeated attempts to reach Mr. Marquis by page for a STAT ECG, attempts by the operator to reach Mr. Marquis with no response, it was reported that this was "yet another incident of sleeping on the job as counseled on 10/4/1995." The recommended solutions were "Do not sleep on the job and answer pages promptly." Mr. Marquis wrote "I would like to request to be transferred to another shift to accommodate this problem."

F) An Employee Corrective Action Form, dated December 8, 1995, witnessed by Penny Schmiede, Craig Walter, Bev Robertson, and Mr.

Marquis. The problems outlined include: "On 12/7/95 you did not respond to several pages from your co-workers; you emerged from the IABP room, observed by several co-workers, having great difficulty walking and speaking; they reported that your eyes were red, your speech unintelligible, and your posture was bent over at the waist. You have been counseled about sleeping on the job and not answering pages promptly on reprimands dated 11/28/95, and previously on 10/4/95, and on an anecdotal record 6/14/95, and on job performance evaluation dated 6/1/95 (due 5/95 answering pages promptly only mentioned). The Recommended Corrective Action: "Employee submit to drug testing. Employee to be suspended until drug tests come back. Further disciplinary and/or remedial action will be taken at that time."

G) A note from "Mike" dated 12/25/95 to Brenda Conant relating that on Sunday night he had paged Mr. Marquis and paged him twice on the overhead and Mr. Marquis still not did respond.

H) An Employee Corrective Action Form, dated December 27, 1995 which is the termination notice. Witnesses were Penny Schmiege, Craig Walter and Mr. Marquis. The problems were identified as a repeat of the information on the Corrective Action Form dated December 8, 1995 with the following addition: "Complaints from nursing of you not responding to pages and for unacceptable job performance continued 12/23/95 and 12/24/95. On 12/25/95 he was found sleeping both while on duty and off duty in the Recovery Room. You confirmed to your supervisor, who was present, that the reason you were using a drug (anesthetic - Halothane) was to help you sleep. You were relieved of

duty at that time 7:30 p.m." The Recommended Corrective Action was: "Termination for sleeping on the job, unacceptable job performance, and/or admitted use of the anesthetic Halothane. Employee encouraged to contact Employee Counseling, Dr. Mike Cofield." Mr. Marquis wrote "I would like to thank my co-workers and management for their support and understanding. I apologize for the embarrassment(?)."

I) *A letter from Mr. Marquis* to Sun Health dated December 25, 1995 in which he states "At this time I am at a point where I need help in controlling my urges. I have a problem with my mental capacity and seek help. This evening I reached a point in which I could not control myself. Thank you for your help." Kevin, Marquis, RCP.

J) *Many other documents* from Sun Health including documents, such as a memo dated 3/9/95 recommending Mr. Marquis for Employee of the Month because of his being punctual in returning pages and providing equipment and services as soon as he was able. Also because he performed his duties with a smile and a sense of humor and because his co-workers enjoyed working with him. It is signed by 8 co-workers. Also there is a letter of thanks to Mr. Marquis, dated August 10, 1994, for his assistance in a tough situation from Harry Reafling, RCP, Administrative Director.

In light of the above, the Board met on March 21, 1996, to consider the allegation of unprofessional conduct against Mr. Marquis. At that time, after discussion, the Board voted to invite Mr. Marquis to an Informal Interview Hearing pursuant to A.R.S. §32-3553(G), and requested that Mr. Marquis submit himself for physical and psychological evaluations and to have the results of those

examinations made available to the Board. On May 9, 1996, the Board received an evaluation from Celia A. Drake, Ph.D. of the Arizona Community Psychiatric Group. She states that she evaluated Mr. Marquis on April 15, 1996 and May 1, 1996. Her report is in the Board books. She states that he referred himself to her as a result of notification made to the Board from Boswell Hospital. She states that "findings of the evaluation reveal that Mr. Marquis has a diagnosis of alcohol abuse and possible alcohol dependence. In addition, he acknowledges using Halothane, an anesthetic agent, for several months while employed at Boswell Hospital. He denies history of other drug abuse. He, however, continues to abuse alcohol. He reports no prior history of mental health intervention other than that received at Contact Managed Care, having attended for three sessions. At that time it was recommended by his treating therapist, Judy Creecy, CISW, that he attend Alcoholics Anonymous. He has yet to participate in that program and has not returned to Contact Managed Care, stating that he has not done so because of a change in his insurance. Mr. Marquis' personality style is such that he tends to minimize, deny, and rationalize his use of alcohol, although he does acknowledge that he has a problem. Because of his abuse of alcohol as well as his use of Halothane, it is recommended that he have some form of ongoing structured chemical dependency treatment on an outpatient basis." Dr. Drake also recommends individual psychological counseling.

On May 30, 1996, the Board met for the purpose of conducting an informal interview with Mr. Marquis. The Board's Executive Director duly caused the matter to be noticed in accordance with the Arizona Open Meeting Law. Mr. Marquis provided the Board with a letter from John V. deGuzman, M.D., which contained a medical evaluation of Mr. Marquis. According to Dr. deGuzman, "The patient's physical

examination was entirely within normal limits." After discussion, the Board voted to issue a disciplinary order and offer Mr. Marquis a Stipulated Order for Rehabilitation. After discussion, the Board voted to issue a disciplinary order to Mr. Marquis for repeatedly falling asleep while on duty, i.e., repeated negligence; and to offer Mr. Marquis a Stipulated Order for Rehabilitation. Mr. Marquis is currently on probation.

(Example 3 continued: sample probationary order)

This case provides an example of what a typical probationary order entails.

Excerpts from Kevin Marquis' Order:

Kevin J. Marquis, RCP, is hereby placed on probation; and, as a condition of probation shall remain enrolled in an out-patient rehabilitation program, approved by the Board, for five (5) years. Kevin J. Marquis, RCP, shall find an out-patient rehabilitation program and a sponsor and submit them for approval of the program.

Kevin J. Marquis, RCP, shall instruct his therapist or counselor from the Program to release to the Board of Respiratory Care Examiners, upon its request, any and all records relating to his treatment and to submit quarterly reports to the Board of Respiratory Care Examiners regarding his diagnosis, prognosis and recommendation for the continuing care, treatment and supervision of Kevin J. Marquis, RCP; and, said reports to be submitted on or before the 15th day of March, June, September and December of each year. The aforementioned therapist or counselor shall be provided with a copy of this Order by Respondent.

Kevin J. Marquis, RCP, shall inform his current employer of the Board's Order of Probation and restriction of the professional practice as a respiratory care practitioner.

Respondent shall instruct his therapist or physician from the rehabilitation program to release to the Board all documents and information relating to his treatment that are requested by the Board.

In the event Respondent fails to satisfactorily complete the rehabilitation program, he shall be considered to have violated the terms of this Probation Order and Respondent shall be subject to disciplinary action and possible revocation of license by the Board.

Kevin J. Marquis, RCP, shall participate in a 12-step recovery program appropriate for substance abuse as determined by his treating therapist or counsel, and attend a minimum of one meeting per week while on probation, keeping a written record of times, locations and attendance.

Kevin J. Marquis, RCP, shall obtain a sole treating physician who shall be subject to approval by the Board and he shall inform the Board by letter of the name, address and telephone number of the physician. Kevin J. Marquis, RCP, shall advise his treating physician of his rehabilitation efforts and provide a copy of this Board Order to the approved treating physician. Kevin J. Marquis, RCP, shall further advise any health care practitioner providing medical care and treatment of his chemical misuse problems.

Kevin J. Marquis, RCP, shall abstain completely from the consumption of alcoholic beverages.

Kevin J. Marquis, RCP, shall take no drugs or medications whatever (except for plain aspirin and/or plain acetaminophen), whether controlled substances, prescription-only drugs or over-the-

counter preparations, unless such drugs or medication was prescribed for him by his treating physician.

Kevin J. Marquis, RCP, shall comply immediately (i.e., within sixty (60) minutes) with requests from the Board or the Program Director, or their agents or designees, including but not limited to his therapist or counselor, to submit to witnessed random biological fluid collection; and, he shall authorize any person or organization conducting tests on these collected samples to provide testing results to the Board and the Program Director.

Kevin J. Marquis, RCP, shall maintain a log of any and all medications whatever (except plain aspirin and/or plain acetaminophen), whether controlled substances, prescription-only drugs or over-the-counter preparations prescribed for him by his treating physician and shall make such logs available to the Board, its agents or designees upon request. Such logs, at a minimum, shall include the following:

- (A) The medication taken;
- (B) The date and time the medication taken;
- (C) The name of the prescribing physician;
- (D) The reason for the medication.

Kevin J. Marquis, RCP, agrees to pay all charges from the Board of Respiratory Care Examiners, or its designee (including, but not limited to, the Program) for conducting biological fluid testing, as well as charges for therapy sessions conducted by the Program.

Kevin J. Marquis, RCP, shall submit to mental, physical or medical competency examinations, or any combination thereof, at such times and under such conditions as directed by the Board to assist the Board in monitoring his ability to safely engage in the practice of

respiratory care, or his compliance with the terms of this Order.

Kevin J. Marquis, RCP, shall submit to any additional therapy ordered by the Board or recommended by his therapist or counselor from the Program.

Kevin J. Marquis, RCP, shall obey all federal state and local laws, and all rules governing the practice of respiratory care in the State of Arizona.

Kevin J. Marquis, RCP, shall appear in person before the Board for interviews upon request, at various intervals and with reasonable notice (i.e., a minimum of five days). He shall immediately advise the Board of any change in his place of employment or home address and of any plans he makes to be away from his place of employment or home for more than five (5) continuous days. Respondent shall notify the Board by letter delivered by certified mail\return receipt requested within three (3) days of the date of the change.

This Order shall remain effective for a minimum of five (5) years from the effective date; and, after one (1) year, Respondent may apply to the Board by letter seeking modification of the Order of Probation upon showing satisfactory compliance with the Order during the period of probation. Unless violation of the Board's Order is established in a hearing before the Board, pursuant to A.R.S. 32-3553(G) or (I), the Order shall be automatically terminated in five (5) years.

Example 4: Revocation for cause (unprofessional conduct, misrepresentation of criminal history)

Malcolm Val Phoenix

On August 10, 1995, Mr. Phoenix applied for his biennial license renewal. His application included an affirmative answer to Question

Number One: Have you since your initial application or last renewal been arrested, pled guilty to or no contest to or been convicted of a felony, misdemeanor or undesignated offense? Mr. Phoenix provided a note that listed the case numbers of the charges, but no dates. He stated that the Board could find the cases in Tucson City Court, that the matters were civil and set aside after a fine. On or about October 19, 1995, the Board received information from the Office of the City Attorney in Tucson, Criminal Division, regarding this matter. It stated that Mr. Phoenix (under the name Charles Hamill) was in the process of appealing a criminal matter, that a decision had been reached in December of 1992, said decision placed Mr. Phoenix on 12 months of unsupervised probation, and ordered a \$200 fine to be payable in monthly installments of \$25. On December 20, 1995, the Board received a written response from Respondent admitting that it was not a civil matter and a document establishing that Mr. Phoenix had filed an application to set aside the judgment against him in the City Court of the City of Tucson, County of Pima, State of Arizona.

On September 11, 1995, the Board received a letter from the staff at Central Arizona Medical Center (the Center) alleging unprofessional conduct against Mr. Phoenix because he had been terminated from employment effective September 6, 1995 due to certain acts of misconduct. The Board's office subpoenaed documentation of the termination from both the Center and Mr. Phoenix via certified mail. On September 15, 1995, the Board received an answer from the Center documenting four notices of concern which had been issued to Mr. Phoenix.

The *first* was issued in May 1995 and had the following concerns: Absenteeism. No batch number for 5/18/95 charges (pulmonary

section). This causes revenue loss and late charges.

The *second* was issued in June 1995 and had the following concerns: 6/22/95 MDI missing for Room 1407. 6/12/95 EKG malfunctions due to technician error 6-2-95 (Malcolm). ABG calibration is now printing out copious amounts of calibrations. Does not respond to communications from fellow workers but becomes defensive. Accuses fellow workers from department of being saboteurs. Does not read communications book 5-5-95.

The *third* was issued on August 18, 1995 and had the following concerns: Malcolm doesn't feel obligated to attend department meetings. Work performance sub standard -- this is not the first, rather a pattern has developed that causes concern, no ABG report given to nursing - nurses didn't sign off. Discovery of errant billing - due to slipshod work habits causing client dissatisfaction. Date of occurrence 03-10-95 patient charged for services not rendered, interpersonal relationships with fellow workers (i.e., vulgar gestures) unacceptable.

The *fourth* was issued in September 1995 and had the following concerns: Transcription of doctors orders from "physicians order sheet" to "respiratory therapy inpatient master log" incorrect. Administration of SVN prescription without proper drugs as ordered by Physician 8-31-95. Confirmation report and summary was not run on 9-1-95, for ABG machine. 9-1-95 EKG - no data, i.e., name, numbers, etc. Due to overall misconduct of RCP duties Malcolm is hereby released from employment with Central Arizona Medical Center. Mr. Phoenix's comments were that he felt he was being forced out due to "nursing staff games and pressure from different people." He also felt that the R.C.P. on day

shift would leave without charting, and would mix up names and numbers, and that Mr. Phoenix was being blamed for it. He further stated that nursing changed things and that paper work was being stamped in wrong. He stated that he thought he'd had at least a year of problems.

On October 5, 1995, the Board held its monthly meeting to consider the allegation against Mr. Phoenix as part of its investigation in this matter pursuant to A.R.S. §32-3553. Mr. Phoenix was notified of the time, place and location of the meeting, but did not attend. After discussion, the Board voted to hold an informal interview hearing with Malcolm Val Phoenix pursuant to A.R.S. §32-3553(G).

Board staff investigated this matter by personally interviewing staff members of Central Arizona Medical Center. During the interview, for clarification, Center staff stated that Mr. Phoenix had been suspended from work for three (3) days without pay, on August 18, 1995, for concerns that included: non-calibration of the ABG machine on at least four (4) instances, giving the wrong medication to a patient while not following physician orders, charging for therapy that was not done, and reporting EKG results to the ER without a patient name, number or any patient identification available on the abnormal, and potentially dangerous EKG. Following that suspension, Mr. Phoenix returned to work and continued to provide poor quality and dangerous patient care, according to Center staff, which resulted in the termination in September.

On November 16, 1995, the Board met for the purpose of conducting the informal interview hearing with Mr. Phoenix. Mr. Phoenix was notified of the time, place and location of the meeting;

was sent a written invitation to the meeting; attended the meeting for a time, but left before the Board heard this matter. Mr. Phoenix wrote a note to the Board during the Meeting stating that he had to leave; the meeting lasted longer than he had thought it would; and that he understood the concern with the statements before the Board. Since Mr. Phoenix was not in attendance of the informal interview, the Board voted to hold a formal hearing for possible disciplinary action with Malcolm Val Phoenix pursuant to A.R.S. §32-3553(G).

On December 20, 1995, the Board received a written response from Mr. Phoenix. In his written response, Mr. Phoenix generally denies the allegations of professional competence because his two previous years of job evaluations were satisfactory.

On December 21, 1995, the Board held the formal hearing in this matter. The Board's Executive Director duly caused the matter to be noticed in accordance with the Arizona Open Meeting Law. Mr. Phoenix was subpoenaed to attend, and did attend. The Board took testimony from Mr. Phoenix and Phil Putnam, Ph.D., RRT, of Central Arizona Medical Center and Mr. Phoenix's former supervisor at Central Arizona Medical Center.

Based upon the documents received and the testimony of Phil Putnam, Ph.D., RRT, and Mr. Phoenix, the Board found that substantial evidence was provided to establish the facts set forth above. Pursuant to A.R.S. § 32-3553, the Board issued an Order revoking the license to practice respiratory care of Malcolm Val Phoenix.

Example 5: Decree of Censure (Fraud on Application for License Renewal) and Probationary Order for Rehabilitation (Alcohol and Drug Abuse)

Mark Largesse

Mark Largesse is the holder of license no. 01066, renewed on March 20, 1996, currently valid through March 20, 1998. On Mr. Largesse's biennial renewal application he wrote that he had acquired the necessary CEUs for his license renewal. On April 1, 1996, in a telephone call from staff at John C. Lincoln Hospital, followed by a facsimile transmission (received on April 4, 1996), the Board was informed that Mr. Largesse did not have the necessary CEUs and had therefore falsified his biennial renewal application to the Board. Staff at John C. Lincoln state that Mr. Largesse was requested on March 22, 1996 to provide proof of his CEUs, that a second request for his CEUs was made on March 29, 1996 (via telephone) and that on March 29, 1996, Mr. Largesse admitted that he had no CEUs. Staff at John C. Lincoln states that at that time, Mr. Largesse was taken off the schedule. On April 1, 1996, Board staff wrote to Mr. Largesse, via certified mail, asking him to submit documentation supporting his compliance with the Board's CEU requirement. On April 10, 1996, Mr. Largesse provided a written answer to the Board's letter. (He also stated that he has been having difficulty receiving his mail -- all correspondence to him had been returned to the Board as undeliverable and Mr. Largesse picked it up on April 10). Mr. Largesse states that as of March 20, 1996 he "did not have sufficient CEUs to meet the criteria required by the State to renew my license and filled out the renewal form anyway. There are reasons behind this stupid action but honesty must prevail. I will obtain the CEUs and face the

consequences handed down from the Board."

Based upon the foregoing, the Board met on April 25, 1996 to consider the allegation of unprofessional conduct against Mr. Largesse. At that Board meeting, Mr. Largesse discussed this allegation with the Board. In addition, he told the Board that he had been admitted to a substance abuse program during his last license renewal period and had failed to disclose that on his license renewal application. He offered to provide documentary evidence of his successful completion of a substance abuse program. Following the April Board meeting, Board Staff was informed by personnel at John C. Lincoln Hospital that Mr. Largesse may have worked the following dates without a valid license: March 24, 25, 26, 27 and 28. After discussion, the Board voted to invite Mr. Largesse to an informal interview hearing pursuant to A.R.S. §32-3553(G).

On May 30, 1996, the Board conducted informal interview hearings with the Respondent. The Board's Executive Director duly caused the matter to be noticed in accordance with the Arizona Open Meeting Law. Mr. Largesse provided documentary evidence of his completion of 20 approved continuing education units and of his completion of an alcohol and drug rehabilitation program at the Salvation Army Adult Rehabilitation Center. After discussion, during which Mr. Largesse denied practicing respiratory care during the period of March 24 through March 28, 1996, the Board voted to issue a Decree of Censure to Mr. Largesse for fraud in the procurement of his license and to offer Mr. Largesse a Stipulation and Consent Order for Rehabilitation. Mr. Largesse is currently on probation.

Example 6: Case dismissed

Sally Pelton Beicht

Ms. Sally Pelton Beicht was the holder of a Temporary License during the investigation of the allegation against her. Her Temporary license was issued on December 27, 1995, and its expiration date would have been August 27, 1996. On February 12, 1996, the Board received an allegation of unprofessional conduct against Ms. Pelton Beicht. The allegation was that she was a no show, no call, on several occasions. The allegation was made by the President of one of the temporary staffing agencies which provides RCPs to health care facilities (including homes), who stated that "the last two puts us and a hospital in a very difficult situation. I am faxing you my nightshift/weekend staffing coordinator's account of what happened." There is a memo attached:

Dated 2/8/96. Assignment at Thunderbird Samaritan. Scheduled for 2/3/96 at 10:00 p.m. and again on 2/4/96 at 6:00 p.m. "I called her on Saturday at approximately 3:00 p.m. to ask her to be there at 6:00 p.m. instead of 10:00 p.m. She said that she could not but would be at the hospital at 10:00 p.m. as planned. She also stated that she was scheduled for 6:00 p.m. the following night. She didn't show up at 10:00 p.m. on Saturday night. I called her home and her husband stated that she was out with friends and was not going to work. On Sunday 2/4, again she did not show up for work. When I called her home, her husband stated that she was sleeping and that she was not scheduled to work that night. He would not put her on the phone. Both of these incidents created problems for the hospital since she could not be replaced."

On February 20, 1996, Board staff wrote to Ms. Pelton-Beicht asking her to confirm or deny the allegation that she accepted two assignments at Thunderbird Samaritan Hospital, confirmed them in a telephone call with Anita Fink, yet failed to report for both assigned shifts. Ms. Pelton-Beicht responded in a letter received on March 1, 1996. She denies accepting either assignment "due to the fact that on Thursday Feb. 1st Debbie Richards Supervisor of Resp. Care at Phoenix Baptist Hospital called and asked me to work overtime on Saturday Feb. 3rd and to work Sunday Feb. 4th. I had started an on call position at Phoenix Baptist Hospital Jan. 29, 1996 which I told IRS and wrote them a letter telling them I will be unavailable to work for them at this time. On Feb. 3rd I was called. IRS asked me if I could work on that night from 6-6:30. I told her I was working 10-6 at Phoenix Baptist." She also states that IRS had her pager number and could have paged her.

On March 13, 1996, the Board received a letter from Ms. Pelton-Beicht stating "enclosed is a copy of the letter I sent to IRS on 1-26-96. I'm sorry it took so long sending it to you." Enclosed is a copy of a letter addressed "To IRS" and stating "This is to inform you that as of 1-29-96 I will be unavailable to work for your agency. I just acquired a pool position at Phoenix Baptist Hospital and will be starting on that date. Sincerely, Sally F Beicht."

On May 30, 1996, the Board met to consider the allegation of unprofessional conduct against Ms. Pelton Beicht. The Board's Executive Director duly caused the matter to be noticed in accordance with the Arizona Open Meeting Law. Ms. Pelton Beicht was present. After discussion, the Board voted to table this matter and directed staff to investigate this matter. On June 10, 1996, Board staff wrote

to IRS requesting that someone from IRS attend the June meeting. On June 11, 1996, the Executive Director sent a subpoena to Phoenix Baptist Hospital for the staff schedule on the days in question.

On June 27, 1996, the Board met to continue the consideration of the allegation. Ms. Pelton Beicht was present. The Board reviewed materials submitted by Phoenix Baptist Hospital received in response to its subpoena. The Board determined that no evidence was produced to substantiate the allegation of unprofessional conduct. After discussion, the Board voted to dismiss the allegation of unprofessional conduct against Ms. Pelton Beicht pursuant to A.R.S. §32-3553.

At the same Board meeting, held on June 27, 1996, Ms. Pelton Beicht's application for a license to practice respiratory care was approved by the Board.

5. *Provide licensing data including the number of licenses by category, number of out of state licenses, number of restricted licenses and reciprocity agreements.*

Total number of licenses issued	4,056
Number of current temporary licenses	124

(Note: temporary licenses are restricted -- individuals who hold temporary licenses may only practice under the direct supervision of a licensed RCP or a licensed physician)

Number of expired temporary licenses	662
Average time to issue a Temporary License	24 hours

A.R.S. §32-3554(3)(a) provides for licensure without examination for Applicants who hold licenses in good standing in another state and who have already passed the CRTT exam (Note: the CRTT is the Entry Level Respiratory Care Examination).

The Board does not issue out of state licenses.

6. *Provide examination data such as use of a national exam, use of oral and practical exams and weighing of exams.*

The Board requires that initial Applicants for licensure take and pass a national exam, the CRTT exam administered by the National Board of Respiratory Care Examiners (NBRC). A passing score is considered to be the same as required by the NBRC; which is 75 scaled-score units or 95 correct answers. There is no limit on how many times an Applicant can take the exam. It is offered three times a year.

7. *Provide disciplinary data, including the number of complaints (by type), number dismissed (by reason), number of hearings held and number of actions (probations, suspensions and revocations).*

Number of complaints	280
Number dismissed	35
Number of hearings held	
informal interviews	28
formal hearings	45
Actions	
Letters of concern	96
Decrees of censure	17
Probation	
Board Ordered	2
Stipulated	
Disciplinary	27
Non-disciplinary	<u>5</u>
Total Probation	34
Suspensions	2
Surrendered licenses	1
Revocations	19

[Note: please see attached Exhibit A for a full summary of Board activity.]

If you need any further information, please do not hesitate to contact me.

Sincerely,


Mary Hauf Martin
Executive Director

**BOARD OF RESPIRATORY CARE EXAMINERS
BOARD MEETING**

Thursday, January 25, 1996 at 12:00 p.m.
2nd Floor Conference Room
1400 W. Washington, Phoenix AZ

Board Members Present: Chair Meryl Salit, Vice-Chair Kit Mehrtens, Sheila Bowen, John Coleman, Gerald Schwartzberg, M.D., and Karen Staudenmier

Board Members Absent: Mary Lynn Kelly

Staff Present Mary Hauf Martin, Executive Director
Dolores Doyle, Administrative Assistant

Board's Legal Counsel: Mike Harrison, Assistant Attorney General

I. CALL TO ORDER

The Meeting was called to order at 12:04 p.m. by the Board's Chair, Meryl Salit.

II. ELECTION OF OFFICERS FOR 1996

John Coleman nominated Meryl Salit for another term as Board Chair. Sheila Bowen seconded. **The Motion passed unanimously.**

Meryl Salit nominated Kit Mehrtens for another term as Board Vice Chair. Karen Staudenmier seconded. **The Motion passed unanimously.**

III. APPROVAL OF MINUTES

John Coleman moved approval of the Minutes as presented. Karen Staudenmier seconded. **The Motion passed unanimously.**

IV. DISCUSSION/ACTION ON APPLICATIONS FOR LICENSURE

A. Recommended for approval by the Executive Director

Judith A. Alderman	Joseph A. Bettini	Carmelita Burdick
Beverly N. Caldwell	Alexandra C. Cheek	Wendell A. Chow
Vicki L. Dickson	Erica A. Faigle	Andrea J. Glasscock
William D. Hall	Mark S. Hanson	Vasant J. Honest
Randy J. Hillyer	Ashely C. Hubbell	Joan L. Loewen
Elaine D. Martin	Kenneth E. Newton	Robert Rapp
Donna E. Ochoa	Clay Patterson	Teresa A. Salazar
James Sallis	Greg R. Sanvik	Patrick Smith
Cathy L. Spencer	Katherine L. Tanner	Maria Velez

Kit Mehrtens moved approval of all the individuals listed on the Agenda and recommended by the Executive Director. Sheila Bowen seconded the Motion. **The Motion passed unanimously.**

B. Application for Licensure

1. Eric Cahill

The Executive Director summarized Mr. Cahill's situation. Mr. Cahill was not present. After discussion, John Coleman moved that Mr. Cahill be granted a license. Kit Mehrtens seconded. **The Motion passed unanimously.**

2. Mark D. Olson

Mr. Olson was present. The Executive Director summarized Mr. Olson's situation. After discussion, John Coleman moved that Mr. Olson be granted a license. Karen Staudenmier seconded. **The Motion passed unanimously.**

3. Rose Troia

The Executive Director reviewed Ms. Troia's application for licensure. Ms. Troia was not present. Kit Mehrtens moved to table discussion of Ms. Troia's application until further information can be presented to the Board. Sheila Bowen seconded. **The Motion passed unanimously.**

4. Stephen Spencer

Mr. Spencer was not present. The Executive Director reviewed Mr. Spencer's application. Karen Staudenmier moved to table discussion of Mr. Spencer's application until further information can be presented to the Board. Sheila Bowen seconded. The Motion passed unanimously.

5. Nancy Jean Wilcox

Ms. Wilcox was not present. The Executive Director reviewed Ms. Wilcox's application. Sheila Bowen moved to table discussion of Ms. Wilcox's application until further information can be presented to the Board. Karen Staudenmier seconded. The Motion passed unanimously.

6. Sheryl R. Radowick

Ms. Radowick was not present. The Executive Director reviewed Ms. Radowick's application. Kit Mehrtens moved that Ms. Radowick's license be granted. Sheila Bowen seconded. The Motion passed unanimously.

C. Request for an Extension to a Temporary License

1. Susan Klement

Ms. Klement was present. The Executive Director stated that Ms. Klement's request did not meet with the Board's requirements for receiving an extension to a temporary license. She had not signed up to take the CRTT. Karen Staudenmier moved that the Board deny Ms. Klement's request for an extension to her temporary license. Kit Mehrtens seconded. The Motion passed unanimously.

V DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF APPLICATION FILES

Mitchell D. Barnes
Corey L. Bell
Leonard Bell
Marlitz L. Belmontes
Juanita J. Craig
Katrina N. Dumbauld
Kelly A. Fitzgerald
David L. Yardley

Susan Klement
Terry Kloppenberg
Kelly A. Kriesel
Tami J. Olson
Richard Russell
Jose L. Silva
Brian E. Trufley

Donna Trumbo
Thomas R. Wyatt
Joseph F. Brancotto
Grace E. Colden
Don R. Dela Cruz
Christopher S. Grattenhaler
Ameer R. Muhammad

After discussion between the Board members and the Executive Director regarding individuals who had completed their license applications after the Agenda was written, Karen Staudenmier moved that the Board administratively close the application files of all the items on the agenda except for Susan Klement, Grace E. Colden and Christopher S. Grattenhaler. Sheila Bowen seconded. **The Motion passed unanimously.**

VI DISCUSSION/ACTION ON NOTICES OF LICENSE EXPIRATIONS

The Executive Director stated that these were routine license expirations.

Michelle Angus	James Kentner	John Porter
Lynn C. Birgman	David M. Krepp	Tammy M. Smith
Kimberlee K. Birrell	Don D. Maples	Tamara L. Snyder
Cathryn Clayton	Gabriel M. Martinez	Christy B. Steffen
Tracy Duepner	Adrienne Meyer	Tine Tenenti
Patricia Johnson	Heidi Lynn Nichols	Andrew M. Torrez

Euginia Berry	Bonnie L. Bouchez	Sheri L. Clarke
Chantel R. Davis	Victoria A. Devaney	Mary E. Edelman
Janet K. Eichenberger	Alice Hinton	Linda L. Medansky
Mark Meins	Lisa S. Nasco	Walter R. Palass
Sheila Palermo	Chris Stein	Blair W. Steinberg
John-Mark Stuebing	Michelle Thompson	Shirley A. Trebelhorn
Hal Wagner		

Karen Staudenmier moved to issue these notices of license expirations. Kit Mehrrens seconded. **The Motion passed unanimously.**

VII DISCUSSION ACTION ON REINSTATEMENT OF EXPIRED LICENSES

The Executive Director reported that these were routine license reinstatements.

Julie Evans-Barba	Dolores M. Blake	Merry Gayle Pineda
Dan Dillon		

John Coleman moved to ratify these reinstated licenses. Sheila Bowen seconded. **The Motion passed unanimously.**

VIII CONSIDERATION/ACTION ON INVESTIGATIONS OF UNPROFESSIONAL CONDUCT

1. Kerry Adair

Mr. Adair was present. The Executive Director reviewed an allegation of unprofessional conduct against Mr. Adair. The Board received Mr. Adair's biennial renewal application on October 13, 1995. He admitted that he pled guilty to a misdemeanor DUI and expired car registration. He said he paid a DUI fine of \$459 and a fine for his expired car registration of over \$500. He stated that he completed: an 80 hour intensive outpatient care program through Tri-City Behavioral Health; and a 12 week program with Arizona Addiction Council. He says that he has been attending an AA program (ADAM) sponsored by the LDS church once a week. He also states that he was terminated from Desert Samaritan for personal differences with the supervisor. Mr. Adair had accepted 2 certified letters from the Board's office requesting documentation of the above -- he has failed to respond. The Board's investigator has spoken with Joni Shultz at Desert Sam. Ms. Shultz stated that he was a "Type A" employee -- which is similar to an on-call position. Mr. Adair worked the night shift and made what she felt was a "bad judgment call." Ms. Shultz stated that in light of this incident, she took him off the schedule because she felt he needed more supervision than she could offer a "Type A" employee. After discussion, Mr. Adair provided documentation of his misdemeanor DUI and a misdemeanor for driving without a valid drivers license. He also provided a Certificate of Completion of a 12 week outpatient program from the Arizona Addiction Council. Upon questioning as to why he hadn't responded to the Board's information requests, Mr. Adair said he had been negligent.

For purposes of receiving legal advice, John Coleman moved that the Board go into Executive Session at 12:50 p.m. Sheila Bowen seconded. The Motion passed unanimously. John Coleman moved that the Board return to public session at 12:55 p.m. Karen Staudenmier seconded. The Motion passed unanimously.

After discussion, John Coleman moved that the Board table discussion of this matter until its next Board meeting, and for staff to draft a standard stipulated order for the Board and Mr. Adair to review prior to that meeting. Sheila Bowen seconded. The Motion passed unanimously.

2. Mary Condel

Ms. Condel was not present. The Executive Director explained that the Board received Ms. Condel's biennial renewal application on October 24, 1995. On her application she states that she received a DUI and that it was resolved. She offered to provide documentation. In November of 1995 she accepted a certified letter from the Board's office requesting information regarding her biennial renewal application: copies of the court records of her DUI; documentation of any fines or penalties; certificates of completion for the alcohol awareness program she said she attended. No response has been received. In December of 1995 she was sent a letter asking her to document her

completion of CEUs. No response has been received. Howard Jones of Phoenix Memorial Hospital, Ms. Condel's direct supervisor, was present. The Board discussed Ms. Condel's lack of documentation of acquiring the required CEU's with Mr. Jones. Karen Staudenmier moved that the Board invite Ms. Condel to an informal interview hearing and that she be asked to provide the required documentation to the Board. Sheila Bowen seconded. **The Motion passed unanimously.**

3. Rodney M. Flickinger

Mr. Flickinger was present. The Executive Director explained that on November 9, 1995, the Board received a Lab Report from Corning Labs which showed a positive result for Cannabinoids, from a specimen collected from Mr. Flickinger on November 2, 1995. The Board's investigator determined that the drug screen was taken as a pre-employment drug screen with Immediate Respiratory Staffers. The Board's office wrote to Mr. Flickinger on November 9, 1995 asking him to confirm or deny the allegation. On November 27, 1995, the Board received the results of second drug screen, also from Corning Labs, taken November 22, which also showed a positive result for Cannabinoids. On November 29, 1995, the Board received a letter from Mr. Flickinger admitting that the test done on specimen collected on November 2 came back positive for Cannabinoids. On December 7, 1995, the Board received a letter from Mr. Flickinger questioning the validity of the Corning Lab tests because the positive result was not confirmed by a different chemical process (he refers to the Labor Laws). He went to the Treatment Assessment Screening Center (TASC) and had another drug urine screen -- from a specimen collected on November 28 which came out negative. On December 8, 1995, the Board sent a letter to Mr. Flickinger regarding the positive test results from the specimen taken on November 22 at Corning Clinical Labs. On December 14, 1995, the Board received a test result from Corning Labs showing that the positive result from the specimen taken on November 22 was verified by GCMS. On December 20, 1995, the Board received a letter from Mr. Flickinger admitting that the second drug screen at Corning Labs had come back positive for Cannabinoids. On January 5, 1996, the Board received a letter from Mr. Flickinger with the results of a second drug screen taken at TASC, from a specimen taken on December 22 which came back negative.

For purposes of receiving legal advice, Sheila Bowen moved that the Board go into ~~Executive~~ Session at 3:44 p.m. Karen Staudenmier seconded. The Motion passed ~~unanimously~~. Kit Mehrtens moved that the Board return to public session at 3:50 p.m. Karen Staudenmier seconded. The Motion passed unanimously.

After discussion, during which Mr. Flickinger agreed to entering into a Stipulation and Consent Order, Kit Mehrtens moved that the Board table discussion of this matter until the next Board Meeting and that staff draft a modified probationary order for the Board and Mr. Flickinger to review prior to the next meeting. Dr. Schwartzberg seconded. **The Motion passed unanimously.**

4. Michael Hartman

Mr. Hartman was not present. The Executive Director reviewed for the Board Mr. Hartman's history. In September, Mr. Hartman was issued a Decree of Censure and Probationary Order pursuant to a Board decision made in March of 1995 -- for exceeding the scope of practice of an RCP. The terms of his probation, which were spelled out in the Order, called for reports to the Board in October and December of 1995, with the last one due in March when his Order is due to expire. Mr. Hartman has never filed either of the two required reports. The Board's investigator has also determined that Mr. Hartman has failed to notify his employer of his Board ordered probation. Kit Mehrtens moved that the Board issued a Complaint and Notice of Formal Hearing to Mr. Hartman. John Coleman seconded. **The Motion passed unanimously.**

5. Frank Mamone

Mr. Mamone was present. Karen Staudenmier recused herself from all proceedings involving this matter. The Executive Director reviewed for the Board an allegation of unprofessional conduct against Mr. Mamone. On November 2, 1995, the Board received a letter from Vencor Hospital stating that Mr. Mamone had been terminated, effective September 13, 1995. Discrepancies and potentially fraudulent charting were noted upon review of the charts of patients under Mr. Mamone's care. On November 17, 1995, the Board's office sent Mr. Mamone, at his address of record, a letter asking him to confirm or deny the allegation. The letter was returned. On November 21, 1995, the Board's office subpoenaed documents relative to this matter from the Custodian of Records of Vencor Hospital. In response, on November 30, 1995, staff at Vencor Hospital responded to the subpoena by sending his job description and disciplinary reports. The Vencor records show repeated over-charging for therapist time and, in violation of Medicare regulations, therapy given to more than one patient at a time. When asked for an explanation by his manager, Mr. Mamone stated that the treatment times were adjusted to reflect when they were due, rather than when they were actually done. After discussion, John Coleman moved that the Board invite Mr. Mamone to an informal interview hearing. Kit Mehrtens seconded. **The Motion passed unanimously.**

6. Steven Statts

Mr. Statts was not present. The Executive Director reviewed the allegation of unprofessional conduct against Mr. Statts. The Board voted to open an investigation into this matter in October -- it involves an allegation which was brought before the Board some time ago (December 1994) because the allegation was that Mr. Statts was a potential danger to the public. The allegation is that he was pacing back and forth in front of patients at Thunderbird Samaritan Medical Center, asked to leave 4 times, but refused, the police were eventually called and a Behavioral Health RN was also called. The allegation also stated that Mr. Statts was paranoid, agitated, and seemed to be having

a hard time processing on a cognitive level why his behaviors/actions were causing a great deal of concern. He was offered a crisis assessment at the behavioral health unit, but refused. At one point he agreed to go talk, but started running down the hospital hallway and was chased out by the Glendale police. Also, that he cornered an RN, Laura, before telling her to walk out of the hospital with him -- this frightened and upset the RN. Finally, there was an allegation that he was also escorted by the Phoenix police in December, 1994. When the Board opened the investigation, we wrote to Mr. Statts (letter dated November 2). He responded in a letter received by the Board on December 8, 1995. He apologizes for not responding sooner, stating that he has been working in several different states. He says that he had not corresponded with his Arizona address of record for several months. He denies the allegation. He states that he is not, and was not, involved with drugs or having behavioral and/or emotional problems. He states that he was asked to leave the hospital via another exit, other than the front door. He says that hospital security did not want him to exit via the front door. He states that he requested that the police be summoned and that the police escorted him to the front door without incident. He adds that the Glendale police never apprehended him, detained him, or charged him with any crime. He apologizes for any misunderstanding for what occurred that day. Regarding the other allegation, concerning the Phoenix police, Mr. Statts states that he summoned the Phoenix police when "certain individuals would not leave the premises of a residence. The police escorted me elsewhere, no arrest was made, no charges were filed against him." In response to the Board's questions on these issues, he denies that he has a substance abuse problem with drugs or alcohol. He says he has not recently received any treatment for substance abuse or behavioral problems. Board staff has spoken to Paul Berg, RN, who wrote the original letter to the Board informing the Board of the allegations. He has stated his willingness to help the Board in its investigation. Mr. Berg is trained in behavioral health. John Coleman moved that the Board invite Mr. Statts to an informal interview hearing. Kit Mehrtens seconded. **The Motion passed unanimously.**

IX CONSIDERATION AND ACTION ON INFORMAL INTERVIEWS PURSUANT TO A.R.S. 32-3553(G)

1. Charles Oehler

Mr. Oehler was present. The Executive Director reviewed an allegation of unprofessional conduct against Mr. Oehler -- that he had reported to work under the influence of alcohol and had been abusive to a patient. Mr. Oehler denied the allegation. The Board received testimony from Mr. Oehler, Mr. Chuck Cox, and Mr. Sam Uesele.

For the purpose of receiving legal advice, Sheila Bowen moved that the Board go into Executive Session at 3:05 p.m. Kit Mehrtens seconded. The Motion passed unanimously. Sheila Bowen moved that the Board return to public session at 3:09 p.m. Kit Mehrtens seconded. The Motion passed unanimously.

After discussion, Karen Staudenmier moved that the Board invite Mr. Oehler to continue this informal interview hearing and that staff prepare a draft Findings of Fact and Conclusions of Law for the Board to review at its next meeting. Sheila Bowen seconded. After further discussion, Karen Staudenmier moved that staff prepare a draft probationary order for the Board to consider at its next meeting. Dr. Schwartzberg seconded. John Coleman asked if the Motion could be amended to say the probationary order will contain a requirement for a 12 step outpatient program and random testing. Karen Staudenmier accepted the friendly amendment. Dr. Schwartzberg seconded. **The Motion passed unanimously.** John Coleman moved that the Board issue a Decree of Censure. Kit Mehrstens seconded. After discussion, in order to preserve the issue for the next Board meeting, **the Motion failed.**

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

1. Marvin Jerew

Mr. Jerew was not present. The Executive Director requested that the Board table consideration of this matter until the next Board meeting. Kit Mehrstens moved that the issue be tabled until the February Board meeting. Karen Staudenmier seconded. **The Motion passed unanimously.**

XI. CALL TO THE PUBLIC

There was no public presentation to the Board.

XII. DISCUSSION/ACTION ON EXECUTIVE DIRECTOR'S REPORT

A. Discussion and Action on Proposed Administrative Rules

The Executive Director advised the Board of a proposed amendment to the Board's Proposed Rules clarifying the requirements for biennial renewal applications. After discussion, Kit Mehrstens moved that the Board adopt the Proposed Rule with the amendment outlined by the Executive Director:

Page 10, line 1, after the word of, insert "information on the biennial renewal application or of," and after the word compliance, insert "in acquiring CEU's".

Karen Staudenmier seconded. **The Motion passed unanimously.**

B. Discussion and Action regarding legislative matters.

The Executive Director gave the Board an update on legislative matters.

C. Report on the Agency Budget.

The Executive Director updated the Board on the status of the Board's budget.

D. Report on Formal Attorney General Opinion regarding the Board's Administrative Hearings.

The Executive Director reported on the formal A.G. opinion which clarifies that Board members can, indeed, conduct their own administrative hearings.

E. Discussion and Action on sharing expenses to send legal counsel to training: FARB meeting, Salt Lake City, February 8 - 11.

Kit Mehrtens moved that the Board authorize expending monies to cover half of the expenses to send its legal counsel to this training. Karen Staudenmier seconded. **The Motion passed unanimously.**

F. Report on Cannabinoid Testing.

The Executive Director reviewed staff's report on Cannabinoid testing.

For the purpose of receiving legal advice, Karen Staudenmier moved that the Board go into Executive Session at 4:45 p.m. Kit Mehrtens seconded. The Motion passed unanimously. Sheila Bowen moved that the Board return to public session at 4:55 p.m. Kit Mehrtens seconded. The Motion passed unanimously.

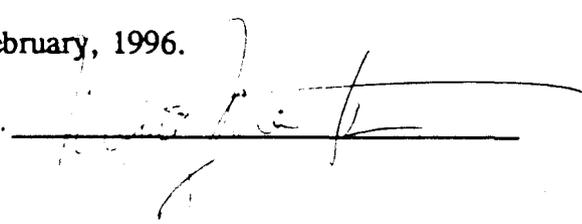
XIII. ESTABLISH DATE AND TIME OF NEXT BOARD MEETING

Thursday, February 22, 1996 at 12:00 p.m.

XIV. ADJOURNMENT

John Coleman moved to adjourn the meeting at 5:05 p.m. Karen Staudenmier seconded. **The Motion Passed unanimously.**

DATED this 5th day of February, 1996.



**BOARD OF RESPIRATORY CARE EXAMINERS
BOARD MEETING MINUTES**

Thursday, February 22, 1996 at 12:00 p.m.
2nd Floor Conference Room
1400 W. Washington, Phoenix AZ

Board Members Present: Chair Meryl Salit, Vice-Chair Kit Mehrtens, Sheilah Bowen, Mary Lynn Kelly, John Coleman, Gerald Schwartzberg, M.D., and Karen Staudenmier

Staff Present: Mary Hauf Martin, Executive Director
Dolores Doyle, Administrative Assistant

Board's Legal Counsel: Mike Harrison, Assistant Attorney General

I CALL TO ORDER

The Meeting was called to order at 12:10 p.m. by the Board's Vice Chair, Kit Mehrtens.

II APPROVAL OF MINUTES

John Coleman moved approval of the Minutes as presented. Mary Lynn Kelly seconded. The Motion passed unanimously.

III DISCUSSION/ACTION ON APPLICATIONS FOR LICENSURE

A. Recommended for approval by the Executive Director

John H. Brohard	Yvonne V. Burroughs	Kristie Butterfield
Beth Anne Cisco	Elizabeth Cloutier	Ernosito Del Rosario
Stephanie Graeter	Kathryn Hood	Jodene Hume Rowland
Steve Johnson	John T. McCarville	Debora J. Maxwell
Anthony McDonald	Terri Morfesy	Walter D. Ruth, Sr.
Richard Schoer	Doris Sharp	Clyde D. Sigmon
Barbara Smith	Johnny L. Smith	Tim D. Steinmetz
Erwin Toro		

Sheila Bowen moved approval of all the individuals listed on the Agenda and recommended by the Executive Director. Mary Lynn Kelly seconded the Motion. **The Motion passed unanimously.**

B. Application for Licensure

1. John Rauch

The Executive Director summarized Mr. Rauch' situation, stating that he had provided the necessary documents establishing that he is eligible for permanent licensure. Mr. Rauch was not present. After discussion, Mary Lynn Kelly moved that Mr. Rauch be granted a license. Sheila Bowen seconded. **The Motion passed unanimously.**

2. Rose Troia

The Executive Director summarized Ms. Troia's situation, stating that she had provided the necessary documents establishing that she is eligible for permanent licensure. Ms. Troia was not present. After discussion, John Coleman moved that Ms. Troia be granted a license. Sheila Bowen seconded. **The Motion passed unanimously.**

3. Nancy Wilcox

The Executive Director summarized Ms. Wilcox's situation, stating that she had provided the necessary documents establishing that she is eligible for permanent licensure. Ms. Wilcox was present and made a presentation to the Board. After discussion, John Coleman moved that Ms. Wilcox be granted a license. Sheila Bowen seconded. **The Motion passed unanimously.**

C. Request for an Extension to a Temporary License

1. John Rauch (if necessary) NO ACTION WAS NECESSARY

IV DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF APPLICATION FILES

Kimberly A. Brodeur	Susan Klement	Apryl D. Freeman-Rice
Candice L. Lockheart	Jane Senderhauf	Derrick Groves
John R. Jones	Julianna Phillips	

Sheila Bowen moved that the Board administratively close the application files of all the items on the agenda. Mary Lynn Kelly seconded. **The Motion passed unanimously.**

V DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF TWO YEAR INACTIVE FILES

The Executive Director stated that these were routine two year inactive license files.

Debbie Allyn	John Anaya	Risa Bell
Jim F. Durham	Michael J. Evans	Robert Faubion
Thomas Fields, Jr.	John R. Fleming	Roberto Guzman
Laura Hames-Wengert	David Hanrahan	Sharon D. Henry
Michelle Johnsen	Marlene Jones	Wendy A. Lucas
Gary Nichols	Rena O'Donnal	Lawrence Pavlica
Andrew Perez	Ann Reed	Laura Taylor-Fishbeck
Deanna Tsosie	Renee Tucker	Asima Wagner

Mary Lynn Kelly moved that the Board administratively close the two year inactive files of all the items on the agenda. Mary Lynn Kelly seconded. **The Motion passed unanimously.**

VI DISCUSSION/ACTION ON NOTICES OF LICENSE EXPIRATIONS

The Executive Director stated that these were routine license expirations.

James Abril	Deborah Adams	Dale Alexander
Al Alabado, Jr.	John Allison	Lynne Bell
Eva Berstein	Frank Berry	Jeffrey Bills
Larry Davis	Jon Farley	Marian Graves
Reynold Gilsdorf	Maryann Gaghagen	Gerry Greenfield
Megan Heemsoth	Howard Holz III	Dale Hostetler
Frank Keller	Karen Koenig	Tammy Lambrecht
Donald Libby	Karl B. Lynham	Cheryl L. Magallanes
Kirk Metzger	Joseph Nichols	Pete Pochiro
Nancy Pomeroy	Sue Stratton	Deborah Sumner
Duke Terwillegar	Stephanie Watkins	James Valiquette

Mary Lynn Kelly moved to approve these license expirations. Karen Staudenmier seconded. **The Motion passed unanimously.**

VII DISCUSSION/ACTION ON REINSTATEMENT OF EXPIRED LICENSES

The Executive Director reported that these were routine license reinstatements.

Michelle Angus
Gerald Greenfield

Susan Delich
Howard Holz III

Mary E. Edelman

Mary Lynn Kelly moved to ratify these reinstated licenses. Sheila Bowen seconded. **The Motion passed unanimously.**

VIII CONSIDERATION AND ACTION ON INVESTIGATIONS OF UNPROFESSIONAL CONDUCT

1. Kerry Adair (continued)

Mr. Adair was present. After discussion, Mary Lynn Kelly moved to accept the draft standard stipulated order. Sheila Bowen seconded. Mr. Adair presented his signed copy of the order and stated that he had read and agreed to sign the order. **The Motion passed unanimously** with John Coleman recusing himself from voting.

2. Rodney M. Flickinger (continued)

Mr. Flickinger was present.

At 12:50 p.m., for purposes of receiving legal advice, Sheila Bowen moved that the Board go into Executive Session. Karen Staudenmier seconded. **The Motion passed unanimously.** At 12:58 p.m., Mary Lynn Kelly moved that the Board return to public session. John Coleman seconded. **The Motion passed unanimously.**

After discussion, Mary Lynn Kelly moved to revise the draft modified stipulated order and offer it to Mr. Flickinger. Karen Staudenmier seconded. Mr. Flickinger informed the Board that he was willing to agree to the modified order. **The Motion passed unanimously.**

3. Bruce Ashworth

Mr. Ashworth was not present. The Executive Director explained that the allegation against Mr. Ashworth is that he worked without a valid license during a time period when his license lapsed (September 11, 1995 when his temporary license expired, through November 9, 1995 when the Board received his license fee.) The Board's office wrote to him on four (4) occasions asking him to confirm or deny the allegation. Finally, on February 13, 1996, Mr.

Ashworth called the office to say that he will not answer the questions in the letters. He stated that he is living and working in Salt Lake City; he left Phoenix last Spring and he will not be back. He stated in his phone message that he did not practice without a license. After discussion, Mary Lynn Kelly moved that the Board close its investigative file on Mr. Ashworth and that the Executive Director write him a letter to confirm what he said on the phone about not working without a valid license. Karen Staudenmier seconded. **The Motion passed unanimously.**

4. Pamela Daniels

Ms. Daniels was not present. The Executive Director explained that on November 15, 1995, the Board received a copy of the paperwork on Pamela Daniels for a positive drug screen submitted to the University Medical Center on November 1, 1995. The test was positive for Cannabinoids and was taken as a pre-employment drug screen with Immediate Respiratory Staffers. The Board's office wrote to Ms. Daniels on November 20, 1995 asking her to confirm or deny the allegation. She responded in a letter received by the Board on December 7, 1995. Ms. Daniels states that she submitted to a pre-employment urine drug screen on November 1, 1995 but that she had not received anything in writing as to the outcome of that screen. She states that she tested negative on a previous screen with IRS. After discussion, Mary Lynn Kelly moved that the Board invite Ms. Daniels to an informal interview hearing to consider the allegation of unprofessional conduct against her. Karen Staudenmier seconded. **The Motion passed unanimously** with John Coleman recusing himself from participation.

5. David Denyes

Mr. Denyes was present. The Executive Director explained that on his renewal application, received on May 11, 1995, Mr. Denyes informed the Board of a DUI conviction in early 1995. Since that time, Mr. Denyes has provided the Board with all the documentation the Board requested regarding his completion of an outpatient alcohol abuse program at Verde Valley Guidance Center in Cottonwood. In a letter received by the Board on January 24, 1996, Mr. Denyes admits that during the time period when his license lapsed (from his previous license expiration date of November 8, 1994 through when he applied again on May 10, 1995) to working for All-Med Equipment and Services and performing duties including "setting up oxygen and other home respiratory care equipment." After discussing the matter with Mr. Denyes, during which Mr. Denyes admitted that he had been practicing respiratory care without a valid license for 6 months, John Coleman moved that the Board offer Mr. Denyes a Stipulated Order which will require 6 additional approved CEU's for his biennial license renewal. Karen Staudenmier seconded. **The Motion passed unanimously.**

IX CONSIDERATION AND ACTION ON INFORMAL INTERVIEWS PURSUANT TO A.R.S. 32-3553(G)

1. Charles W. Oehler, Case No. 01199-95-070, 2:30 p.m. (continued)

Mr. Oehler was not present.

At 2:40 p.m., for purposes of receiving legal advice, Sheila Bowen moved that the Board go into Executive Session. Karen Staudenmier seconded. The Motion passed unanimously. At 2:47 p.m., Mary Lynn Kelly moved that the Board return to public session. Kit Mehrstens seconded. The Motion passed unanimously.

After discussion, Kit Mehrstens moved that the Board issue a Formal Complaint and Notice of Hearing to Mr. Oehler. Sheila Bowen seconded. **The Motion passed unanimously.**

X CONSIDERATION AND ACTION ON FORMAL COMPLAINT HEARINGS PURSUANT TO A.R.S. §32-3553(G)

1. Marvin Jerew, Case No. 03720-95-067, 1:30 p.m.

Mr. Jerew was not present. Legal counsel presented the case. The Board, at its October, 1995 meeting granted Mr. Jerew his permanent license. He was in attendance at the meeting. The Board discussed his background, including two arrests -- one for marijuana possession and one for domestic violence (when he got into a struggle with his teenage son while driving and had an accident). The Board determined that the convictions were misdemeanors. Mr. Jerew told the Board that his life was straightened out now. On October 11, 1995, we received a Laboratory Report (from Corning Clinical Labs) from Immediate Respiratory Services alleging that Mr. Jerew had tested positive for Cannabinoids (marijuana) on September 15, 1995. On October 12, 1995, we wrote a letter to Mr. Jerew asking him to respond to the allegation that he had tested positive for Cannabinoids. We asked him to respond within 10 days, but he did not. He never responded. Mr. Jerew did not attend the Board meetings for the original allegation of unprofessional conduct or his informal interview hearing, either. After discussion, Kit Mehrstens moved that the Board adopt the findings of facts and conclusions of law as outlined by legal counsel and set forth in the Formal Complaint and Notice of Hearing. Sheila Bowen seconded. **The Motion passed unanimously.** Karen Staudenmier moved that the Board revoke Mr. Jerew's license to practice respiratory care based on said findings of fact and conclusions of law. Kit Mehrstens seconded. **The Motion passed unanimously.**

2. Michael Hartman, Case No. 02877-95-005, 2:00 p.m.

Mr. Hartman was present. Legal Counsel presented the case. In September, Mr. Hartman was issued a Decree of Censure and Probationary Order pursuant to a Board decision made in March of 1995 -- for exceeding the scope of practice of an RCP. The terms of his

probation, which were spelled out in the Order, called for reports to the Board in October and December of 1995, with the last one due in March when his Order is due to expire. Mr. Hartman has never filed either of the two required reports. The Board's investigator has also determined that Mr. Hartman has failed to notify one of his employer of his Board ordered probation. In a telephone call to the Board's office, Mr. Hartman had stated that one of his employers has been writing reports. The Board's investigator determined that Mr. Hartman had failed to turn the reports in to the Board. After discussion, during which Mr. Hartman established that he believed his employer was submitting the required reports, and establishing that reports had been generated, Mary Lynn Kelly moved that the allegation against Mr. Hartman be dismissed. Kit Mehtens seconded. **The Motion passed unanimously.** After further discussion, during which Mr. Hartman demonstrated that reports had been prepared at his request by his new employer, Thunderbird Samaritan Hospital, John Coleman moved that the Board accept the reports from Thunderbird Samaritan Hospital as Mr. Hartman's final report to the Board, completing his probation. Mary Lynn Kelly seconded. **The Motion passed unanimously.**

XI CONSIDERATION AND ACTION ON REQUEST FOR REHEARING

1. Malcolm Val Phoenix, Case No. 01509-95-059, 4:00 p.m.

Mr. Phoenix was not present. Legal counsel presented the case. The Board received a letter from Malcolm Val Phoenix requesting reconsideration and rehearing of the Board's Order of Revocation. The Board's Order was issued on December 22, 1995, and mailed by certified mail with return receipt requested on the aforementioned date. The U.S. Mail return receipt received by the Board's Executive Director reflects that Mr. Phoenix signed for receipt of the Board's Order on January 2, 1996. Mr. Phoenix submitted his request for rehearing by letter which was received by the Board on January 10, 1996. Said letter fails to set forth any grounds, such as mistakes of law or fact, upon which to support his argument for rehearing. After discussion, John Coleman moved to deny Mr. Phoenix's request for a rehearing based on the findings of fact and conclusions of law presented by legal counsel. Kit Mehtens seconded. **The Motion passed unanimously.**

XII CONSIDERATION AND ACTION ON REQUEST FOR WAIVER OF CEU'S

1. Berna McDonald

Ms. McDonald was not present. The Executive Director reviewed Ms. McDonald's request and informed the Board that Ms. McDonald meets the criteria for requesting a waiver from completion of CEU's set forth in Board Rule 212(C)(1). After discussion, John Coleman moved to grant Ms. McDonald's request for a waiver of the CEU requirement for her current license renewal. Kit Mehtens seconded. **The Motion passed unanimously.**

XIII CONSIDERATION AND ACTION ON REQUEST FOR MODIFICATION OF PROBATION

1. Paul Bianco

Mr. Bianco was not present. The Executive Director reviewed Mr. Bianco's request. In January, 1995, Mr. Bianco stipulated to an Order for Probation and Rehabilitation. Mr. Bianco appeared before the Board in November. He is living in Georgia and has applied for licensure in that state. He states in his letter of request, received by the Board on January 24, 1996, that he is scheduled to go before the Georgia licensing Board but that he does not know whether his license will be granted "free and clear" or whether it will include probation. He also states that his Georgia application file is not complete because his last Arizona employer has not yet written the necessary letter for him. After discussion, Karen Staudenmier moved the Board offer an amended stipulation agreement to Mr. Bianco which will place a stay on the Arizona requirements while he is living in Georgia, and that since this is a stipulation, should Mr. Bianco refuse to agree to the modifications, the original stipulated order will remain in effect. Sheila Bowen seconded. The Motion passed 6-1 with Mary Lynn Kelly voting no.

XIV CALL TO THE PUBLIC

There was no public presentation to the Board.

XV DISCUSSION/ACTION ON EXECUTIVE DIRECTOR'S REPORT

A. Discussion and Action regarding legislative matters.

The Executive Director gave the Board an update on legislative matters.

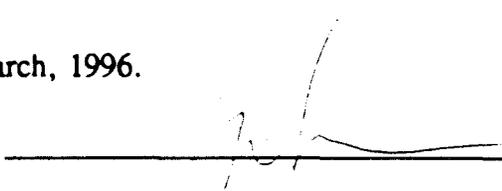
XVII ESTABLISH DATE AND TIME OF NEXT BOARD MEETING

Thursday, March 21, 1996 at 10:00 a.m.

XVIII ADJOURNMENT

John Coleman moved to adjourn the meeting at 4:02 p.m. Karen Staudenmier seconded. The Motion Passed unanimously.

DATED this 4th day of March, 1996.



**BOARD OF RESPIRATORY CARE EXAMINERS
BOARD MEETING MINUTES**

Thursday, March 21, 1996 at 10:00 a.m.
2nd Floor Conference Room
1400 W. Washington, Phoenix AZ

Board Members Present: Chair Meryl Salit, Vice-Chair Kit Mehrrens, Sheilah Bowen,
John Coleman, Gerald Schwartzberg, M.D., and
Karen Staudenmier

Board Members Absent: Mary Lynn Kelly

Staff Present: Mary Hauf Martin, Executive Director
Dolores Doyle, Administrative Assistant

Board's Legal Counsel: Mike Harrison, Assistant Attorney General

I. CALL TO ORDER

The Meeting was called to order at 10:12 a.m. by Chair Meryl Salit.

II. APPROVAL OF MINUTES

Kit Mehrrens moved approval of the Minutes as presented. Karen Staudenmier seconded.
The Motion passed unanimously.

III. DISCUSSION/ACTION ON APPLICATIONS FOR LICENSURE

A. Recommended for approval by the Executive Director

Shelly David Biletsky	Douglas A. Elliott	Tracy Jo Paulley
Janet L. Carter	James W. Ervin, Jr.	Joseph Schermick, Jr.
Denise M. Castricone	Ernest C. Esteban	Rebecca A. Valenzuela
James D. Cristaniello	Patricia A. Ferraro	Donn Webb
Michael P. Drabek	David W. King	
Sherry L. Bartley	Kimberly A. Brodeur	Kimberly D. Caldwell
Cristian E. Chera	Debra A. Zwier	

Karen Staudenmier moved approval of all the individuals listed on the Agenda and recommended by the Executive Director. Kit Mehrstens seconded the Motion. The Motion passed unanimously.

B. Application for Licensure

C. Request for an Extension to a Temporary License

IV. DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF APPLICATION FILES

The Executive Director recommended the following files to be closed:

Loren "Harlan" Green	Leighton Bartell
Jon R. Farley	Teresa M. Holt
Karen L. Peebles	Raid M. Rabadi
Richard Topey	Leo P. Wangen

Kit Mehrstens moved that the Board administratively close the application files of all the items on the agenda. Sheila Bowen seconded. The Motion passed unanimously.

V. DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF TWO YEAR INACTIVE FILES

The Executive Director stated that these were routine two year inactive license files.

Dorothy J. Blevins	Amy R. Boyd	Susan L. DeFabis
Lee Douglas	Robert W. Dunn	Victor A. Ince
Thomas R. Kolich	Joy A. Lynn Schroeder	Paula A. O'Connor

Mitchell A. Pederson Gwendolyne E. Rouse Ruth Williams

John Coleman moved that the Board administratively close the two year inactive files of all the items on the agenda. Sheila Bowen seconded. **The Motion passed unanimously.**

VI. DISCUSSION/ACTION ON NOTICES OF LICENSE EXPIRATIONS

The Executive Director stated that these were routine license expirations.

Brenda Blum	Nancy Butterick	Kieran Cox
Linda Doherty	Steven Eide	James Gamboa
Deanna Jeffries	Joseph Haskins	George Hay
Kim Hoffmeyer	Joanne Holliday	Shirley Hughes
Rickie Ishmael	Richard Mitchell	Tracy Mulvaney
Deborah Nutt	Marilyn Pena	Carol Record
Lorraine Vanover		

Karen Staudenmier moved to approve these license expirations. John Coleman seconded. **The Motion passed unanimously.** John Coleman moved that the Board open an investigation into case of Nancy Butterick. Karen Staudenmier seconded. **The Motion passed unanimously.**

VII. DISCUSSION/ACTION ON REINSTATEMENT OF EXPIRED LICENSES

The Executive Director reported that these were routine license reinstatements.

Megan L. Heemsoth John W. Hampton

John Coleman moved to ratify these reinstated licenses. Sheila Bowen seconded. **The Motion passed unanimously.**

VIII. CONSIDERATION AND ACTION ON INVESTIGATIONS OF UNPROFESSIONAL CONDUCT

1. Richard Luscher

Mr. Luscher was not present. The Executive Director explained that Mr. Luscher applied for licensure on June 8, 1994. He received a Temporary License on June 9, 1994 valid through February 9, 1995. The Board approved his permanent license on June 30, 1994. His permanent license became valid on July 5, 1994 when he remitted his licensure fee. He is currently the holder of License No. 03211 which is valid through October 1, 1996. On his license application to the Board, on question number 19 which asks "omitting minor traffic violations, have you ever been arrested or charged or

convicted of or pled no contest (nolo contendere) to any violation of any law of any state, the United States or a foreign country? THIS INCLUDES ALL MISDEMEANORS AND FELONIES, Mr. Luscher answered "no." On December 28, 1995, the Board received an allegation from Sun Health Corporation that Mr. Luscher pled guilty to a class 4 felony and was convicted in 1981 for criminal simulation. The allegation further stated that Mr. Luscher's rights had been restored in 1985. When Sun Health Corporation contacted Mr. Luscher regarding this information, he denied (to Sun Health) that this information was about him. When the Board staff investigated this allegation we subpoenaed information from the agency that did the background check for Sun Health, Arizona Investigations. In a letter to the Executive Director, Arizona Investigations stated that Mr. Luscher also has an outstanding felony warrant charging aggravated theft out of Medford, Oregon. After discussion, John Coleman moved that the Board issue a Formal Complaint and Notice of Hearing to Mr. Luscher. Kit Mehrstens seconded. **The Motion passed unanimously.**

2. Kevin J. Marquis

Mr. Marquis was present. The Executive Director explained that Mr. Marquis is the holder of license number 02343 issued on June 15, 1994 and valid through June 15, 1996. On December 27, 1995, the Board received a notice from Boswell Hospital that Mr. Marquis was terminated from his job for cause. Mr. Marquis was terminated for unacceptable job performance, sleeping on the job, and for the admitted use of Halothane on the job. Halothane is an anesthetic agent. The Board's investigator determined that Mr. Marquis had received several written reprimands. These reprimands were placed in his employee file. The documentation establishes poor job performance for the following reasons: not following departmental procedures; not answering pages; sleeping on the job; and admitted use of Halothane while on duty. The Board's investigator further determined that during the latter period of his employment, Mr. Marquis was tested for drugs, but no positive reports were found. The Board's investigator was told, by a representative of Sun Health, that Halothane does not appear on a standard drug screen. When Mr. Marquis was terminated, Sun Health advised him to contact a Dr. Mike Cofield at employee counseling because of his admitted drug use. After discussing the matter with Mr. Marquis, and determining that more information is needed, Mr. Marquis stated his willingness to work with the Board. Kit Mehrstens moved that the Board issue a Formal Complaint and Notice of Hearing to Mr. Marquis. Karen Staudenmier seconded. After discussion, Kit Mehrstens withdrew her motion and Karen Staudenmier withdrew her second. Karen Staudenmier moved that the Board invite Mr. Marquis to an Informal Interview Hearing. Kit Mehrstens seconded. **The Motion passed unanimously.** Sheila Bowen moved that the Board subpoena the policy or rule of Boswell hospital which would be pertinent to this case. Karen Staudenmier seconded. **The Motion passed unanimously.** After discussion, during which Mr. Marquis agreed to have a complete medical evaluation done and submit the results to the Board, Karen Staudenmier moved to place the Informal Interview Hearing with Mr. Marquis on the

agenda for the May 1996 Board meeting. Kit Mehrstens seconded. **The Motion passed unanimously.**

3. Franklin Miller

Mr. Miller was present. The Executive Director explained that Mr. Miller is the holder of license number 00706, valid through August 6, 1996. On January 8, 1996, the Board received a request to investigate this matter from the Arizona Department of Health Services, Emergency Medical Services. The allegation was instructed to be sent to the Board by Toni Brophy, M.D., Medical Director for Emergency Medical Services along with the results of E.M.S.'s preliminary investigation which found that their Office had no jurisdiction over any of the individuals involved. E.M.S. identified the respiratory technician on board as Frank Miller, CRTT. The allegation was also forwarded to the Arizona Board of Medical Examiners and the Board of Nursing. After discussion, Karen Staudenmier moved to open an investigation in this case to determine whether there was basis for an allegation against Mr. Miller. Kit Mehrstens seconded. **The Motion passed unanimously.** Dr. Schwartzberg moved to reopen this agenda item. Karen Staudenmier seconded. **The Motion passed unanimously.** After discussion, Dr. Schwartzberg moved to rescind the Board's prior vote to open an investigation. Kit Mehrstens seconded. **The Motion passed unanimously.** Dr. Schwartzberg moved to dismiss the allegation against Mr. Miller. Kit Mehrstens seconded. **The Motion passed unanimously.**

4. Robert E. Schrader

Mr. Schrader was present. The Executive Director explained that Mr. Schrader is the holder of license number 02449, valid through April 23, 1997. On December 7, 1995, the Board received a letter containing an allegation of unprofessional conduct against Mr. Schrader from Lynn Hill, the Human Resources Manager at Paradise Valley Hospital. The allegation involves an incident regarding Mr. Schrader which occurred on November 23, 1995. The incident was "inappropriate behavior in conjunction with the odor of alcohol." The letter states that Mr. Schrader was counseled on November 24, 1995 and given final warning against any reoccurrence. Mr. Schrader told the Board that due to illness, he had recently been hospitalized and unable to work. He presented the Board with a release from his doctor to return to work. He stated his willingness to work with the Board and enter into a Stipulation and Consent Order for Rehabilitation. After discussion, Kit Mehrstens moved that the Board offer Mr. Schrader a standard Stipulation and Consent Order for Rehabilitation. Sheila Bowen seconded. **The Motion passed unanimously.**

IX. CONSIDERATION AND ACTION ON INFORMAL INTERVIEWS PURSUANT TO A.R.S. 32-3553(G)

1. Pamela Daniels, Case No. 01685-95-075

Ms. Daniels was present. The Executive Director explained that on November 15, 1995, the Board received a copy of the paperwork on Pamela Daniels for a positive drug screen submitted to the University Medical Center on November 1, 1995. The test was positive for Cannabinoids and was taken as a pre-employment drug screen with Immediate Respiratory Staffers, and was subsequently verified by GCMS. The Board's office wrote to Ms. Daniels on November 20, 1995 asking her to confirm or deny the allegation. She responded in a letter received by the Board on December 7, 1995. Ms. Daniels states that she submitted to a pre-employment urine drug screen on November 1, 1995 but that she had not received anything in writing as to the outcome of that screen. She states that she tested negative on a previous screen with IRS. After discussion, during which the Executive Director informed the Board that it is IRS' policy to inform people regarding positive test results via the telephone, Kit Mehrtens moved that the Board offer Ms. Daniels a modified Stipulation and Consent Order for Rehabilitation. Karen Staudenmier seconded. **The Motion passed unanimously** with John Coleman recusing himself from participation.

2. Frank Mamone, Case No. 01460-95-074

Mr. Mamone was not present. Karen Staudenmier recused herself from the proceeding. The Executive Director explained that on November 2, 1995, the Board received a letter from Vencor Hospital stating that Mr. Mamone had been terminated, effective September 13, 1995. Discrepancies and potentially fraudulent charting were noted upon review of the charts of patients under Mr. Mamone's care. The Executive Director explained that at the January Board Meeting, Mr. Mamone appeared and discussed this matter with the Board. The Board voted to invite Mr. Mamone to this Informal Interview Hearing and to subpoena witnesses from Vencor Hospital. The Board staff issued subpoenas to Jennie Chahanovich and Danny (Mary Danielle) Brady. The Executive Director informed the Board that Mr. Mamone had stated that he has failed to acquire the requisite number of CEU's for his biennial license, and subsequently his license was due to expire on March 19, 1996. Legal counsel informed the Board that pursuant to A.R.S. §32-3202, In light of Mr. Mamone's absence, pursuant to A.R.S. §32-3553(G), Mr. Mamone's license is considered suspended, not expired, pending the final outcome of the Board's investigation. John Coleman moved that the Board issue Mr. Mamone a Formal Complaint and Notice of Hearing, and to add the allegation that he has not complied with the legal requirements of acquiring approved CEUs. Kit Mehrtens seconded. **The Motion passed unanimously.** Dr. Schwartzberg moved that the Executive Director write Mr. Mamone a letter informing him that his license is suspended, not expired, pursuant to Arizona law. Sheila Bowen seconded. **The Motion passed unanimously.**

3. Mary Condel, Case No. 02500-95-078

Ms. Condel was present. The Executive Director explained that the Board received Ms. Condel's biennial renewal application on October 24, 1995. On her application she states that she received a DUI and that it was resolved. She offered to provide documentation. In November of 1995 she accepted a certified letter from the Board's office requesting information regarding her biennial renewal application: copies of the court records of her DUI; documentation of any fines or penalties; certificates of completion for the alcohol awareness program she said she attended. No response was received. In December of 1995 she was sent a letter asking her to document her completion of CEUs. No response was received. Certified letters to Ms. Condel continued to be returned, unclaimed, to the Board's office. At the January Board meeting, the Board met to consider the allegation of unprofessional conduct against Ms. Condel. Ms. Condel did not appear. However, her supervisor at Phoenix Memorial Hospital, Mr. Howard Jones, appeared. Mr. Jones discussed the CEU classes that had been available for Ms. Condel to attend. On March 14, Ms. Condel provided the following documentation to the Board: court records establishing that her DUI was a misdemeanor and that she met all the terms the court imposed; and proof of 18 hours of approved CEUs. After discussion, during which Ms. Condel stated that at the time she submitted her biennial renewal application, she thought she had an adequate number of CEUs. She further stated that she has been having difficulties receiving her mail. She told the Board that she was willing to work with the Board and enter into a Stipulation and Consent Order to obtain both the CEUs she was missing from her previous licensure period, and additional CEUs in her next licensure renewal period. After discussion, Karen Staudenmier moved that the Board offer Ms. Condel a Stipulation and Consent Order without a finding of unprofessional conduct: Ms. Condel must acquire 2 approved CEUs in the next 6 months, and 5 additional CEUs for her next licensure renewal period (for a total of 25 for the next license renewal.) Kit Mehrstens seconded. **The Motion passed unanimously.**

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

1. Charles W. Oehler, Case No. 01199-95-070

Mr. Oehler was not present. Legal counsel presented the case. On October 17, 1995, the Board received an allegation of unprofessional conduct against Mr. Oehler from Valley Lutheran Hospital involving the use of alcohol, working under the influence of alcohol -- that on October 9, 1995 Mr. Oehler was acting in an unprofessional manner, using profanity and disrespect to a patient. When he was approached by a nurse, Mr. Oehler smelled of alcohol and was acting in an impaired manner. Mr. Oehler was then approached by a supervisory respiratory therapist and asked to take a blood alcohol test. Mr. Oehler refused to take such a test at that time and opted to leave the hospital instead.

At its January Board meeting, the Board took testimony from Mr. Oehler, Mr. Chuck Cox, and Mr. Sam Uesele. After discussion, Karen Staudenmier moved that the Board accept Findings of Fact and Conclusions of Law consistent with the Formal Complaint issued to Mr. Oehler. Kit Mehrstens seconded. **The Motion passed unanimously.** Dr. Schwartzberg moved that the Board revoke the license of Mr. Charles Oehler to practice respiratory care in Arizona. John Coleman seconded. **The Motion passed unanimously.**

XI. CONSIDERATION AND ACTION ON PRIOR BOARD ACTION

1. Brian Flinn, Case No. 00915-93-025

Mr. Flinn was not present. The Executive Director explained that in the course of reviewing cases in which the Board has taken action and asked Staff to periodically review the situation of a particular licensee, Staff reviewed the file of Mr. Brian Flinn. In reviewing the Minutes of the Board Meeting of March 16, 1995, it can be seen that the Board ordered Mr. Flinn's license be suspended for a minimum of one year, at which time, Mr. Flinn could request to have his license placed under a probationary period with rehabilitation provisions. So this Board meeting, being in March, would be when the one year period was up. Mr. Flinn was originally entered into a Stipulation and Consent Order for Probation and Rehabilitation with the Board on October 20, 1993. At last year's meeting in March, the Board was informed that Mr. Flinn had failed to comply with all the provisions of his Stipulated Order, hence the suspension. So, Mr. Flinn's license was suspended by the Board one year ago. However, Mr. Flinn did not seek to have his license renewed when it expired on January 2, 1996. After discussion, Karen Staudenmier moved that the Board issue an order, containing the findings of fact and conclusions of law adopted by the Board on March 16, 1995, along with a letter from the Executive Director to Mr. Flinn informing him that his license to practice respiratory care in Arizona has expired. Kit Mehrstens seconded. **The Motion passed unanimously.**

XII. CALL TO THE PUBLIC

Michael James of Arizona Home Health Care & Osco made a presentation to the Board and requested an interpretation of the statutes relating to respiratory care. For purposes of receiving legal advice, John Coleman moved that the Board go into Executive Session at 3:28 p.m. Karen Staudenmier seconded. **The Motion passed unanimously.** At 3:45 p.m., Kit Mehrstens moved that the Board return to public session. John Coleman seconded. **The Motion passed unanimously.**

The Board suggested to Mr. James that he put his questions to the Board in writing so that the Board can answer them in writing.

XIII. DISCUSSION/ACTION ON EXECUTIVE DIRECTOR'S REPORT

- A. Discussion and Action regarding legislative matters.

The Executive Director gave the Board an update on legislative matters.

- B. Discussion and Action on administration of Continuing Education Units requirements.

The Board discussed this item briefly. Staff informed the Board that questions have arisen recently. Since no one from the AzSRC could be there to discuss this item, the Executive Director stated this item will be placed on the agenda for the April Board meeting.

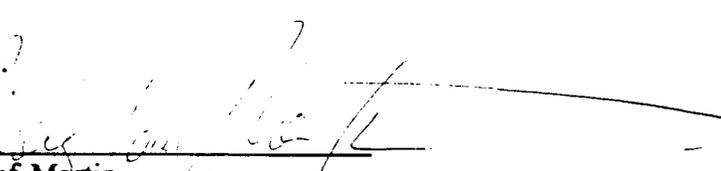
XVII. ESTABLISH DATE AND TIME OF NEXT BOARD MEETING

Thursday, April 25, 1996 at 12:00 p.m.

XVIII. ADJOURNMENT

Kit Mehrrens moved to adjourn the meeting at 3:55 p.m. John Coleman seconded. The Motion Passed unanimously.

DATED this 29th day of March, 1996.



Mary Hauf Martin,
Executive Director

**BOARD OF RESPIRATORY CARE EXAMINERS
BOARD MEETING MINUTES**

Thursday, April 25, 1996 at 12:00 p.m.
2nd Floor Conference Room
1400 W. Washington, Phoenix AZ

Board Members Present: Chair Meryl Salit, Mary Lynn Kelly, John Coleman, Gerald Schwartzberg, M.D., and Karen Staudenmier

Board Members Absent: Vice-Chair Kit Mehrrens and Sheilah Bowen

Staff Present: Mary Hauf Martin, Executive Director
Dolores Doyle, Administrative Assistant

Board's Legal Counsel: Mike Harrison, Assistant Attorney General

I CALL TO ORDER

The Meeting was called to order at 12:20 p.m. by Board Chair, Meryl Salit.

II APPROVAL OF MINUTES

John Coleman moved approval of the Minutes as presented. Karen Staudenmier seconded. **The Motion passed unanimously.**

III DISCUSSION/ACTION ON APPLICATIONS FOR LICENSURE

A. Recommended for approval by the Executive Director

Steven C. Anderson	Jeremy R. Beem	Mona L. Bencomo
Cynthia K. Bersten	Jane M. Case	Joseph Chandy
Salvador Q. Chavira	Arlene J. Claudio	Marguerite Conoway
Benajamin F. Davila	Julie C. Denman	Julie M. Embriano
Douglas G. Farrow	Deborah J. Gaynor	Matt F. Gourdoux
Lana M. Hinn	Clay W. Hohs	John Robert Jones
David P. Karlik	Kerry A. Kennow	Alison P. Keeler
Dana E. Kochheiser	Tristan D. Laubhan	Donna L. Lavendoski
Emmanuel B. Leones	Luis A. Martin	Catherine M. Martin
Ronald P. Martin	Debbie A. Mathis	Reyanne Melton
Darian Morse	Freida J. Muir	Julie A. Olson
Susan Origas	Kevin Lee Patrick	Fred A. Perkes
Lisa F. Roma	Cynthia S. Schmidt	George D. Skettras
Julie A. Swiecinski	Terrie L. Towe	Alexander B. VanDenKolk
Jasmine Vidal	Kevin E. Yake	

Mary Lynn Kelly moved approval of all the individuals listed on the Agenda and recommended by the Executive Director. Karen Staudenmier seconded the Motion. **The Motion passed unanimously.**

B. Application for Licensure

1. Mark S. Goldstone

The Executive Director summarized Mr. Goldstone's situation and history, stating that he needed to provide court documents establishing that he is eligible for permanent licensure. Mr. Goldstone was not present. After discussion, Karen Staudenmier moved to table this item until further investigation can be done regarding Mr. Goldstone's application. John Coleman seconded. **The Motion passed unanimously.**

2. Michael F. Kach

The Executive Director summarized Mr. Kach's situation, stating that he had provided the necessary documents establishing that he is eligible for permanent licensure. Mr. Kach was not present. After discussion, Karen Staudemier moved that Mr. Kach be granted a license. Mary Lynn Kelly seconded. **The Motion passed unanimously.**

3. Frank Trevino III

The Executive Director summarized Mr. Trevino's situation, stating that he had provided the necessary documents establishing that he is eligible for permanent licensure. Mr. Trevino was present and discussed the matter with the Board. After discussion, Mary Lynn Kelly moved that Mr. Trevino be granted a license. Karen Staudenmier seconded. **The Motion passed unanimously.**

C. Request for an Extension to a Temporary License

IV DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF APPLICATION FILES

Marsha J. Taylor Chester L. Brock George R. Hay

Mary Lynn Kelly moved that the Board administratively close the application files of all the items on the agenda. Karen Staudenmier seconded. **The Motion passed unanimously.**

V DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF TWO YEAR INACTIVE FILES

The Executive Director stated that these were routine two year inactive license files.

Lisa Bradsley Renee Donovan Larry Fala
Joseph Foucault Mark Garcia Robert Gates
Kimberly Graves Kimberly Kape Georgine Keeling
John Keller Shanna Ledbetter Joyce McMahan
Robert Musa Brian Smith John Snyder

Mary Lynn Kelly moved that the Board administratively close the two year inactive files of all the items on the agenda. Karen Staudenmier seconded. **The Motion passed unanimously.**

VI DISCUSSION/ACTION ON NOTICES OF LICENSE EXPIRATIONS

The Executive Director stated that these were routine license expirations.

Denise Azubu Rosemary Ballard Julie Carrillo
Roxanne Curley Dorothy Farnsworth Katherine Keeley
Melinda Kistler Jane Marion Jeffrey McCoy
Lynette Montgomery Melissa Petropoulos Lee Onufer
Anthony Voyles Keiko Wheadon David Willprecht
Sharron Wolfe Jill Zeigler

Mary Lynn Kelly moved to approve these license expirations. Karen Staudenmier seconded. **The Motion passed unanimously.**

VII DISCUSSION/ACTION ON REINSTATEMENT OF EXPIRED LICENSES

The Executive Director reported that these were routine license reinstatements.

Kim P. Hoffmeyer

Marilyn Pena

Marion Ford

Mary Lynn Kelly moved to ratify these reinstated licenses. Karen Staudenmier seconded. **The Motion passed unanimously.**

VIII CONSIDERATION AND ACTION ON INVESTIGATIONS OF UNPROFESSIONAL CONDUCT

1. Gregory Callender (2 allegations)

Mr. Callender was not present. The Executive Director reviewed the allegations of unprofessional conduct against Mr. Callender which were that he has been a habitual no call, no show for two (2) employers. After discussion, Karen Staudenmier moved to offer Mr. Callender a stipulated order requiring him to report for scheduled jobs and shifts, and that if Mr. Callender did not sign and return the stipulated order in 10 days, that the Board move to a formal disciplinary hearing on the allegations. John Coleman seconded. **The Motion passed unanimously.**

2. Georgia Campbell

Ms. Campbell was present and accompanied by her attorney. The Executive Director reviewed the allegation of possible unprofessional conduct against Ms. Campbell and Ms. Campbell stated that she was willing to work with the Board. After discussion, John Coleman moved to offer Ms. Campbell a standard stipulated order for rehabilitation which will also require her compliance with the agreement she is under with her employer. Karen Staudenmier seconded. **The motion passed unanimously.**

3. Robert Castro

Mr. Castro was present. The Executive Director reviewed the allegation of possible unprofessional conduct against Mr. Castro. After discussion, Mary Lynn Kelly moved to offer Mr. Castro a stipulated order for rehabilitation. The motion failed for lack of a second. After further discussion, Karen Staudenmier moved to dismiss the allegation against Mr. Castro with a Letter of Concern. John Coleman seconded. **The motion passed with Mary Lynn Kelly voting no.**

4. Rebecca Joye Dupre

Ms. Dupre was not present. The Executive Director reviewed the allegation of possible unprofessional conduct against Ms. Dupre, which was that she worked as a respiratory care practitioner without a valid license. After discussion, Karen Staudemier moved to place Ms. Dupre's application for permanent licensure on the agenda of the next Board meeting and to also invite her to an informal interview hearing at that time. John Coleman seconded. **The motion passed unanimously.**

5. John T. Fastnacht

Mr. Fastnacht was present. The Executive Director reviewed the allegation of possible unprofessional conduct against him, and Mr. Fastnacht stated that he was willing to work with the Board. After discussion, John Coleman moved to offer Mr. Fastnacht a modified stipulated rehabilitation order for 3 years, with a provision that Mr. Fastnacht can ask to have the probation lifted after one (1) year. Dr. Schwartzberg seconded. **The motion passed unanimously.**

6. Chris Grattenthaler

6.(A) Marilyn Pena

Mr. Grattenthaler was present and accompanied by Ms. Brenda Quihuis. The Executive Director reviewed the allegation of possible unprofessional conduct against Mr. Grattenthaler and informed the Board that while Marilyn Pena has been invited to accompany Mr. Grattenthaler as his supervisor, Ms. Pena had resigned from that position and Ms. Quihuis was attending as a representative of Mr. Grattenthaler's employer. During the discussion of the original allegation, during which Mr. Grattenthaler admitted that he had worked as an RCP without a valid license during the time period he allowed his license to expire, Mr. Grattenthaler was asked by Chair Meryl Salit whether he had worked as an RCP on a Temporary License without the direct supervision of a licensed physician or a licensed RCP, and Mr. Grattenthaler responded that he had.

At 4:25 p.m., for purposes of receiving legal advice, Karen Staudemier moved that the Board go into Executive Session. John Coleman seconded. The Motion passed unanimously. At 4:35 p.m., John Coleman moved that the Board return to public session. Karen Staudemier seconded. The Motion passed unanimously.

After further discussion, Karen Staudemier moved to invite Mr. Grattenthaler and Ms. Marilyn Pena to an informal interview hearing to discuss two issues. First, Mr. Grattenthaler's working without a valid license. Secondly, Mr. Grattenthaler's working on a Temporary License without the direct supervision of a licensed physician or RCP, and Ms. Pena's allowing him, and possibly others, to do so. Dr. Schwartzberg seconded. **The motion passed unanimously.** After further discussion, Karen Staudemier moved to have the Executive Director issue subpoenas for appearance at the informal hearing to James Lankford, Carolyn DeBlasia and

Brenda Quihuis. John Coleman seconded. **The motion passed unanimously.**

7. Mark Largesse

Mr. Largesse was present. The Executive Director reviewed the allegation of unprofessional conduct against Mr. Largesse, which was that he had failed to acquire the CEUs necessary for the biennial renewal of his license and that he had misrepresented the fact on his renewal application by answering "yes" to the question which asks if an individual has acquired the necessary CEUs. During the discussion, during which Mr. Largesse admitted that he had not acquired his CEUs and that he had misrepresented that fact to the Board, Mr. Largesse further admitted that he worked for a short period of time on an invalid license before his employer discovered that he did not meet the requirements for license renewal and that during his license renewal period he had been enrolled in a substance abuse rehabilitation program and had misrepresented that fact to the Board on his renewal application as well. After further discussion, Karen Staudenmier moved to invite Mr. Largesse to an informal interview on the issues of working without a valid license (from the date his license was due for renewal and the date it was discovered that he did not meet the requirements for renewal,) not acquiring the necessary CEUs for license renewal, and misrepresenting to the Board that he had acquired the necessary CEUs and whether he had been enrolled in a substance abuse rehabilitation program. Ms. Staudenmier further moved for staff to conduct a more detailed investigation regarding Mr. Largesse's situation before the commencement of the informal interview. John Coleman seconded. **The motion passed unanimously.**

8. Brian Pasqua

Mr. Pasqua was present, he was accompanied by his supervisor, Mr. Mike Gammie. The Executive Director reviewed the allegation of possible unprofessional conduct against Mr. Pasqua which was that he had allowed persons with Temporary Licenses to work without the direct supervision of a licensed physician or RCP. Mr. Pasqua admitted that on one occasion he had allowed 2 persons with Temporary Licenses to work unsupervised, but that one of them had "CRTT" on her name badge and he mistakenly believed that she was a licensed RCP. Mr. Pasqua stated that he had not, and would not, knowingly allow persons with Temporary Licenses to work unsupervised. He added that his own investigation into this matter revealed that one person holding a Temporary License had misrepresented herself as CRTT certified when she had not, in fact, passed the examination. Both Mr. Pasqua and Mr. Gammie stated that they have changed their operating procedures to ensure that no repeat of the situation could reoccur. After discussion, Karen Staudenmier moved to invite Mr. Pasqua to an informal interview hearing and for the Executive Director to subpoena labor logs, billing records and personnel information before the commencement of the informal interview at the June Board Meeting. John Coleman seconded. **The motion passed unanimously.** Dr. Schwartzberg moved to subpoena Mr. Gammie, Ms. Jo Jo Goldstone and Ms. Michelle Shipp (who held Temporary Licenses during the time period in question) to appear at the informal interview and to instruct them to be prepared to discuss the allegation that Ms. Goldstone and Ms. Shipp had worked

without direct supervision while holding Temporary Licenses. Karen Staudenmier seconded. **The motion passed unanimously.**

9. Darlene Sorenson

Ms. Sorenson was present. The Executive Director reviewed the allegation of possible unprofessional conduct against Ms. Sorenson which was that she was terminated from a hospital for billing a temporary help respiratory care agency for hours that she had not actually worked, thereby causing the hospital to pay the agency, who in turn paid Ms. Sorenson, for a substantial number of false hours. During the discussion, during which Ms. Sorenson admitted having falsely billed the hospital to cover personal expenses, Ms. Sorenson said she was sorry for what she had done and she stated that the only hours for which she submitted false billing requests were for herself, and that she was having medical difficulties during the time period when this occurred. Also, during the discussion it was determined that the agency that Ms. Sorenson submitted bills for was PRCS. After further discussion, Dr. Schwartzberg moved to invite Ms. Sorenson to an informal interview hearing. Karen Staudenmier seconded. **The motion passed unanimously.** Dr. Schwartzberg moved to subpoena Doug Matthews to appear at the informal interview and to inform him to bring all relevant documentation regarding the situation with Ms. Sorenson. Karen Staudenmier seconded. **The motion passed unanimously.**

10. Jessica Spencer

Ms. Spencer was not present. The Executive Director reviewed the allegations against Ms. Spencer which were that she worked for 5 months without a valid license to practice respiratory care and that she had failed to provide adequate documentation regarding a court matter which was reported on her biennial renewal application. After discussion, John Coleman moved to issue Ms. Spencer a Complaint and Notice of Hearing for a formal disciplinary hearing. Dr. Schwartzberg seconded. **The motion passed unanimously.**

IX CONSIDERATION AND ACTION ON INFORMAL INTERVIEWS PURSUANT TO A.R.S. 32-3553(G)

X CONSIDERATION AND ACTION ON FORMAL COMPLAINT HEARINGS PURSUANT TO A.R.S. §32-3553(G)

1. Frank Mamone, Case No. 01460-95-074, 1:00 p.m.

The Respondent, Mr. Mamone, was present. The hearing commenced at 1:20 p.m. Board Member Karen Staudenmier recused herself from this proceeding. The Chair tabled discussion of the matter.

At 2:10 p.m., the Board resumed the hearing. Legal counsel presented the case. The Board took testimony from its Executive Director, Ms. Jen Chahanovich, Ms. Karen Staudenmier, Ms. Dani Brady and the Respondent.

After discussion, Dr. Schwartzberg moved that the Board adopt the Findings of Fact contained in the Complaint and Notice of Hearing in this matter found at Paragraphs I through IV, 4. Mary Lynn Kelly seconded. **The motion passed unanimously.** Dr. Schwartzberg moved that the Board adopt the Conclusions of Law as set forth in the Complaint and Notice of Hearing, finding the information sufficient to issue a Decree of Censure and to fix a period and terms of probation for unprofessional conduct as defined in A.R.S. §32-3501(10)(d): repeated incompetence, and A.R.S. §32-3501(10)(i): any conduct or practice which is contrary to recognized standards of ethics of the respiratory therapy profession or any conduct which does or might constitute a danger to the health, welfare or safety of the patient or the public. Mary Lynn Kelly seconded. **The motion passed unanimously.** Dr. Schwartzberg moved that the Board issue to Mr. Mamone a Decree of Censure and fix a period a terms of probation not to exceed 3 years, to require quarterly reports on his progress, and for him to inform his employer of the probation. Mary Lynn Kelly seconded. **The motion passed unanimously.**

2. Richard F. Luscher, Case No. 03211-95-082, 1:30 p.m.

Mr. Luscher was not present. The hearing commenced at 1:30. The Chair tabled consideration of the motion until 1:45 p.m. at which time the hearing resumed. Legal counsel presented the case. The Board took testimony from its Executive Director. John Coleman moved that the Board adopt the Findings of Fact as set forth by the Complaint and Notice of Hearing in this matter contained in paragraph I, page 2, line 4, through paragraph IV, page 3, line 19. Karen Staudenmier seconded. **The motion passed unanimously.** Karen Staudenmier moved to adopt the Conclusions of Law as set forth in the Complaint and Notice of hearing in paragraph VI, page 4, finding the information sufficient to revoke a license as defined in A.R.S. §32-3552(A)(1): fraud in procuring a license, in conjunction with A.R.S. §32-3501(10)(a): committing a felony. John Coleman seconded. **The motion passed unanimously.** John Coleman moved to revoke the license to practice respiratory care in Arizona of Richard F. Luscher. Karen Staudenmier seconded. **The motion passed unanimously.**

XI CONSIDERATION AND ACTION ON REQUEST FOR WAIVER OF CEU'S

1. Chantel Davis

Ms. Davis was not present. The Executive Director reviewed Ms. Davis' request and informed the Board that Ms. Davis has not worked since 1994 and has acquired no CEUs. After discussion, John Coleman moved to deny Ms. Davis' request for a waiver of the CEU requirement. Dr. Schwartzberg seconded. **The Motion passed unanimously.**

XII CONSIDERATION AND ACTION ON PROPOSED RULES

1. Ratify termination of old Rules package.

After discussion, Karen Staudenmier moved to ratify termination of the old rules package. John Coleman seconded. **The motion passed unanimously.**

2. Adoption of new Administrative Rules package.

The Executive Director informed the Board that the date for receiving public input on the proposed rules needed to be changed to the June Board meeting. Meryl Salit moved to amend the proposed rules in the following manner:

On page 8, line 11, strike the words "Other places" and insert "Pharmacological, diagnostic and therapeutic agents"

John Coleman seconded. **The motion passed unanimously.** Meryl Salit moved to amend the proposed rules in the following manner:

On Page 12, line 14, strike "request" and insert "requests"; and
On Page 23, line 17, strike "included" and insert "include"

John Coleman seconded. **The motion passed unanimously.** Karen Staudenmier moved the Board adopt the Proposed Rules as Amended. John Coleman seconded. **The motion passed unanimously.**

XIII CALL TO THE PUBLIC

There was no public presentation to the Board.

XIV DISCUSSION/ACTION ON EXECUTIVE DIRECTOR'S REPORT

- A. Discussion and Action regarding legislative matters.

The Executive Director gave the Board an update on legislative matters.

- B. Discussion and Action on administration of Continuing Education Units Requirements.

The Executive Director gave the Board an update and the Board discussed having staff work with representatives of the AzSRC on this issue.

- C. Update on staff activities, including an update on the budget.

The Executive Director gave the Board an update.

- D. Discussion and Action on proposed contract with the NBRC National Disciplinary Data Base

The Executive Director reported that legal counsel has requested more time to review the proposed contract.

XV EXECUTIVE SESSION

XVI ESTABLISH DATE AND TIME OF NEXT BOARD MEETING

Thursday, May 30, 1996 at 12:00 p.m.

Thursday, June 27, 1996 at 12:00 p.m.

XVII ADJOURNMENT

Karen Staudenmier moved to adjourn the meeting at 6:20 p.m. John Coleman seconded.
The Motion Passed unanimously.

DATED this 16th day of May, 1996.



**BOARD OF RESPIRATORY CARE EXAMINERS
BOARD MEETING MINUTES**

Thursday, May 30, 1996 at 12:00 p.m.
2nd Floor Conference Room
1400 W. Washington, Phoenix AZ

Board Members Present: Chair Meryl Salit, Vice-Chair Kit Mehrrens, Sheilah Bowen, John Coleman and Gerald Schwartzberg, M.D.

Board Members Absent: Mary Lynn Kelly and Karen Staudenmier

Staff Present: Mary Hauf Martin, Executive Director
Dolores Doyle, Administrative Assistant

Board's Legal Counsel: Mike Harrison, Assistant Attorney General

I CALL TO ORDER

The Meeting was called to order at 12:10 p.m. by Board Chair, Meryl Salit.

II APPROVAL OF MINUTES

John Coleman moved approval of the Minutes as presented. Sheila Bowen seconded.
The Motion passed unanimously.

III DISCUSSION/ACTION ON APPLICATIONS FOR LICENSURE

A. Recommended for approval by the Executive Director

Sara G. Bode	Leslie D. Boulais	Mark L. Colburn
Andrew M. Foster	Sara C. Garrison	Carol J. Hannibal
Christopher B. Harkness	Gisela Huerta	Mary Ann Hummel
Mitchell E. Levy	Joe G. McElyea	Sawntel A. Peirson
Rita M. Reichelt	Daniel L. Salcido	Michele L. Shipp
John M. Sisson	Donna M. Ullmer	

The Executive Director informed the Board that it may want to consider postponing its decision on the license application of Michele Shipp until the next Board meeting. Sheila Bowen moved that the Board table its decision on the license application of Michele L. Shipp. Kit Mehrtens seconded. **The Motion passed unanimously.** Sheila moved approval of all the other individuals listed on the Agenda and recommended by the Executive Director. Kit Mehrtens seconded the Motion. **The Motion passed unanimously.**

B. Application for Licensure

1. Susan E. Rich

Ms. Rich was present and accompanied by Mr. Tim Stalcup, her supervisor. The Executive Director summarized Ms. Rich's situation and history, stating that she and Mr. Stalcup had provided information to the Board demonstrating that Ms. Rich had practiced respiratory care without a valid license during a time period when her license expired. After a discussion with Ms. Rich, during which she agreed to sign a stipulated order regarding her working without a valid license, John Coleman moved to grant Ms. Rich a license **only and on the condition** that she first sign a stipulated disciplinary order stating that she had practiced respiratory care on an expired license. Kit Mehrtens seconded. **The Motion passed unanimously.**

2. Rebecca Joye Dupre *

Ms. Dupre was not present. This matter was first tabled, and then consolidated into the informal interview hearing conducted at 2:30 p.m. After discussion, John Coleman moved to deny Ms. Dupre's license application due to her practicing respiratory care in Arizona without a valid license which is a violation of Arizona law. Kit Mehrtens seconded. **The Motion passed unanimously.**

3. Kelli Stewart

Ms. Stewart was present. The Executive Director summarized Ms. Stewart's situation,

stating that she had provided the necessary documents establishing that she is eligible for permanent licensure. After discussion, John Coleman moved that Ms. Stewart be granted a license. Kit Mehrstens seconded. **The Motion passed unanimously.**

C. Request for an Extension to a Temporary License

1. Patricia Schiaveto

Ms. Schiaveto was not present. The Executive Director summarized Ms. Schiaveto's request. Ms. Schiaveto's temporary license is due to expire on June 12, 1996. On May 20, 1996 Ms. Schiaveto requested an extension to her temporary license. Ms. Schiaveto has not taken the NBRC CRTT examination, neither is she scheduled to take it in July. She states that she is planning to take the exam in November. It is Staff's understanding that the NBRC will not allow persons to apply to take the November exam until July 1. At one time, she had a license in California, originally issued in 1985 and valid through 1991, that she received through that State's Grandfathering provisions. The Executive Director stated that when, and if, she takes and passes the CRTT, she can apply for a permanent license. Kit Mehrstens moved to deny Ms. Schiaveto's request for an extension to a Temporary License. Sheila Bowen seconded. **The Motion passed unanimously.**

2. Marvin Richardson

Mr. Richardson was not present. The Executive Director summarized Mr. Richardson's request. Mr. Richardson's Temporary License expired on May 11, 1996. On his application form, Mr. Richardson states that he applied to take the CRTT exam again, but provided no documentation to support his statement. Kit Mehrstens moved to deny Mr. Richardson's request for an extension to a Temporary License. Sheila Bowen seconded. **The Motion passed unanimously.**

IV DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF APPLICATION FILES

Tricia M. Armendariz	Christine L. Brown	Jeremy W. Copeland
Linda M. Newlin	Angelina M. Trimble	

Kit Mehrstens moved that the Board administratively close the application files of all the items on the agenda. Sheila Bowen seconded. **The Motion passed unanimously.**

V DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF TWO YEAR INACTIVE FILES

The Executive Director stated that these were routine two year inactive license files.

Thomas G. Burns	Bryan W. Crump	Rohn W. Dixon
Robert W. Fisher	Emily F. Grow	Andrea P. Ingersoll
Gary E. Kaufmann	Louise M. Monday	Sigrid A. Olesniewicz
Paul L. Reishus	Barbara J. Schlosser	Daniel J. Smith
Colleen L. Southey	Steven E. Van Patten	Elaine M. Wessel
Billie R. Wilson		

Kit Mehrstens moved that the Board administratively close the two year inactive files of all the items on the agenda. Sheila Bowen seconded. **The Motion passed unanimously.**

VI DISCUSSION/ACTION ON NOTICES OF LICENSE EXPIRATIONS

The Executive Director stated that these were routine license expirations.

Jose Alcala	Jamie Bell	David Bruce
Thomas Black	Shirley Brush	Sherri Buchman
Dawn Canada	Gary Cox	Dennis Croteau
Catherine Demeritt	Louis Ellender	Chris Farmer
Bryan Faith	Terissa Franco	Dawn Gensler
Joan Gustafson	Michael Lewis	Candice McReynolds
Erlinda Miller	Richard Morrison	Wallace Needles
Calvin Rabon	Ernest Route	Sue Sellars
John Smith	Rebecca Stallings	Josef Stchnij
Michael Steele	Sylvia Steward	Sandra Stokes
Joseph Talerico	Mary Thomas	

John Coleman moved to approve these license expirations. Kit Mehrstens seconded. **The Motion passed unanimously.**

VII DISCUSSION/ACTION ON REINSTATEMENT OF EXPIRED LICENSES

The Executive Director reported that these were routine license reinstatements.

Jeffrey McCoy	Jeffrey Paxton	Karl B. Lynham
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Sheila Bowen moved to ratify these reinstated licenses. Kit Mehrstens seconded. **The Motion passed unanimously.**

VIII CONSIDERATION AND ACTION ON INVESTIGATIONS OF UNPROFESSIONAL CONDUCT

1. Julie Evans Barba

Ms. Barba was not present. The Executive Director summarized the allegation of unprofessional conduct against Ms. Barba. Ms. Barba is the holder of license no. 00824, renewed on December 27, 1995 and currently valid through December 12, 1997. The allegation was that a hospital's pre-employment background check revealed information that was cause for her not to be employed by said hospital. This information, if accurate, could have been grounds for denial of Ms. Barba's license and/or disciplinary action. Board staff reviewed Ms. Evans Barba's application for licensure and discovered that she had not disclosed this information to the Board either. After discussion, during which the Executive Director read a statement from Ms. Barba to the Board stating she was unaware of the information, Sheila Bowen moved to invite Ms. Julie Evans Barba to an informal interview hearing and for staff to investigate the allegation in order to confirm or deny the allegation. Kit Mehtens seconded. The Motion passed unanimously.

2. Robin Jacobus Cypress

Richard Kruszewski, Supervisor

Luann Ahumada, Supervisor

Ms. Jacobus Cypress and Mr. Kruszewski were present. The Executive Director summarized the allegation of unprofessional conduct. Ms. Jacobus Cypress held a Temporary license from February 9, 1993 until October 9, 1993. She has never held a permanent Respiratory Care Practitioner's license. On December 23, 1993, Ms. Cypress was sent a letter stating that the Board had administratively closed her file. A review of Ms. Cypress's file shows that she was sent a letter on December 21, 1994 informing her that an allegation had been made that she was practicing respiratory care without a valid license. On January 12, 1996, the Board received an allegation of unprofessional conduct against Ms. Cypress. The allegation was that she was practicing respiratory therapy without a license at Carondelet Holy Cross Hospital. On March 26, 1996, the Board received a business card from a company called American Medical Plaza for Robin Jacobus, R.C.P., along with an allegation that she is working for that company as an RCP without a valid license, and another allegation that she is working for Carondelet Holy Cross Hospital without a valid license. The Executive Director stated that it was Board Staff's understanding that Mr. Kruszewski is no longer employed in Nogales, and that Ms. Luann Ahumada is now Ms. Jacobus Cypress' supervisor. Board staff invited Lynn Miller to attend the informal interview in addition to Ms. Jacobus Cypress, Mr. Kruszewski and Ms. Ahumada. Lynn Miller was not present.

At 1:20 p.m., for purposes of receiving legal advice, Sheila Bowen moved that the Board go into Executive Session. Kit Mehtens seconded. The Motion passed unanimously. At 1:35 p.m., John Coleman moved that the Board return to public session. Kit Mehtens seconded. The

Motion passed unanimously.

After discussion, John Coleman moved to dismiss the allegation of unprofessional conduct against Ms. Jacobus Cypress. Kit Mehrstens seconded. The motion passed. After further discussion, John Coleman moved to open an investigation into the allegation that American Medical Plaza is employing unlicensed personnel to perform functions which require a valid respiratory care practitioner's license, and into the allegation that licensed personnel are allowing unlicensed personnel to practice respiratory care. Sheila Bowen seconded. The Motion passed.

3. Sally Pelton-Beicht

Ms. Pelton-Beicht was present. The Executive Director summarized the allegation of unprofessional conduct. Ms. Pelton-Beicht is the holder of a Temporary License issued on December 27, 1995 currently valid through August 27, 1996. On February 12, 1996, the Board received an allegation of unprofessional conduct against Ms. Pelton-Beicht, that she was a no show, no call, on several occasions. The allegation included a memo detailing two of the alleged incidents. Ms. Pelton-Beicht had responded to the allegation in a letter received on March 1, 1996. She denies accepting either assignment and states she was working at Phoenix Baptist Hospital on both occasions. After discussion, Kit Mehrstens moved to table discussion of this matter until a subsequent Board meeting and for Board staff to investigate the alleged incident by issuing subpoena's to Phoenix Baptist Hospital. John Coleman seconded. The motion passed unanimously.

IX CONSIDERATION AND ACTION ON INFORMAL INTERVIEWS PURSUANT TO A.R.S. 32-3553(G)

1. Mark Largesse, Case No. 01066-96-029

Mr. Largesse was present. The Executive Director reviewed the allegations of unprofessional conduct against Mr. Largesse, which were that he had failed to acquire the CEUs necessary for the biennial renewal of his license and that he had misrepresented the fact on his renewal application; that he had been enrolled in a substance abuse rehabilitation program and had misrepresented that fact to the Board on his renewal application; and that he may have practiced respiratory care on an expired license. During the discussion, Mr. Largesse admitted the falsification of his biennial renewal application; he provided documentation of his completion of 21.5 approved continuing education units and his completion of a substance abuse program at the Salvation Army Adult Rehabilitation Center; and denied working on an expired license. After discussion, John Coleman moved: to issue to Mr. Mark Largesse a Decree of Censure for falsifying his biennial renewal application; to offer Mr. Mark Largesse a Stipulated Order for Rehabilitation with TASC as his sponsor; and for Board Staff to prepare a draft document reflecting these matters for the Board to consider at its next meeting. Kit Mehrstens seconded. The motion passed unanimously.

2. Chris Grattenthaler, Case No. 03559-96-007
Marilyn Pena, Case No. 01536-96-028

Mr. Grattenthaler and Ms. Pena were present. The Executive Director reviewed the allegations of possible unprofessional conduct against Mr. Grattenthaler and Ms. Pena. The allegations were that Mr. Grattenthaler practiced respiratory care without a valid license and worked on a Temporary License without the direct supervision of a licensed RCP or a licensed physician; and that, as his supervisor, Ms. Pena should not have allowed these unlawful activities to take place. At its April Board Meeting, Mr. Grattenthaler admitted working on an expired license and working on a Temporary License without direct supervision. The Board took testimony from Mr. Grattenthaler, Ms. Pena, Ms. Nancy Marinis, Ms. Brenda Quihuis, Mr. Jim Lankford, Mr. Tom Futch and its Executive Director on the issues regarding these allegations, including the corporate structure which allowed these activities to take place. Mr. Grattenthaler again admitted that he had worked as an RCP without a valid license during the time period he allowed his license to expire and working without the direct supervision of a licensed physician or a licensed RCP. Ms. Pena stated that she did not hire Mr. Grattenthaler, nor was she aware that his Temporary License had expired, nor that he was the holder of a permanent license until mid-January, 1996.

At 3:50 p.m., for purposes of receiving legal advice, Kit Mehrtens moved that the Board go into Executive Session. Sheila Bowen seconded. The Motion passed unanimously. At 4:15 p.m., John Coleman moved that the Board return to public session. Kit Mehrtens seconded. The Motion passed unanimously.

After further discussion, Sheila Bowen moved: to issue Mr. Grattenthaler a Decree of Censure for the above activities; and for the Board Staff to prepare a draft order containing Findings of Fact, Conclusions of Law and the language for a Decree of Censure for the Board to consider at a subsequent meeting. Kit Mehrtens seconded. **The motion passed unanimously.** After further discussion, Sheila Bowen voted to dismiss the allegation of unprofessional conduct against Ms. Marilyn Pena. Dr. Schwartzberg seconded. **The motion passed unanimously.**

3. Rebecca Joye Dupre, Case No. 00000-96-028

Ms. Dupre was not present. The Executive Director reviewed the allegation of possible unprofessional conduct against Ms. Dupre, which was that she worked as a respiratory care practitioner without a valid license. After discussion, John Coleman moved to deny Ms. Dupre's license application due to her practicing respiratory care in Arizona without a valid license which is a violation of Arizona law. Kit Mehrtens seconded. **The Motion passed unanimously.**

4. Kevin J. Marquis, Case No. 02343-95-083

Mr. Marquis was present. The Executive Director reviewed the allegation of

unprofessional conduct. Mr. Marquis is the holder of license number 02343 issued on June 15, 1994 and valid through June 15, 1996. On December 27, 1995, the Board received a notice from Boswell Hospital that Mr. Marquis was terminated from his job for cause. Mr. Marquis was terminated for unacceptable job performance, sleeping on the job, and for the admitted use of Halothane on the job. Halothane is an anesthetic agent. Mr. Marquis appeared before the Board at the March Board meeting. At that time the Board voted to invite Mr. Marquis to an Informal Interview Hearing and requested that Mr. Marquis submit himself for physical and psychological evaluations and to have the results of those examinations made available to the Board. On May 9, 1996, the Board received an evaluation from Celia A. Drake, Ph.D. of the Arizona Community Psychiatric Group. She states that she evaluated Mr. Marquis on April 15, 1996 and May 1, 1996. She provided a report to the Board. During the discussion, Mr. Marquis presented to the Board a medical evaluation. After discussion, John Coleman moved: to issue a disciplinary action to Mr. Kevin Marquis; to offer Mr. Marquis a Stipulated Order for Rehabilitation; and for Board Staff to prepare Findings of Fact, Conclusions of Law, and a Proposed Stipulated Order for Rehabilitation for the Board to consider at a subsequent meeting. Kit Mehrtens seconded. **The Motion passed unanimously.**

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

XI CALL TO THE PUBLIC

There was no public presentation to the Board.

XII DISCUSSION/ACTION ON EXECUTIVE DIRECTOR'S REPORT

A. Discussion and Action on proposed contract with the NBRC National Disciplinary Data Base

The Executive Director reported that legal counsel has requested more time to review the proposed contract.

B. Discussion and Action on Board Member Training

The Executive Director distributed invitations from the Governor to all Board Members to attend the upcoming Training Seminar which will include the requisite ethics training for Board Members.

XIII EXECUTIVE SESSION

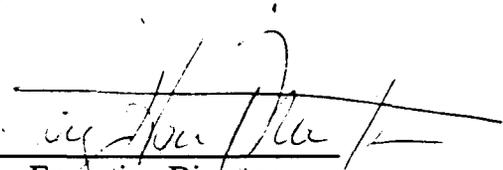
XIV ESTABLISH DATE AND TIME OF NEXT BOARD MEETING

Thursday, June 27, 1996 at 10:00 a.m.

XVII ADJOURNMENT

John Coleman moved to adjourn the meeting at 4:55 p.m. Sheila Bowen seconded. **The Motion Passed unanimously.**

DATED this ___th day of June, 1996.



Mary Hauf Martin, Executive Director

**BOARD OF RESPIRATORY CARE EXAMINERS
BOARD MEETING MINUTES**

Thursday, June 27, 1996 at 10:00 a.m.
2nd Floor Conference Room
1400 W. Washington, Phoenix AZ

Board Members Present: Chair Meryl Salit, Vice-Chair Kit Mehtens, Sheila Bowen, John Coleman, Karen Staudenmier, Gerald Schwartzberg, M.D. and Mary Lynn Kelly

Staff Present: Mary Hauf Martin, Executive Director
Dolores Doyle, Administrative Assistant

Board's Legal Counsel: Mike Harrison, Assistant Attorney General

I CALL TO ORDER

The Meeting was called to order at 10:12 a.m. by Board Chair, Meryl Salit.

II APPROVAL OF MINUTES

Kit Mehtens moved approval of the Minutes as presented. Sheila Bowen seconded. The Motion passed unanimously.

III DISCUSSION/ACTION ON APPLICATIONS FOR LICENSURE

A. Recommended for approval by the Executive Director

Steven D. Alvis	Eric T. Doubrava	Darry L. Flores
Frank J. Frasseto	Neil C. Gregerson	Douglas S. Harpold
Monica Kronemeyer	Morgan B. Thompson	Ekle A. Marosits
Norma J. McCormick	Kristen M. Stilwell	Morgan B. Thomson
Carey M. Tucker		

Kit Mehrtens moved approval of all individuals listed on the Agenda and recommended by the Executive Director. Sheila Bowen seconded the Motion. The Motion passed unanimously.

B. Application for Licensure

1. Sally Pelton Beicht *

Sally Pelton Beicht was present. Kit Mehrtens moved to table discussion of this item until consideration of Agenda Item VIII, I. Sheila Bowen seconded. The motion passed unanimously.

2. Michele L. Shipp *

Michele L. Shipp was present. Kit Mehrtens moved to table discussion of this item until consideration of Agenda Item IX, I. Sheila Bowen seconded. The motion passed unanimously.

3. Mark S. Goldstone

The Executive Director summarized Mr. Goldstone's situation. Mr. Goldstone applied for a license on October 3, 1995. He received a Temporary license, and an Extension, valid from October 4, 1995 through October 5, 1996. He passed the CRTT exam in March, 1996. On his initial application, Mr. Goldstone did not provide an answer to Question 19. In time, he provided further information and answered yes to Question 19 by attaching copies of court documents. He wrote a letter stating that on January 1, 1993 and March 10, 1993 he was found driving without a license, or driving while his license was suspended in Massachusetts. He states (and documents confirm) that all fines were paid, time took its course and his license was reinstated. He states that on January 8, 1993, he was "found uttering a forged instrument." In the course of the normal Staff review of this license application, Staff determined that Mr. Goldstone's offense of "uttering a forged instrument" is a felony. Staff wrote to Mr. Goldstone informing him that he was, and would be, ineligible to receive a permanent license while he has a felony on his record. Staff informed Mr. Goldstone that he needed to petition the court in Massachusetts to see if he could have the offense designated a misdemeanor. At the April Board meeting, the Board voted to hold Mr. Goldstone's application until more information could be gathered. In response, Mr. Goldstone wrote to the Executive Director in a letter received on April 29 and again in a letter received on May 23, 1996 to which he attached a copy of the Massachusetts court documents

which state that he is ineligible to have his conviction reduced to a misdemeanor for 15 years. Staff wrote to Mr. Goldstone informing him that the Board would be considering his license application at the Board Meeting. On June 20, 1996, Mr. Goldstone phoned the Board office and stated that, due to a scheduling conflict with his vacation plans, he would not be attending the Board meeting. After discussion, Sheila Bowen moved to deny Mark Goldstone's application for a license due to his failure to meet the qualifications established in A.R.S. §32-3523 in conjunction with A.R.S. §32-3552. Kit Mehrrens seconded. The Motion passed unanimously.

4. Victor N. Gonzalez

Victor Gonzalez was present. The Executive Director summarized the situation. On March 30, 1995, Mr. Gonzalez applied for a license. On March 31, 1995 he received a temporary license which expired on December 1, 1996. Mr. Gonzalez has passed the CRTT (7/15/95). On his application, Mr. Gonzalez stated "no" to the question which asks whether he has ever been arrested, charged, convicted or pled no contest to any crime. On June 12, 1995, the Board received a letter from Carondelet St. Mary's in Tucson which stated that Mr. Gonzalez had been terminated for "falsification of employment application." The letter says that Mr. Gonzalez had indicated on his employment application that he had never been convicted of a crime, but that a routine hospital employment background check revealed that he had a criminal record. Pursuant to hospital policy, Mr. Gonzalez was terminated. In response to the Board's subpoena, Carondelet provided a copy of its security check. It contained a letter from the Arizona Department of Corrections which stated that Mr. Gonzalez had been convicted of "taking the law into his own hands; possession, use, transportation of, and attempted sale of Marijuana" in 1990 and that he was sentenced to five (5) years of incarceration, and then placed on parole. His release date from parole was set for April 11, 1993. Another document lists the crime as class three (3) felony. Mr. Gonzalez responded to the Board's letter to him asking him to answer the allegation that he had falsified his license application and to provide documents related to his offense, conviction, dates of imprisonment, parole or probation served in a letter received on July 7, 1995. Mr. Gonzalez admitted falsifying his application and stated his apology. He enclosed many letters of reference.

During the course of the investigation regarding another RCP, the Board discovered information which established that Mr. Gonzalez worked on a Temporary License without supervision and worked on an expired Temporary License for a substantial period of time. On June 24, 1996, Mr. Gonzalez provided the Board with a document which establishes that, on June 24, 1996, Mr. Gonzalez's petition to the court to have his judgment of guilt vacated and his civil rights restored was granted by the court. Therefore, the Executive Director stated that he had provided the necessary documents establishing that he is eligible for permanent licensure.

At 10:30 a.m., for purposes of receiving legal advice, Karen Staudenmier moved that the Board go into Executive Session. Sheila Bowen seconded. The Motion passed unanimously. At 10:35 a.m., Kit Mehrrens moved that the Board return to public session. Sheila Bowen seconded. The Motion passed unanimously.

After discussion, Karen Staudenmier moved that Victor Gonzalez be granted a license only and on the

condition that he enter into a stipulated disciplinary order, a Decree of Censure, for falsification of his application and working unsupervised on a Temporary License and working on an expired license: and a fixed period and terms of modified probation, for 3 years, to include: reports on his job performance from his employer; compliance with established ethics regarding client care issues; compliance with all laws and rules; participation in Board meetings to review his situation; and random urine screens which must be complied within 60 minutes after receipt of request for test by the Board. Meryl Salit seconded. The Motion passed by a vote of 4 to 1, with Kit Mehtens voting no.

C. Request for an Extension to a Temporary License

1. Jo Jo A. Goldstone *

Ms. Goldstone was not present. Kit Mehtens moved to table discussion of this item until consideration of Agenda Item IX,I. Sheila Bowen seconded. The motion passed unanimously.

2. Marvin Richardson

Mr. Richardson was not present. The Executive Director summarized the situation. Mr. Richardson received a Temporary license on September 11, 1995, which expired on May 11, 1996. He originally requested an extension to his Temporary license on May 28, 1996. At the May Board meeting, the Board considered his application. At that time, the Board determined that Mr. Richardson had failed to provide documentary proof that he had registered to take the CRTT exam and voted to deny his application. On June 24, 1996, Mr. Richardson provided documentation that he has registered to take the CRTT exam on July 13, 1996. Mr. Richardson states on his application that although his Temporary license expired on May 11, 1996, he worked until May 13 "before it was noticed." After discussion, John Coleman moved to approve Marvin Richardson's application for a Temporary License extension, and to issue him a Letter of Concern for working 2 days on an expired license, with a copy of the Letter to his supervisor. Kit Mehtens seconded. The Motion passed unanimously.

IV DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF APPLICATION FILES

Chester Brock

Vernon Russell

Kit Mehtens moved that the Board administratively close the application files of the items on the agenda. Sheila Bowen seconded. The Motion passed unanimously.

V DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF TWO YEAR INACTIVE FILES

The Executive Director stated that these were routine two year inactive license files.

Joy Bachmann
Richard Farmer
Kenneth Lorey
Marvin Pollard
Christine Wells
Cheryl Wilson

Joseph Basha
Deborah Iverson
Kevin Miller
Roger Riney
Eric West

Le Roy Caffarella
Connie Kaufmann
Mitchell Mohler
Lawrence Smith
Harold Williams, Jr.

Sheila Bowen moved that the Board administratively close the two year inactive files of all the items on the agenda. Kit Mehrstens seconded. **The Motion passed unanimously.**

VI DISCUSSION/ACTION ON NOTICES OF LICENSE EXPIRATIONS

A. The Executive Director stated that these were routine license expirations.

Lisa Acuna
Steven Bonafede
Stephen Cherapan
Karen Gore
Rita Holifield
Maurice Leblanc
Edward Martin
Kathy McEuen
Joe Nelson
Emily Ramthun
Steven Staats
Gene L. Weimer Jr.

Kathleen Baker
Laureen Brighton
Robin Denker
Eric Greenstone
John C. Klejian
Sandra Loisel
Connie Milsap
Sydney McKinney
Mila Pantovich
Deborah Roy
Jackie Susanna
Deborah Williams

Gloria Basques
Carol Brignall
Shannon Fields
Christopher Hatfield
Brad F. Kilcrease
Stephen Lueckenhoff
Dawud Muhammad
Kathleen A. Mooneyham
Bryan Platt
Russell Sanserino
Thomas E. Tuthill
Denice Yendes

Karen Staudenmier moved to approve these license expirations. Kit Mehrstens seconded. **The Motion passed unanimously.**

B. Jessica Spencer *

Ms. Spencer was not present. After discussion, John Coleman moved to withdraw this item from consideration. Karen Staudenmier seconded. **The Motion passed unanimously.**

VII DISCUSSION/ACTION ON REINSTATEMENT OF EXPIRED LICENSES

The Executive Director reported that these were routine license reinstatements.

Mary Thomas

Catherine Dememitt

Kit Mehrstens moved to ratify these reinstated licenses. Karen Staudenmier seconded. **The Motion**

passed unanimously.

VIII CONSIDERATION AND ACTION ON INVESTIGATIONS OF UNPROFESSIONAL CONDUCT

1. Sally Pelton Beicht (Continued) *

Sally Pelton Beicht was present. The Executive Director summarized the situation. Ms. Pelton-Beicht is the holder of a Temporary License issued on December 27, 1995 currently valid through August 27, 1996.

On February 12, 1996, the Board received an allegation of unprofessional conduct against Ms. Pelton-Beicht, that she was a no show, no call, on several occasions. Ms. Pelton Beicht responded to the allegation and denied it. She stated that she was working at Phoenix Baptist Hospital on the dates in question and had so informed the pertinent persons. At the May Board meeting, the Board voted to table this matter and directed staff to investigate this matter. On June 11, 1996, the Board sent a subpoena to Phoenix Baptist Hospital for the staff schedule on the days in question. Staff at Phoenix Baptist responded by sending the staff schedule showing that Ms. Pelton Beicht worked the days in question. After discussion, Karen Staudenmier moved to dismiss the allegation against Ms. Pelton Beicht and to approve her application for a permanent license. Kit Mehrtens seconded. The Motion passed unanimously.

2. Felix B. Ortega

Mr. Ortega was present. The Executive Director reviewed the situation. Mr. Ortega's submitted his biennial renewal application on April 18, 1996 which is the day it was due. He answered yes to the continuing education requirement statement. On April 23, 1996, Board staff audited Mr. Ortega and sent him a written request to submit verification that he had completed his CEU requirement. On April 30, 1996 the Board received a letter from Mr. Ortega which stated that he had contacted the NBRC for a copy of his passing score for the RRT examination which would meet his CEU requirement. On May 6, 1996, the Board received verification from the NBRC that he had passed the RRT exam, but that he had passed it on 6-5-93, which would not apply to the CEU requirements for his April 18, 1994 through April 18, 1996 license renewal period. Therefore, on May 6, 1996, due to the fact that he may have obtained his license under false pretenses, Mr. Ortega and his employer were informed that his license was not valid and that he would not be able to practice respiratory care until he produced the necessary documentation that he had acquired the necessary CEUs. (Board Rule 211 states that if documentation of completion is not produced within 60 days, a license will be revoked and the renewal fee forfeited.) On June 12, 1996, Mr. Ortega provided documentary evidence that he had acquired 20 approved CEUs. The Board discussed the situation with Mr. Ortega in an attempt to determine whether he knew he did not have the necessary CEUs at the time he submitted his application.

At 11:30 a.m., for purposes of receiving legal advice, John Coleman moved that the Board go into Executive Session. Sheila Bowen seconded. The Motion passed unanimously. At 11:45 a.m., Kit

Mehrtens moved that the Board return to public session. Sheila Bowen seconded. The Motion passed unanimously.

After discussion, John Coleman voted to invite Mr. Ortega to an Informal Interview Hearing. Karen Staudenmier seconded. The Motion passed unanimously.

3. Daniel L. Rudders

Mr. Rudders was present. The Executive Director summarized the situation. Mr. Rudders currently holds a Temporary License issued on November 28, 1995 and valid through July 28, 1996. On May 23, 1996, the Board received a letter from St. Joseph's Hospital stating that Mr. Rudders failed his pre-employment drug screen. The letter, from staff at St. Joseph's, states that "his explanation is that prior to his drug screen he had taken a dose of cough medicine which contained codeine. This medicine was prescribed for his roommate and when he himself experienced cold symptoms he used the medication. The subsequent drug screen did indicate the presence of codeine." The letter also states that "unless other incriminating facts are discovered, Mercy Healthcare of Arizona would like to support Dan Rudders request that his license not be revoked . . . In addition, . . . Mr. Rudders employer, Rhonda Fisher, Director of QRS, (was interviewed) and her opinions coincide with his. She willingly will support his case to the Board." Board Staff sent Mr. Rudders a letter asking him to confirm or deny the allegation that he had failed a pre-employment drug screen and whether he has a substance abuse problem. He answered yes to failing his drug screen and no to having a substance abuse problem. After discussion, Kit Mehtens moved to dismiss the allegation against Mr. Rudders. John Coleman seconded. The Motion passed unanimously.

4. April Rhodes

April Rhodes was not present. The Executive Director summarized the situation. Ms. Rhodes is the holder of license number 03443 issued on August 31, 1995 and valid through July 3, 1997. On February 29, 1996, the Board received an allegation of unprofessional conduct against Ms. Rhodes from staff at the Respiratory Therapy Department at Phoenix Indian Medical Center. The allegation was that Ms. Rhodes refused to treat a patient, i.e. failed to respond appropriately to an acute problem, and that she acted in an inappropriate manner. The allegation was also that if another RCP had not voluntarily stepped in and taken immediate action, this alleged incident could have placed the hospital, and the company with which she was employed, at high liability risk. Ms. Rhodes responded to the allegation in a letter. She states that when the incident occurred she knew another therapist was on her way to give the treatment in question and that the two of them had different patients divided between those that were RSV positive and RSV negative. She further states that she was not told it was a STAT treatment. After discussion, both with Leo Hernandez, who appeared on behalf of the hospital, and among the Board members, John Coleman moved that the Board invite Ms. Rhodes to an Informal Interview Hearing and to subpoena Mr. Leo Hernandez, Naomi Taylor, and the nurse who requested that Ms. Rhodes give the treatment. Sheila Bowen seconded. The Motion passed unanimously.

5. Clyde David Sigmon

Clyde David Sigmon was not present. The Executive Director summarized the situation. Mr. Sigmon is the holder of a Temporary License issued on February 7, 1996 and valid through October 7, 1996. The Board received an allegation of unprofessional conduct against Mr. Sigmon from staff at Boswell Memorial Hospital, based on an allegation filed against Mr. Sigmon by a patient. Staff at Boswell wrote to the Board that "the patient and his wife observed two things which deeply disturbed them. First of all they reported that before the SVN treatment which he charted as being at 1130 on 3/9/96, Mr. Sigmon prepared to do the patient's SVN treatment by 'smelling' the contents of three unlabeled syringes full of medicine. That treatment was ordered to be given with Mucomyst and Albuterol. Patient reported having bronchospasm and required a follow-up treatment with Ventolin. The second area of concern was that Mr. Sigmon charted that he gave another treatment at 1320 on the same day but both the patient and his wife report that it was NOT done at all." Staff at Boswell further state that both hospital staff and the patient (and his wife) have concerns about Mr. Sigmon's practice of respiratory care. Board staff interviewed the patient and the doctor who was treating the patient. Bruce Strom of Boswell hospital was present and discussed hospital procedures with Board members. After discussion among the Board members, Kit Mehrtens moved that the Board invite Mr. Sigmon to an Informal Interview hearing, and to subpoena attendance at the informal interview by Bruce Strom and the nurse who was taking care of the patient involved. John Coleman seconded. The Motion passed unanimously.

IX CONSIDERATION AND ACTION ON INFORMAL INTERVIEWS PURSUANT TO A.R.S. 32-3553(G)

1. Brian Pasqua, Case No. 03680-96-013
C. Michael Gammie, Case No. 01026-96-030
Michele Shipp *
Jo Jo Goldstone *

Brian Pasqua, C. Michael Gammie and Michele Shipp were present. Jo Jo Goldstone was not present. The Executive Director summarized the situation. Mr. Pasqua is the holder of license no. 03680, issued on August 31, 1995, currently valid through June 25, 1997. The allegation of unprofessional conduct against Mr. Pasqua was that he was allowing individuals with temporary licenses to work unsupervised at Lifecare Center of Tucson. Board staff wrote to Mr. Pasqua, advising him of the allegation and asking him to confirm or deny the allegation. The Board investigator received phone calls from both Mr. Pasqua and his supervisor, Mike Gammie, regarding the allegation. The Board received an unsigned fax from Mr. Pasqua stating that the incident had occurred and expressing his regret. Also, the Board received a letter from Mr. Gammie. He stated that he was writing the letter as the supervisor of Brian Pasqua and on his behalf. He states that Brian did not intentionally violate any rule or regulation or guideline of the licensure act, and that they have recently changed their policy and will no longer hire temporary licensed employees. He states that necessary steps have been taken to insure that another incident will never happen.

C. Michael Gammie is the holder of license no. 01026, renewed on May 13, 1996 and currently valid through June 12, 1998. In addition to his supervisory responsibilities of Mr. Pasqua, outlined above, during the course of the investigation of this matter, additional information came to light. There were two occasions when possibly persons (Michele Shipp and Jo Jo Goldstone) with temporary licenses were working unsupervised, January 7 & 9, 1996. While reviewing subpoenaed documents it became evident that another individual, Ray Huth, whose license expired on December 2, 1995, had worked December 3 & 4 on an expired license. And, there were some personnel designated on billing records, signed by Mr. Gammie, as certified when in fact they were not certified therapists. Mr. Gammie was sent a letter asking him to confirm or deny the following allegations: whether he has employed unlicensed personnel; and whether he has billed Medicare for hours at the rate for a certified therapist when those individuals were not certified. El Dorado Hospital was sent a subpoena requesting information on the individuals named above, along with job descriptions for individuals employed at El Dorado. Mr. Gammie responded in a letter in which he admitted that the allegation regarding allowing Temporary personnel to work unsupervised had occurred along with personnel working on expired licenses. He explained that he had received accounting advice from a C.P.A. for his billing practices and attached a letter from said C.P.A. which substantiates his position. El Dorado provided the information requested from them which substantiates the allegations regarding the Temporary licensees and the unlicensed personnel.

At the April Board meeting, the Board directed Staff to invite Ms. Michele Shipp and Ms. Jo Jo Goldstone to the informal interview. They were the two employees who allegedly worked on Temporary Licenses without direct supervision. Ms. Goldstone was the one who allegedly was wearing, first a name tag that read "CRTT," and then "RCP." Ms. Shipp held a Temporary License from 3/31/95 through 4/21/95, and has passed the CRTT (March 1996) and was eligible to receive a permanent license. There was an allegation that she may have worked for two days on an expired license. Ms. Goldstone held a Temporary License from 9/28/95 through 5/28/96. Ms. Goldstone had not yet passed the CRTT, she had requested an extension to her Temporary License.

After discussing the situation with Mr. Pasqua, during which he again admitted that the above allegation regarding Temporary licensees working unsupervised was true and expressed his regret, and his assurance that it would never happen again, Dr. Schwartzberg moved that the Board dismiss the allegation against Mr. Pasqua (because it was not of sufficient seriousness to warrant disciplinary action) with a Letter of Concern to make it clear that any repeated instance of this situation may result in disciplinary action. John Coleman seconded. The Motion passed unanimously.

After discussing the situation with Mr. Gammie, during which he again admitted that the allegations about personnel were true, and expressed his regret, and gave his assurance that it would never happen again, the Board found that Mr. Gammie's accounting practices were justified as an honest problem, with no intent to mislead anyone. After discussion among Board members, Dr. Schwartzberg moved that the Board dismiss the allegation against Mr. Gammie (because it was not of sufficient seriousness to warrant disciplinary action) with a Letter of Concern to make it clear that any repeated instance of this situation may result in disciplinary action. Kit Mehrstens seconded. The Motion passed unanimously.

After discussing the situation with Ms. Shipp, during which Ms. Shipp admitted working unsupervised on her Temporary license and working for 2 days on an expired license, John Coleman moved to grant Ms. Shipp's application for a license only and on the condition that she stipulate to a Decree of Censure for working unsupervised and on an expired license. Kit Mehrtens seconded. The Motion passed unanimously.

After discussing the situation regarding Ms. Goldstone. The Board found that she had worked on a Temporary License without supervision. Dr. Schwartzberg moved that the Board deny Ms. Goldstone's application for an extension to her Temporary license. Sheila Bowen seconded. The Motion passed unanimously.

2. Darlene Sorenson, Case No. 00611-95-014

Darlene Sorenson was present. John Coleman recused himself from the matter. The Executive Director reviewed the allegation of unprofessional conduct against her. Ms. Sorenson is the holder of license no. 00611, renewed on March 26, 1996, currently valid through March 26, 1998. The allegation was that Ms. Sorenson had been dismissed from Arrowhead Community Hospital for: falsifying documentation relating to hours worked by herself; and causing the hospital to pay an agency for those hours while she was a salaried management employee of the hospital. Around the time the Board received the allegation, Ms. Sorenson moved and did not inform the Board of her new address. A letter sent to her asking her to confirm or deny the allegation, sent via certified mail, was returned to the Board's office unclaimed. The Board subpoenaed Baptist Hospitals and Health Systems for all records relating to Ms. Sorenson and the most recent address for her. Baptist Hospitals and Health Systems staff responded in a letter received by the Board (note: Baptist had only her previous address.) In the records supplied, the Board received substantial documentation that Ms. Sorenson entered hours for herself on registry sign-in logs. Those hours were billed to the hospital by the registry agency who in turn paid Ms. Sorenson. As the manager of Cardiopulmonary Department, she validated the invoice for payment. When the hospital discovered the incident, Ms. Sorenson was suspended immediately and then terminated. In the documentation provided, there was a statement from Ms. Sorenson: "I fully admit that I falsified worked hours at ACH; and I acknowledge that the company (PRCS) was not in collusion with me, nor did they know I was falsifying the documents." She goes on to say she has been seeing a psychiatrist since 1987 for a panic disorder and that the incident took place during the time when she was not adequately medicated. The Board's office sent a letter to Ms. Sorenson at the address supplied by Healthsouth, asking her to confirm or deny the allegation. She states that she "had made an error in judgment," but states "Members of the Board, never did I approve invoices for technicians and services not rendered by PRCS or any other contract respiratory service used at ACH." She tells the Board that her clinical decision making ability was not questioned. She states she offered to reimburse ACH for the \$1908, but that ACH refused. She states that no criminal charges nor civil processes were placed against her by ACH. She asks the Board to consider that she was not adequately medicated during the time period when this occurred. She asks for leniency and clemency from the Board and asks that the Board not revoke her license. She states that she has been employed by Healthsouth Valley of the Sun Rehabilitation Hospital since December 5, 1995. Ms. Sorenson went on to say that she had disclosed the events surrounding her termination at ACH to Healthsouth at the time

of her employment.

Ms. Sorenson appeared before the Board in April, at which time the Board voted to invite Ms. Sorenson to the informal interview hearing. At the Board's request, Mr. Doug Mathews of PRCS was subpoenaed to appear at the informal interview hearing.

After discussing the matter, Dr. Schwartzberg moved that the Board adopt the Findings of Fact and Conclusions of Law set forth in the Complaint and Notice of Hearing, and that Ms. Sorenson be given a Decree of Censure, and a fixed term of Probation of 3 years, and that the terms of probation include that she must provide her current, and any future, employer(s) with a copy of the Probationary Order which will spell out in detail the felonious actions of Ms. Sorenson; the Probation will also require quarterly reports from her employer. Kit Mehrtens seconded. The Motion passed unanimously with John Coleman recused from voting.

X CONSIDERATION AND ACTION ON FORMAL COMPLAINT HEARINGS PURSUANT TO A.R.S. §32-3553(G)

1. Jessica Spencer Case No. 02391-96-019

Ms. Spencer was not present. The Executive Director reviewed the allegation of unprofessional conduct against Ms. Spencer which was that the Board was unable to determine whether she had worked on an invalid license for a substantial period of time when her renewal date was July 27, 1995, and she did not renew until December 6, 1996, and she had failed to provide court documentation on an incident which had occurred in California. On April 25, 1996, the Board met to discuss the allegation of unprofessional conduct against the Ms. Spencer. She was notified of the time, place and location of the Board meeting. She was urged to attend the meeting, but did not attend. The Board voted to issue a formal complaint and hold a formal hearing.

On the day of the Board meeting, Ms. Spencer phoned the Board and promised to provide documentation establishing that she did not work on an expired license (which she subsequently provided.) After discussion, Karen Staudenmier moved to dismiss the allegation against Ms. Spencer. John Coleman seconded. The Motion passed unanimously.

2. Gregory Callender Case Nos. 03208-96-005 and 03208-96-014

Mr. Callender was not present. The Executive Director summarized the situation. Gregory Callender received a permanent license on May 25, 1995. His license to practice respiratory care was currently valid through December 24, 1997. In a period of one month, the Board received two allegations of unprofessional conduct against Mr. Callender:

Allegation 1. On January 30, 1996, the Board received an allegation of unprofessional conduct against Mr. Callender from an employer, Immediate Respiratory Staffers (IRS). The allegation was that Mr. Callender was a habitual no show, no call, when he was scheduled to work with ventilator patients.

On one occasion, which occurred on January 25, Mr. Callender reportedly went to Del Webb Hospital and could not find the department, so he went to the ER and asked for directions. After receiving directions, Mr. Callender allegedly left the hospital and went home. To substantiate this allegation, IRS provided to the Board a letter, written by an RCP which details the incident. Further, the allegation from IRS provided the following dates when Mr. Callender was a no show, no call, at hospitals to which he was assigned and scheduled:

January 7	Phoenix Baptist
January 14	Mesa General
January 19-21	Boswell Memorial
January 26	Valley of the Sun
January 27-28	Thunderbird Samaritan

Board Staff sent Mr. Callender a letter, via certified mail, asking him to confirm or deny the allegation. No answer was received. Another letter was sent to Mr. Callender. No answer was received. Board Staff resent the original letter, this time via regular mail. No answer was received.

Allegation 2. On February 16, 1996, the Board received a complaint from staff at Quality Respiratory Staffing Inc. (QRS) against Mr. Callender alleging unprofessional conduct. A QRS staff person states that on February 5, 1996, Mr. Callender was scheduled to work a night shift at Phoenix General Hospital. Mr. Callender failed to show up for his scheduled shift and failed to call the QRS office to cancel his shift so that QRS could replace him. The complaint further states that several attempts were made to locate Mr. Callender. The only contact made was by a QRS staff coordinator who spoke with an unidentified female at Mr. Callender's residence who reported that he had left for work hours before. The allegation goes on to say that when QRS made contact with Mr. Callender on February 16, 1996, he stated his shift had been cancelled by the hospital and by the QRS staff coordinator. Staff at QRS state that QRS' internal investigation showed that neither party had called Mr. Callender. The complaint states that in speaking with Mr. Callender, he admitted having a history of no call, no show, with previous employers. Board staff sent a letter, via certified mail, to Mr. Callender on February 22, 1996, asking him to confirm or deny the allegation. The return receipt was signed for by Sherrie Callender on February 24, 1996. No response from Mr. Callender has been received to date.

Based upon the foregoing, in April 1996 the Board held a meeting to consider the allegation against the respondent. Mr. Callender signed a receipt for a letter sent via certified mail on April 1, 1996 informing him of the meeting and urging him to attend, but he did not. After discussion, the Board voted to offer Mr. Callender a Stipulation and Consent Order for Rehabilitation of his no call, no show habit. Further, the Board voted that if Mr. Callender failed to sign and return the proposed Stipulation and Consent Order within 10 calendar days of his receipt of said Order, to immediately initiate formal disciplinary proceedings pursuant to A.R.S. §32-3553(I).

Mr. Callender failed to sign and return the proposed Stipulation and Order, which was sent via certified mail and signed for by Sherrie Calendar.

The Board took testimony from its Executive Director verifying the Staff attempts to notify Mr. Callender of the Hearing. The Board took testimony from the President of IRS who substantiated the information contained in Allegation 1. The Board took testimony from the President of QRS who substantiated the information contained in Allegation 2. After discussion, Kit Mehrtens moved that the Board adopt the Findings of Fact and Conclusions of Law in the Board's Complaint and Notice of Hearing, and that the Board finds that said is evidence of unprofessional conduct as defined in A.R.S. §32-3501, and that therefore the Board revokes the license to practice respiratory care of Gregory Callender. Dr. Schwartzberg seconded. The Motion passed unanimously.

XI CONSIDERATION AND ACTION ON PREVIOUS BOARD ACTION

A. FINAL ORDERS

1. Kevin Marquis, Case No. 02343-95-083

After discussion, Kit Mehrtens moved to accept the final order as presented. Sheila Bowen seconded. The Motion passed unanimously.

2. Chris Grattenthaler, Case No. 03559-96-007

After discussion, Kit Mehrtens moved to accept the final order as presented. Dr. Schwartzberg seconded. The Motion passed unanimously.

3. Mark V. Largesse, Case No. 01066-96-029

After discussion, Kit Mehrtens moved to accept the final order as presented. Sheila Bowen seconded. The Motion passed unanimously.

XIII PUBLIC COMMENT ON PROPOSED RULES

There was no public comment on the proposed rules.

XI CALL TO THE PUBLIC

There was no public presentation to the Board.

XII DISCUSSION/ACTION ON EXECUTIVE DIRECTOR'S REPORT

A. Discussion and Action on proposed contract with the NBRC National Disciplinary Data Base

The Executive Director reported that the Attorney General's office had finished its review of the proposed contract and provided an acceptable proposal for the Board's deliberation. After discussion, Kit Mehrtens moved that the Board adopt the amended proposed contract with the NBRC National Disciplinary Data Base. Sheila Bowen seconded. The Motion passed unanimously.

B. Discussion and Action on update of Legislative Sunset Review.

The Executive Director reported that a survey received from the Legislative Committee of Reference must be completed and returned by the end of July.

XIII EXECUTIVE SESSION

A. Board Member activities outside of Board Meetings: discussion with legal counsel regarding activities pertaining to Board actions and outside activities.

At 4:00 p.m., for purposes of receiving legal advice, Kit Mehrtens moved that the Board go into Executive Session. Sheila Bowen seconded. The Motion passed unanimously. At 4:15 p.m., Karen Staudenmier moved that the Board return to public session. Kit Mehrtens seconded. The Motion passed unanimously.

XIV ESTABLISH DATE AND TIME OF NEXT BOARD MEETING

Thursday, August 15, 1996 at 10:00 a.m.

Conference call in mid-July, to be scheduled at a later date.

XVII ADJOURNMENT

John Coleman moved to adjourn the meeting at 4:20 p.m. Dr. Schwartzberg seconded. The Motion passed unanimously.

DATED this 15th day of July, 1996.



Mary Hauf Martin, Executive Director

**BOARD OF RESPIRATORY CARE EXAMINERS
BOARD MEETING MINUTES**

Thursday, June 27, 1996 at 10:00 a.m.
2nd Floor Conference Room
1400 W. Washington, Phoenix AZ

Board Members Present: Chair Meryl Salit, Vice-Chair Kit Mehrtens, Sheila Bowen, John Coleman, Karen Staudenmier, Gerald Schwartzberg, M.D. and Mary Lynn Kelly

Staff Present: Mary Hauf Martin, Executive Director
Dolores Doyle, Administrative Assistant

Board's Legal Counsel: Mike Harrison, Assistant Attorney General

I CALL TO ORDER

The Meeting was called to order at 10:12 a.m. by Board Chair, Meryl Salit.

II APPROVAL OF MINUTES

Kit Mehrtens moved approval of the Minutes as presented. Sheila Bowen seconded. The Motion passed unanimously.

III DISCUSSION/ACTION ON APPLICATIONS FOR LICENSURE

A. Recommended for approval by the Executive Director

Steven D. Alvis	Eric T. Doubrava	Darry L. Flores
Frank J. Frasseto	Neil C. Gregerson	Douglas S. Harpold
Monica Kronemeyer	Morgan B. Thompson	Ekle A. Marosits
Norma J. McCormick	Kristen M. Stilwell	Morgan B. Thomson
Carey M. Tucker		

Kit Mehrtens moved approval of all individuals listed on the Agenda and recommended by the Executive Director. Sheila Bowen seconded the Motion. The Motion passed unanimously.

B. Application for Licensure

1. Sally Pelton Beicht *

Sally Pelton Beicht was present. Kit Mehrtens moved to table discussion of this item until consideration of Agenda Item VIII, I. Sheila Bowen seconded. The motion passed unanimously.

2. Michele L. Shipp *

Michele L. Shipp was present. Kit Mehrtens moved to table discussion of this item until consideration of Agenda Item IX, I. Sheila Bowen seconded. The motion passed unanimously.

3. Mark S. Goldstone

The Executive Director summarized Mr. Goldstone's situation. Mr. Goldstone applied for a license on October 3, 1995. He received a Temporary license, and an Extension, valid from October 4, 1995 through October 5, 1996. He passed the CRTT exam in March, 1996. On his initial application, Mr. Goldstone did not provide an answer to Question 19. In time, he provided further information and answered yes to Question 19 by attaching copies of court documents. He wrote a letter stating that on January 1, 1993 and March 10, 1993 he was found driving without a license, or driving while his license was suspended in Massachusetts. He states (and documents confirm) that all fines were paid, time took its course and his license was reinstated. He states that on January 8, 1993, he was "found uttering a forged instrument." In the course of the normal Staff review of this license application, Staff determined that Mr. Goldstone's offense of "uttering a forged instrument" is a felony. Staff wrote to Mr. Goldstone informing him that he was, and would be, ineligible to receive a permanent license while he has a felony on his record. Staff informed Mr. Goldstone that he needed to petition the court in Massachusetts to see if he could have the offense designated a misdemeanor. At the April Board meeting, the Board voted to hold Mr. Goldstone's application until more information could be gathered. In response, Mr. Goldstone wrote to the Executive Director in a letter received on April 29 and again in a letter received on May 23, 1996 to which he attached a copy of the Massachusetts court documents

which state that he is ineligible to have his conviction reduced to a misdemeanor for 15 years. Staff wrote to Mr. Goldstone informing him that the Board would be considering his license application at the Board Meeting. On June 20, 1996, Mr. Goldstone phoned the Board office and stated that, due to a scheduling conflict with his vacation plans, he would not be attending the Board meeting. After discussion, Sheila Bowen moved to deny Mark Goldstone's application for a license due to his failure to meet the qualifications established in A.R.S. §32-3523 in conjunction with A.R.S. §32-3552. Kit Mehrstens seconded. The Motion passed unanimously.

4. Victor N. Gonzalez

Victor Gonzalez was present. The Executive Director summarized the situation. On March 30, 1995, Mr. Gonzalez applied for a license. On March 31, 1995 he received a temporary license which expired on December 1, 1996. Mr. Gonzalez has passed the CRTT (7/15/95). On his application, Mr. Gonzalez stated "no" to the question which asks whether he has ever been arrested, charged, convicted or pled no contest to any crime. On June 12, 1995, the Board received a letter from Carondelet St. Mary's in Tucson which stated that Mr. Gonzalez had been terminated for "falsification of employment application." The letter says that Mr. Gonzalez had indicated on his employment application that he had never been convicted of a crime, but that a routine hospital employment background check revealed that he had a criminal record. Pursuant to hospital policy, Mr. Gonzalez was terminated. In response to the Board's subpoena, Carondelet provided a copy of its security check. It contained a letter from the Arizona Department of Corrections which stated that Mr. Gonzalez had been convicted of "taking the law into his own hands; possession, use, transportation of, and attempted sale of Marijuana" in 1990 and that he was sentenced to five (5) years of incarceration, and then placed on parole. His release date from parole was set for April 11, 1993. Another document lists the crime as class three (3) felony. Mr. Gonzalez responded to the Board's letter to him asking him to answer the allegation that he had falsified his license application and to provide documents related to his offense, conviction, dates of imprisonment, parole or probation served in a letter received on July 7, 1995. Mr. Gonzalez admitted falsifying his application and stated his apology. He enclosed many letters of reference.

During the course of the investigation regarding another RCP, the Board discovered information which established that Mr. Gonzalez worked on a Temporary License without supervision and worked on an expired Temporary License for a substantial period of time. On June 24, 1996, Mr. Gonzalez provided the Board with a document which establishes that, on June 24, 1996, Mr. Gonzalez's petition to the court to have his judgment of guilt vacated and his civil rights restored was granted by the court. Therefore, the Executive Director stated that he had provided the necessary documents establishing that he is eligible for permanent licensure.

At 10:30 a.m., for purposes of receiving legal advice, Karen Staudenmier moved that the Board go into Executive Session. Sheila Bowen seconded. The Motion passed unanimously. At 10:35 a.m., Kit Mehrstens moved that the Board return to public session. Sheila Bowen seconded. The Motion passed unanimously.

After discussion, Karen Staudenmier moved that Victor Gonzalez be granted a license only and on the

condition that he enter into a stipulated disciplinary order, a Decree of Censure, for falsification of his application and working unsupervised on a Temporary License and working on an expired license: and a fixed period and terms of modified probation, for 3 years, to include: reports on his job performance from his employer; compliance with established ethics regarding client care issues; compliance with all laws and rules; participation in Board meetings to review his situation; and random urine screens which must be complied within 60 minutes after receipt of request for test by the Board. Meryl Salit seconded. The Motion passed by a vote of 4 to 1, with Kit Mehtens voting no.

C. Request for an Extension to a Temporary License

1. Jo Jo A. Goldstone *

Ms. Goldstone was not present. Kit Mehtens moved to table discussion of this item until consideration of Agenda Item IX,I. Sheila Bowen seconded. The motion passed unanimously.

2. Marvin Richardson

Mr. Richardson was not present. The Executive Director summarized the situation. Mr. Richardson received a Temporary license on September 11, 1995, which expired on May 11, 1996. He originally requested an extension to his Temporary license on May 28, 1996. At the May Board meeting, the Board considered his application. At that time, the Board determined that Mr. Richardson had failed to provide documentary proof that he had registered to take the CRTT exam and voted to deny his application. On June 24, 1996, Mr. Richardson provided documentation that he has registered to take the CRTT exam on July 13, 1996. Mr. Richardson states on his application that although his Temporary license expired on May 11, 1996, he worked until May 13 "before it was noticed." After discussion, John Coleman moved to approve Marvin Richardson's application for a Temporary License extension, and to issue him a Letter of Concern for working 2 days on an expired license, with a copy of the Letter to his supervisor. Kit Mehtens seconded. The Motion passed unanimously.

IV DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF APPLICATION FILES

Chester Brock

Vernon Russell

Kit Mehtens moved that the Board administratively close the application files of the items on the agenda. Sheila Bowen seconded. The Motion passed unanimously.

V DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF TWO YEAR INACTIVE FILES

The Executive Director stated that these were routine two year inactive license files.

Joy Bachmann
Richard Farmer
Kenneth Lorey
Marvin Pollard
Christine Wells
Cheryl Wilson

Joseph Basha
Deborah Iverson
Kevin Miller
Roger Riney
Eric West

Le Roy Caffarella
Connie Kaufmann
Mitchell Mohler
Lawrence Smith
Harold Williams, Jr.

Sheila Bowen moved that the Board administratively close the two year inactive files of all the items on the agenda. Kit Mehrstens seconded. **The Motion passed unanimously.**

VI DISCUSSION/ACTION ON NOTICES OF LICENSE EXPIRATIONS

A. The Executive Director stated that these were routine license expirations.

Lisa Acuna
Steven Bonafede
Stephen Cherapan
Karen Gore
Rita Holifield
Maurice Leblanc
Edward Martin
Kathy McEuen
Joe Nelson
Emily Ramthun
Steven Staats
Gene L. Weimer Jr.

Kathleen Baker
Laureen Brighton
Robin Denker
Eric Greenstone
John C. Klejian
Sandra Loisel
Connie Milsap
Sydney McKinney
Mila Pantovich
Deborah Roy
Jackie Susanna
Deborah Williams

Gloria Basques
Carol Brignall
Shannon Fields
Christopher Hatfield
Brad F. Kilcrease
Stephen Lueckenhoff
Dawud Muhammad
Kathleen A. Mooneyham
Bryan Platt
Russell Sanserino
Thomas E. Tuthill
Denice Yendes

Karen Staudenmier moved to approve these license expirations. Kit Mehrstens seconded. **The Motion passed unanimously.**

B. Jessica Spencer *

Ms. Spencer was not present. After discussion, John Coleman moved to withdraw this item from consideration. Karen Staudenmier seconded. **The Motion passed unanimously.**

VII DISCUSSION/ACTION ON REINSTATEMENT OF EXPIRED LICENSES

The Executive Director reported that these were routine license reinstatements.

Mary Thomas

Catherine Dememitt

Kit Mehrstens moved to ratify these reinstated licenses. Karen Staudenmier seconded. **The Motion**

passed unanimously.

VIII CONSIDERATION AND ACTION ON INVESTIGATIONS OF UNPROFESSIONAL CONDUCT

1. Sally Pelton Beicht (Continued) *

Sally Pelton Beicht was present. The Executive Director summarized the situation. Ms. Pelton-Beicht is the holder of a Temporary License issued on December 27, 1995 currently valid through August 27, 1996.

On February 12, 1996, the Board received an allegation of unprofessional conduct against Ms. Pelton-Beicht, that she was a no show, no call, on several occasions. Ms. Pelton Beicht responded to the allegation and denied it. She stated that she was working at Phoenix Baptist Hospital on the dates in question and had so informed the pertinent persons. At the May Board meeting, the Board voted to table this matter and directed staff to investigate this matter. On June 11, 1996, the Board sent a subpoena to Phoenix Baptist Hospital for the staff schedule on the days in question. Staff at Phoenix Baptist responded by sending the staff schedule showing that Ms. Pelton Beicht worked the days in question. After discussion, Karen Staudenmier moved to dismiss the allegation against Ms. Pelton Beicht and to approve her application for a permanent license. Kit Mehrstens seconded. **The Motion passed unanimously.**

2. Felix B. Ortega

Mr. Ortega was present. The Executive Director reviewed the situation. Mr. Ortega's submitted his biennial renewal application on April 18, 1996 which is the day it was due. He answered yes to the continuing education requirement statement. On April 23, 1996, Board staff audited Mr. Ortega and sent him a written request to submit verification that he had completed his CEU requirement. On April 30, 1996 the Board received a letter from Mr. Ortega which stated that he had contacted the NBRC for a copy of his passing score for the RRT examination which would meet his CEU requirement. On May 6, 1996, the Board received verification from the NBRC that he had passed the RRT exam, but that he had passed it on 6-5-93, which would not apply to the CEU requirements for his April 18, 1994 through April 18, 1996 license renewal period. Therefore, on May 6, 1996, due to the fact that he may have obtained his license under false pretenses, Mr. Ortega and his employer were informed that his license was not valid and that he would not be able to practice respiratory care until he produced the necessary documentation that he had acquired the necessary CEUs. (Board Rule 211 states that if documentation of completion is not produced within 60 days, a license will be revoked and the renewal fee forfeited.) On June 12, 1996, Mr. Ortega provided documentary evidence that he had acquired 20 approved CEUs. The Board discussed the situation with Mr. Ortega in an attempt to determine whether he knew he did not have the necessary CEUs at the time he submitted his application.

At 11:30 a.m., for purposes of receiving legal advice, John Coleman moved that the Board go into Executive Session. Sheila Bowen seconded. The Motion passed unanimously. At 11:45 a.m., Kit

Mehrtens moved that the Board return to public session. Sheila Bowen seconded. The Motion passed unanimously.

After discussion, John Coleman voted to invite Mr. Ortega to an Informal Interview Hearing. Karen Staudenmier seconded. The Motion passed unanimously.

3. Daniel L. Rudders

Mr. Rudders was present. The Executive Director summarized the situation. Mr. Rudders currently holds a Temporary License issued on November 28, 1995 and valid through July 28, 1996. On May 23, 1996, the Board received a letter from St. Joseph's Hospital stating that Mr. Rudders failed his pre-employment drug screen. The letter, from staff at St. Joseph's, states that "his explanation is that prior to his drug screen he had taken a dose of cough medicine which contained codeine. This medicine was prescribed for his roommate and when he himself experienced cold symptoms he used the medication. The subsequent drug screen did indicate the presence of codeine." The letter also states that "unless other incriminating facts are discovered, Mercy Healthcare of Arizona would like to support Dan Rudders request that his license not be revoked . . . In addition, . . . Mr. Rudders employer, Rhonda Fisher, Director of QRS, (was interviewed) and her opinions coincide with his. She willingly will support his case to the Board." Board Staff sent Mr. Rudders a letter asking him to confirm or deny the allegation that he had failed a pre-employment drug screen and whether he has a substance abuse problem. He answered yes to failing his drug screen and no to having a substance abuse problem. After discussion, Kit Mehtens moved to dismiss the allegation against Mr. Rudders. John Coleman seconded. The Motion passed unanimously.

4. April Rhodes

April Rhodes was not present. The Executive Director summarized the situation. Ms. Rhodes is the holder of license number 03443 issued on August 31, 1995 and valid through July 3, 1997. On February 29, 1996, the Board received an allegation of unprofessional conduct against Ms. Rhodes from staff at the Respiratory Therapy Department at Phoenix Indian Medical Center. The allegation was that Ms. Rhodes refused to treat a patient, i.e. failed to respond appropriately to an acute problem, and that she acted in an inappropriate manner. The allegation was also that if another RCP had not voluntarily stepped in and taken immediate action, this alleged incident could have placed the hospital, and the company with which she was employed, at high liability risk. Ms. Rhodes responded to the allegation in a letter. She states that when the incident occurred she knew another therapist was on her way to give the treatment in question and that the two of them had different patients divided between those that were RSV positive and RSV negative. She further states that she was not told it was a STAT treatment. After discussion, both with Leo Hernandez, who appeared on behalf of the hospital, and among the Board members, John Coleman moved that the Board invite Ms. Rhodes to an Informal Interview Hearing and to subpoena Mr. Leo Hernandez, Naomi Taylor, and the nurse who requested that Ms. Rhodes give the treatment. Sheila Bowen seconded. The Motion passed unanimously.

5. Clyde David Sigmon

Clyde David Sigmon was not present. The Executive Director summarized the situation. Mr. Sigmon is the holder of a Temporary License issued on February 7, 1996 and valid through October 7, 1996. The Board received an allegation of unprofessional conduct against Mr. Sigmon from staff at Boswell Memorial Hospital, based on an allegation filed against Mr. Sigmon by a patient. Staff at Boswell wrote to the Board that "the patient and his wife observed two things which deeply disturbed them. First of all they reported that before the SVN treatment which he charted as being at 1130 on 3/9/96, Mr. Sigmon prepared to do the patient's SVN treatment by 'smelling' the contents of three unlabeled syringes full of medicine. That treatment was ordered to be given with Mucomyst and Albuterol. Patient reported having bronchospasm and required a follow-up treatment with Ventolin. The second area of concern was that Mr. Sigmon charted that he gave another treatment at 1320 on the same day but both the patient and his wife report that it was NOT done at all." Staff at Boswell further state that both hospital staff and the patient (and his wife) have concerns about Mr. Sigmon's practice of respiratory care. Board staff interviewed the patient and the doctor who was treating the patient. Bruce Strom of Boswell hospital was present and discussed hospital procedures with Board members. After discussion among the Board members, Kit Mehrtens moved that the Board invite Mr. Sigmon to an Informal Interview hearing, and to subpoena attendance at the informal interview by Bruce Strom and the nurse who was taking care of the patient involved. John Coleman seconded. The Motion passed unanimously.

IX CONSIDERATION AND ACTION ON INFORMAL INTERVIEWS PURSUANT TO A.R.S. 32-3553(G)

1. Brian Pasqua, Case No. 03680-96-013
C. Michael Gammie, Case No. 01026-96-030
Michele Shipp *
Jo Jo Goldstone *

Brian Pasqua, C. Michael Gammie and Michele Shipp were present. Jo Jo Goldstone was not present. The Executive Director summarized the situation. Mr. Pasqua is the holder of license no. 03680, issued on August 31, 1995, currently valid through June 25, 1997. The allegation of unprofessional conduct against Mr. Pasqua was that he was allowing individuals with temporary licenses to work unsupervised at Lifecare Center of Tucson. Board staff wrote to Mr. Pasqua, advising him of the allegation and asking him to confirm or deny the allegation. The Board investigator received phone calls from both Mr. Pasqua and his supervisor, Mike Gammie, regarding the allegation. The Board received an unsigned fax from Mr. Pasqua stating that the incident had occurred and expressing his regret. Also, the Board received a letter from Mr. Gammie. He stated that he was writing the letter as the supervisor of Brian Pasqua and on his behalf. He states that Brian did not intentionally violate any rule or regulation or guideline of the licensure act, and that they have recently changed their policy and will no longer hire temporary licensed employees. He states that necessary steps have been taken to insure that another incident will never happen.

C. Michael Gammie is the holder of license no. 01026, renewed on May 13, 1996 and currently valid through June 12, 1998. In addition to his supervisory responsibilities of Mr. Pasqua, outlined above, during the course of the investigation of this matter, additional information came to light. There were two occasions when possibly persons (Michele Shipp and Jo Jo Goldstone) with temporary licenses were working unsupervised, January 7 & 9, 1996. While reviewing subpoenaed documents it became evident that another individual, Ray Huth, whose license expired on December 2, 1995, had worked December 3 & 4 on an expired license. And, there were some personnel designated on billing records, signed by Mr. Gammie, as certified when in fact they were not certified therapists. Mr. Gammie was sent a letter asking him to confirm or deny the following allegations: whether he has employed unlicensed personnel; and whether he has billed Medicare for hours at the rate for a certified therapist when those individuals were not certified. El Dorado Hospital was sent a subpoena requesting information on the individuals named above, along with job descriptions for individuals employed at El Dorado. Mr. Gammie responded in a letter in which he admitted that the allegation regarding allowing Temporary personnel to work unsupervised had occurred along with personnel working on expired licenses. He explained that he had received accounting advice from a C.P.A. for his billing practices and attached a letter from said C.P.A. which substantiates his position. El Dorado provided the information requested from them which substantiates the allegations regarding the Temporary licensees and the unlicensed personnel.

At the April Board meeting, the Board directed Staff to invite Ms. Michele Shipp and Ms. Jo Jo Goldstone to the informal interview. They were the two employees who allegedly worked on Temporary Licenses without direct supervision. Ms. Goldstone was the one who allegedly was wearing, first a name tag that read "CRTT," and then "RCP." Ms. Shipp held a Temporary License from 3/31/95 through 4/21/95, and has passed the CRTT (March 1996) and was eligible to receive a permanent license. There was an allegation that she may have worked for two days on an expired license. Ms. Goldstone held a Temporary License from 9/28/95 through 5/28/96. Ms. Goldstone had not yet passed the CRTT, she had requested an extension to her Temporary License.

After discussing the situation with Mr. Pasqua, during which he again admitted that the above allegation regarding Temporary licensees working unsupervised was true and expressed his regret, and his assurance that it would never happen again, Dr. Schwartzberg moved that the Board dismiss the allegation against Mr. Pasqua (because it was not of sufficient seriousness to warrant disciplinary action) with a Letter of Concern to make it clear that any repeated instance of this situation may result in disciplinary action. John Coleman seconded. The Motion passed unanimously.

After discussing the situation with Mr. Gammie, during which he again admitted that the allegations about personnel were true, and expressed his regret, and gave his assurance that it would never happen again, the Board found that Mr. Gammie's accounting practices were justified as an honest problem, with no intent to mislead anyone. After discussion among Board members, Dr. Schwartzberg moved that the Board dismiss the allegation against Mr. Gammie (because it was not of sufficient seriousness to warrant disciplinary action) with a Letter of Concern to make it clear that any repeated instance of this situation may result in disciplinary action. Kit Mehrtens seconded. The Motion passed unanimously.

After discussing the situation with Ms. Shipp, during which Ms. Shipp admitted working unsupervised on her Temporary license and working for 2 days on an expired license, John Coleman moved to grant Ms. Shipp's application for a license only and on the condition that she stipulate to a Decree of Censure for working unsupervised and on an expired license. Kit Mehrtens seconded. The Motion passed unanimously.

After discussing the situation regarding Ms. Goldstone. The Board found that she had worked on a Temporary License without supervision. Dr. Schwartzberg moved that the Board deny Ms. Goldstone's application for an extension to her Temporary license. Sheila Bowen seconded. The Motion passed unanimously.

2. Darlene Sorenson, Case No. 00611-95-014

Darlene Sorenson was present. John Coleman recused himself from the matter. The Executive Director reviewed the allegation of unprofessional conduct against her. Ms. Sorenson is the holder of license no. 00611, renewed on March 26, 1996, currently valid through March 26, 1998. The allegation was that Ms. Sorenson had been dismissed from Arrowhead Community Hospital for: falsifying documentation relating to hours worked by herself; and causing the hospital to pay an agency for those hours while she was a salaried management employee of the hospital. Around the time the Board received the allegation, Ms. Sorenson moved and did not inform the Board of her new address. A letter sent to her asking her to confirm or deny the allegation, sent via certified mail, was returned to the Board's office unclaimed. The Board subpoenaed Baptist Hospitals and Health Systems for all records relating to Ms. Sorenson and the most recent address for her. Baptist Hospitals and Health Systems staff responded in a letter received by the Board (note: Baptist had only her previous address.) In the records supplied, the Board received substantial documentation that Ms. Sorenson entered hours for herself on registry sign-in logs. Those hours were billed to the hospital by the registry agency who in turn paid Ms. Sorenson. As the manager of Cardiopulmonary Department, she validated the invoice for payment. When the hospital discovered the incident, Ms. Sorenson was suspended immediately and then terminated. In the documentation provided, there was a statement from Ms. Sorenson: "I fully admit that I falsified worked hours at ACH; and I acknowledge that the company (PRCS) was not in collusion with me, nor did they know I was falsifying the documents." She goes on to say she has been seeing a psychiatrist since 1987 for a panic disorder and that the incident took place during the time when she was not adequately medicated. The Board's office sent a letter to Ms. Sorenson at the address supplied by Healthsouth, asking her to confirm or deny the allegation. She states that she "had made an error in judgment," but states "Members of the Board, never did I approve invoices for technicians and services not rendered by PRCS or any other contract respiratory service used at ACH." She tells the Board that her clinical decision making ability was not questioned. She states she offered to reimburse ACH for the \$1908, but that ACH refused. She states that no criminal charges nor civil processes were placed against her by ACH. She asks the Board to consider that she was not adequately medicated during the time period when this occurred. She asks for leniency and clemency from the Board and asks that the Board not revoke her license. She states that she has been employed by Healthsouth Valley of the Sun Rehabilitation Hospital since December 5, 1995. Ms. Sorenson went on to say that she had disclosed the events surrounding her termination at ACH to Healthsouth at the time

of her employment.

Ms. Sorenson appeared before the Board in April, at which time the Board voted to invite Ms. Sorenson to the informal interview hearing. At the Board's request, Mr. Doug Mathews of PRCS was subpoenaed to appear at the informal interview hearing.

After discussing the matter, Dr. Schwartzberg moved that the Board adopt the Findings of Fact and Conclusions of Law set forth in the Complaint and Notice of Hearing, and that Ms. Sorenson be given a Decree of Censure, and a fixed term of Probation of 3 years, and that the terms of probation include that she must provide her current, and any future, employer(s) with a copy of the Probationary Order which will spell out in detail the felonious actions of Ms. Sorenson; the Probation will also require quarterly reports from her employer. Kit Mehrstens seconded. The Motion passed unanimously with John Coleman recused from voting.

X CONSIDERATION AND ACTION ON FORMAL COMPLAINT HEARINGS PURSUANT TO A.R.S. §32-3553(G)

1. Jessica Spencer Case No. 02391-96-019

Ms. Spencer was not present. The Executive Director reviewed the allegation of unprofessional conduct against Ms. Spencer which was that the Board was unable to determine whether she had worked on an invalid license for a substantial period of time when her renewal date was July 27, 1995, and she did not renew until December 6, 1996, and she had failed to provide court documentation on an incident which had occurred in California. On April 25, 1996, the Board met to discuss the allegation of unprofessional conduct against the Ms. Spencer. She was notified of the time, place and location of the Board meeting. She was urged to attend the meeting, but did not attend. The Board voted to issue a formal complaint and hold a formal hearing.

On the day of the Board meeting, Ms. Spencer phoned the Board and promised to provide documentation establishing that she did not work on an expired license (which she subsequently provided.) After discussion, Karen Staudenmier moved to dismiss the allegation against Ms. Spencer. John Coleman seconded. The Motion passed unanimously.

2. Gregory Callender Case Nos. 03208-96-005 and 03208-96-014

Mr. Callender was not present. The Executive Director summarized the situation. Gregory Callender received a permanent license on May 25, 1995. His license to practice respiratory care was currently valid through December 24, 1997. In a period of one month, the Board received two allegations of unprofessional conduct against Mr. Callender:

Allegation 1. On January 30, 1996, the Board received an allegation of unprofessional conduct against Mr. Callender from an employer, Immediate Respiratory Staffers (IRS). The allegation was that Mr. Callender was a habitual no show, no call, when he was scheduled to work with ventilator patients.

On one occasion, which occurred on January 25, Mr. Callender reportedly went to Del Webb Hospital and could not find the department, so he went to the ER and asked for directions. After receiving directions, Mr. Callender allegedly left the hospital and went home. To substantiate this allegation, IRS provided to the Board a letter, written by an RCP which details the incident. Further, the allegation from IRS provided the following dates when Mr. Callender was a no show, no call, at hospitals to which he was assigned and scheduled:

January 7	Phoenix Baptist
January 14	Mesa General
January 19-21	Boswell Memorial
January 26	Valley of the Sun
January 27-28	Thunderbird Samaritan

Board Staff sent Mr. Callender a letter, via certified mail, asking him to confirm or deny the allegation. No answer was received. Another letter was sent to Mr. Callender. No answer was received. Board Staff resent the original letter, this time via regular mail. No answer was received.

Allegation 2. On February 16, 1996, the Board received a complaint from staff at Quality Respiratory Staffing Inc. (QRS) against Mr. Callender alleging unprofessional conduct. A QRS staff person states that on February 5, 1996, Mr. Callender was scheduled to work a night shift at Phoenix General Hospital. Mr. Callender failed to show up for his scheduled shift and failed to call the QRS office to cancel his shift so that QRS could replace him. The complaint further states that several attempts were made to locate Mr. Callender. The only contact made was by a QRS staff coordinator who spoke with an unidentified female at Mr. Callender's residence who reported that he had left for work hours before. The allegation goes on to say that when QRS made contact with Mr. Callender on February 16, 1996, he stated his shift had been cancelled by the hospital and by the QRS staff coordinator. Staff at QRS state that QRS' internal investigation showed that neither party had called Mr. Callender. The complaint states that in speaking with Mr. Callender, he admitted having a history of no call, no show, with previous employers. Board staff sent a letter, via certified mail, to Mr. Callender on February 22, 1996, asking him to confirm or deny the allegation. The return receipt was signed for by Sherrie Callender on February 24, 1996. No response from Mr. Callender has been received to date.

Based upon the foregoing, in April 1996 the Board held a meeting to consider the allegation against the respondent. Mr. Callender signed a receipt for a letter sent via certified mail on April 1, 1996 informing him of the meeting and urging him to attend, but he did not. After discussion, the Board voted to offer Mr. Callender a Stipulation and Consent Order for Rehabilitation of his no call, no show habit. Further, the Board voted that if Mr. Callender failed to sign and return the proposed Stipulation and Consent Order within 10 calendar days of his receipt of said Order, to immediately initiate formal disciplinary proceedings pursuant to A.R.S. §32-3553(I).

Mr. Callender failed to sign and return the proposed Stipulation and Order, which was sent via certified mail and signed for by Sherrie Calendar.

The Board took testimony from its Executive Director verifying the Staff attempts to notify Mr. Callender of the Hearing. The Board took testimony from the President of IRS who substantiated the information contained in Allegation 1. The Board took testimony from the President of QRS who substantiated the information contained in Allegation 2. After discussion, Kit Mehrstens moved that the Board adopt the Findings of Fact and Conclusions of Law in the Board's Complaint and Notice of Hearing, and that the Board finds that said is evidence of unprofessional conduct as defined in A.R.S. §32-3501, and that therefore the Board revokes the license to practice respiratory care of Gregory Callender. Dr. Schwartzberg seconded. The Motion passed unanimously.

XI CONSIDERATION AND ACTION ON PREVIOUS BOARD ACTION

A. FINAL ORDERS

1. Kevin Marquis, Case No. 02343-95-083

After discussion, Kit Mehrstens moved to accept the final order as presented. Sheila Bowen seconded. The Motion passed unanimously.

2. Chris Grattenthaler, Case No. 03559-96-007

After discussion, Kit Mehrstens moved to accept the final order as presented. Dr. Schwartzberg seconded. The Motion passed unanimously.

3. Mark V. Largesse, Case No. 01066-96-029

After discussion, Kit Mehrstens moved to accept the final order as presented. Sheila Bowen seconded. The Motion passed unanimously.

XIII PUBLIC COMMENT ON PROPOSED RULES

There was no public comment on the proposed rules.

XI CALL TO THE PUBLIC

There was no public presentation to the Board.

XII DISCUSSION/ACTION ON EXECUTIVE DIRECTOR'S REPORT

- A. Discussion and Action on proposed contract with the NBRC National Disciplinary Data Base

The Executive Director reported that the Attorney General's office had finished its review of the proposed contract and provided an acceptable proposal for the Board's deliberation. After discussion, Kit Mehrtens moved that the Board adopt the amended proposed contract with the NBRC National Disciplinary Data Base. Sheila Bowen seconded. **The Motion passed unanimously.**

B. Discussion and Action on update of Legislative Sunset Review.

The Executive Director reported that a survey received from the Legislative Committee of Reference must be completed and returned by the end of July.

XIII EXECUTIVE SESSION

A. Board Member activities outside of Board Meetings: discussion with legal counsel regarding activities pertaining to Board actions and outside activities.

At 4:00 p.m., for purposes of receiving legal advice, Kit Mehrtens moved that the Board go into Executive Session. Sheila Bowen seconded. The Motion passed unanimously. At 4:15 p.m., Karen Staudenmier moved that the Board return to public session. Kit Mehrtens seconded. The Motion passed unanimously.

XIV ESTABLISH DATE AND TIME OF NEXT BOARD MEETING

Thursday, August 15, 1996 at 10:00 a.m.

Conference call in mid-July, to be scheduled at a later date.

XVII ADJOURNMENT

John Coleman moved to adjourn the meeting at 4:20 p.m. Dr. Schwartzberg seconded. **The Motion passed unanimously.**

DATED this 15th day of July, 1996.



Mary Hauf Martin, Executive Director

Meryl S. Salit, R.C.P., Chair
Kit Mehrrens, Vice-Chair
Sheilah N. Bowen, R.C.P.
John E. Coleman, R.C.P.
Mary Lynn Kelly
Gerald Schwartzberg, M.D.
Karen L. Staudenmier



State of Arizona
Board of Respiratory Care Examiners
1400 W. Washington, Suite 200
Phoenix, Arizona 85007

Mary Hauf Martin
Executive Director
Dee Doyle
Administrative Assistant

Telephone No. (602) 542-5995
Fax No. (602) 542-5900

BOARD OF RESPIRATORY CARE EXAMINERS
BOARD MEETING
CONFERENCE CALL

Tuesday, July 16, 1996, at 10:15 a.m.
1400 W. Washington, Suite 200, Phoenix AZ 85007

MINUTES

Board Members Present: Chair Meryl Salit; Vice-Chair Kit Mehrrens; John Coleman; and Karen Staudenmier

Board Members Absent: Sheilah Bowen; Dr. Gerald Schwartzberg

Staff Present: Mary Hauf Martin, Executive Director

I. CALL TO ORDER

The Meeting was called to order by Chair Salit at 10:30 a.m.

II. DISCUSSION/ACTION ON APPLICATIONS FOR LICENSURE

Deborah L. Campbell
Daniel L. Rudders

Susan L. Pauley
Alfred Salgado

Cary John Roehl
Dominick A. Spadea

John Coleman moved to approve the applications of all persons listed. Karen Staudenmier seconded. **The Motion passed unanimously.**

III. DISCUSSION/ACTION ON NOTICES OF LICENSE EXPIRATIONS

Allan B. Aguado
Brenda D. Brytus
Paul J. Duistermars
Jacqueline K. Jooyan
Merle Moreno
Berna Shea

Richard Bodenstedt
Marsha Burfurd
John P. Eckles
Lucinda Kirkman
Amy K. Oates
Mary Wallace

Michael T. Brown
Lisa Craig
Jon Griffor
Darlene McLin
Lydia Smith-Hemphill

Karen Staudenmier moved to approve the notices of license expirations to all persons listed. Kit Mehrrens seconded. **The Motion passed unanimously.**

IV. DISCUSSION/ACTION ON PROPOSED RULES

The Executive Director informed the Board at the Board meeting held on June 27, 1996, that legal counsel has suggested the following language changes for clarity:

On page 8, line 11, after "as" strike "defined" and insert "used," and after the statutory reference, strike "to include but not be" and replace with "includes but is not"

On page 14, line 20 after the period insert "A passing score shall be considered to be 75 scaled-score units or 95 correct answers."

On page 20, line 5 after "after" strike "the information on the application has been verified for excepted status by Board Staff for any who apply for licensure and" and insert "a complete application, including all necessary documentation and fees, has been reviewed by the Board's Executive Director and determined to be eligible for a Temporary License. An Applicant who is issued a Temporary License shall only"

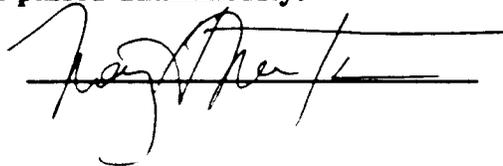
On page 16, line 3, strike "renew" and replace with "apply for a renewal of a license".

Also on page 16, line 3, after "shall" insert "complete a license renewal application and"

John Coleman moved to adopt the changes recommended by legal counsel as presented. Kit Mehrrens seconded. **The motion passed unanimously.**

Karen Staudenmier moved to adopt the proposed rules as amended, including the earlier amendments offered by Chair Salit and adopted by the Board at its meeting on April 25, 1996. Kit Mehrrens seconded. **The motion passed unanimously.**

Karen Staudenmier moved to adjourn the meeting at 10:35 a.m. Kit Mehrrens seconded the Motion. **The Motion passed unanimously.**

A handwritten signature in black ink, appearing to read "Kit Mehrrens", is written over a horizontal line. The signature is cursive and somewhat stylized.

**BOARD OF RESPIRATORY CARE EXAMINERS
BOARD MEETING MINUTES**

Thursday, August 15, 1996 at 10:00 a.m.
2nd Floor Conference Room
1400 W. Washington, Phoenix AZ

Board Members Present: Chair Meryl Salit, Vice-Chair Kit Mehrtens, Sheila Bowen, John Coleman, Karen Staudenmier, and Gerald Schwartzberg, M.D.

Staff Present: Mary Hauf Martin, Executive Director
Dolores Doyle, Administrative Assistant

Board's Legal Counsel: Mike Harrison, Assistant Attorney General

I CALL TO ORDER

The Meeting was called to order at 10:10 a.m. by Board Chair, Meryl Salit.

II APPROVAL OF MINUTES

Thursday, June 27, 1996
Conference call, Tuesday, July 16, 1996
Conference call, Monday, August 5, 1996

John Coleman moved approval of the Minutes as presented. Kit Mehrtens seconded. **The Motion passed unanimously.**

III DISCUSSION/ACTION ON APPLICATIONS FOR LICENSURE

A. Recommended for approval by the Executive Director

Helen M. Baubie	Andrea Lea Brown	Ann M. Beardon
Jody K. Chang	Michele L. Dixon	Stephanie L. Donnelly
Bob E. Evans	Pedro Gomez	Pearley M. Granillo
Lisa G. Holt	Kimberly S. Keri	Carolyn J. Kirkpatrick
Daniel A. Kothrade	Terry L. Lowry	Tammy Jo Miller
Kelli M. Minton	Heather R. Maller	Margarita L. Morozova
Stacy A. Murphy	Kenneth L. Norris	Stephanie L. Pacileo
Mary R. Patrick	Martin Robinson	Steven F. Stanghellini
David A. Steinbrenner	Anna Maria Stone	Rodney W. Temple
Christine A. Tenaglia	Craig M. Wagner	Kym L. Walker
Tracey L. Wilson		

Kit Mehrtens moved approval of all the other individuals listed on the Agenda and recommended by the Executive Director. Sheila Bowen seconded the Motion. **The Motion passed unanimously.**

B. Re-Application

1. John R. White

Mr. White was not present. The Executive Director summarized Mr. White's situation, stating that he had provided the necessary documents establishing that he is eligible for permanent licensure. After discussion, Kit Mehrtens moved that Mr. White be granted a license. Sheila Bowen seconded. **The Motion passed unanimously.**

C. Request for an Extension to a Temporary License

1. Jo Jo Goldstone

Ms. Goldstone was not present. The Executive Director summarized Ms. Goldstone's request for a Temporary License Extension. On June 27, 1996, the Board met to consider Ms. Goldstone's application for a Temporary License Extension. Ms. Goldstone was not present. The Board determined that Ms. Goldstone had worked on her Temporary License without the required direct supervision of an RCP or a physician and voted to deny Ms. Goldstone's application for a Temporary License Extension. After discussion, Kit Mehrtens moved to deny Ms. Goldstone's application for a Temporary License Extension. John Coleman seconded. **The Motion passed unanimously.** Ms. Goldstone appeared at

the Board meeting after the vote had taken place and was given an opportunity to speak to the Board. Board members explained what had happened and invited Ms. Goldstone to come back before the Board upon her successful passage of the CRTT exam.

D. Application for license renewal

Erlinda Miller *

Ms. Miller was present. The Executive Director summarized the situation. Ms. Miller's license to practice respiratory care expired on May 9, 1996 for failure to renew. She submitted a partially complete application on June 24, 1996, and completed it on June 27, 1996. She attached a letter stating that she had worked after her license had expired.

After discussion, Kit Mehrtens moved to approve Ms. Miller's application for license renewal. Sheila Bowen seconded. **The Motion passed unanimously.**

Note: Ms. Miller also appears on the Agenda under Section VIII: Allegation of Unprofessional Conduct.

E. Application for licensure

1. Jennifer Alvarez

Ms. Alvarez was present. The Executive Director summarized the situation regarding Ms. Alvarez's current pending Application to the Board for a permanent license to practice respiratory care. Ms. Alvarez held a Temporary License which expired on June 28, 1996.

Ms. Alvarez admitted to engaging in the practice of respiratory care for 29 days without a license, which is a violation of the laws pertaining to the regulation of respiratory care. Sheila Bowen moved to grant Ms. Alvarez a license **only and on the condition** that she enter into a suspended disciplinary order which includes a Decree of Censure and a fixed term of Probation. The term of probation would be for two years, to include a successful license renewal, and would require the acquisition of 2 additional CEU's on the following subject matter: licensure requirements and issues. Karen Staudenmier seconded. **The Motion passed unanimously.** After further discussion, John Coleman moved to open a Board investigation on Ms. Alvarez's supervisor. Karen Staudenmier seconded. **The Motion passed unanimously.**

2. Susanna Williamson

Ms. Williamson was not present. The Executive Director summarized the situation

regarding Ms. Williamson's current, pending Application to the Board for a permanent license to practice respiratory care. Susana Williamson held a Temporary License from November 21, 1995, through July 21, 1996, and passed the CRTT exam in July, 1996. On August 9, 1996, the Board received a signed Consent Order from Ms. Williamson stating that she had worked from July 29, 1996 through August 9, 1996 without a valid license. After discussion, the Board found that Ms. Williamson had practiced respiratory care without a license which is defined as unprofessional conduct in the laws regulating respiratory.

John Coleman moved to grant Ms. Williamson a license **only and on the condition** that she enter into a stipulated disciplinary order. The term of probation would be for one year, and would require the acquisition of 2 additional CEU's on the following subject matter: licensure requirements and issues. Sheila Bowen seconded. **The Motion passed unanimously.**

IV DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF APPLICATION FILES

Michael Marsh

Sheila Bowen moved that the Board administratively close the file of the person listed on the agenda. Kit Mehrtens seconded. **The Motion passed unanimously.**

V DISCUSSION/ACTION ON ADMINISTRATIVE CLOSING OF TWO YEAR INACTIVE FILES

The Executive Director stated that these were routine two year inactive license files.

A. June 1996

Ajoy Chowd	Sharon Currie	Lawrence Fisk
Susan Hutchins	Katherine King	April Loos
Mary Martin	Merrijune Patterson	Carol Pettrone
Diane Ramirez	Karen Richards	Patrick Rodgers
Todd Thacker	Merl Wallace	Mark Wheaton
Lisa White		

B. July 1996

Sharon Bundy	Carolyn Backus	Melanee Baker
Eric Berglof	Daniel Bingham	Denise Capranica

Joseph Conroy	Wayne Conway	Cynthia Cummings
Jessie Cummins	Heather S. Dembowski	Dale Elmquist
Lee Fala	Elizabeth A. Frick	Cynthia Gowen
Perry L. Harris	Sarah E. Herman	Billy Johnson
Opal Malone	Pamela Maurer	Sylvia Montejano
Gregory Nardi	Elizabeth D. O'Neal	David Plants
Demetra Retsinas	Barbara T. Riley	Farzad Sabet
Gilbert Smith	Lisa Steen	John A. Widder
Marilyn Wood	Maryann Wozniak	

Sheila Bowen moved that the Board administratively close the two year inactive files of all the items on the agenda. Kit Mehrtens seconded. **The Motion passed unanimously.**

VI DISCUSSION/ACTION ON NOTICES OF LICENSE EXPIRATIONS

The Executive Director stated that these were routine license expirations.

Gary Banks	Kathleen Benes	Orlo Bjerk
Deanne Black	Bryan Burruss	Jerri Celaya
Pamela Daniels	William Flack	Clark Gilpin
Jim Hinton	James Jackson	John Knutson
Patricia Judge	Henry Latulippe	Paul Miller
Steven McPherson	Cindy Pollard	Floretta Reed
Jose Rivera, II	Kathleen Routledge	Carol Spawn
Jessica Steichen	John Tarpy	Kenna Taylor
Michael Ullum	Robert Wilson	

Kit Mehrtens moved to approve these license expirations. Sheila Bowen seconded. **The Motion passed unanimously.**

VII DISCUSSION/ACTION ON REINSTATEMENT OF EXPIRED LICENSES

The Executive Director reported that these were routine license reinstatements.

Lisa Acuna	Lisa R. Craig	Jessie Cummins
Robin Denker	Paula Duistermars	Shannon Field
Sandra Loisel	Connie Milsap	Merle Moreno
Esther McKenney	Emily Ramthun	Russell Sanserino
John S. Smith	Douglas Springer	Michael Steele

Karen Staudenmier moved to ratify these reinstated licenses. Sheila Bowen seconded. **The Motion passed unanimously.**

VIII CONSIDERATION AND ACTION ON INVESTIGATIONS OF UNPROFESSIONAL CONDUCT

1. Charles Moffett

Mr. Moffett was not present. The Executive Director reviewed the situation. Mr. Moffett is the holder of license number 01227, currently valid through February 4, 1998. The Board received an allegation of unprofessional conduct against Mr. Moffett from Navapache Regional Medical Center (NRMC), that Mr. Moffett had tested positive for illegal drugs on a biological fluid screen.

John Coleman moved to invite Mr. Moffett to an informal interview hearing. Kit Mehrtens seconded. **The Motion passed unanimously.**

2. Erlinda Miller *

Ms. Miller was present. The Executive Director summarized the allegation which was that Ms. Miller worked for a considerable period of time without a license. After discussion, Karen Staudenmier moved to invite Ms. Miller to an informal interview hearing and for Board Staff to subpoena Ms. Michelle Rich and pertinent records. Sheila Bowen seconded. **The Motion passed unanimously.**

Note: Further explanation of Ms. Miller also appears on the Agenda under Section III.D: Application for License Renewal.

3. Robert Rapp

3.A. Supervisor: Dan Stevens

The Board received Mr. Rapp's Application for licensure on June 30, 1995. He was issued a Temporary License valid from July 3, 1995 through March 3, 1996. Mr. Rapp passed the CRTT in July, 1995. Mr. Rapp's application was approved on December 21, 1995. At that time, he was notified that upon receipt of \$65 his license would be issued. Mr. Rapp did not pay the \$65 and his temporary license expired on March 3, 1996.

Mr. Rapp petitioned the Board not to make a specific finding of unprofessional conduct against him because he stated that his working without a license was not intentional or done with any intention to mislead anyone.

After discussion, Karen Staudenmier moved to offer Mr. Rapp a stipulated order of probation, including a 2 year fixed term of probation to include a successful license renewal cycle and the acquisition of 2 additional CEU's in the following area: respiratory care practitioner license issues and requirements, without a finding of unprofessional conduct. John Coleman seconded. **The Motion passed, with Meryl Salit voting no.** Karen Staudenmier moved that if Mr. Rapp failed to sign and return the offered stipulated order in 10 days of receiving it, to invite Mr. Rapp to an informal interview hearing, to place Ms. Tammy Brumm on the agenda to discuss the allegation that she had allowed Mr. Rapp to work without a license, and to issue a Letter of Concern to Mr. Dan Stevens. John Coleman seconded. **The Motion passed unanimously.**

4. John Blasko

Mr. Blasko was not present. The Executive Director summarized the situation. Mr. Blasko is the holder of license number 00816, initially issued on July 1, 1992, renewed in a timely fashion in 1994, and currently valid until November 14, 1996. On June 5, 1996 the Board received a letter from Healthsouth stating that Mr. Blasko was terminated for exceeding his scope of practice.

Mr. Blasko was sent a letter informing him of the consideration of this matter at the August 15, 1996 Board Meeting. Mr. Blasko phoned the Board office on the morning of August 15, 1996, and stated he would be unable to attend. After discussion, Kit Mehrstens moved to invite Mr. Blasko to an informal interview hearing and for Staff to gather information regarding the incident. Sheila Bowen seconded. **The Motion passed unanimously.**

5. Jeanne Lovato

Ms. Lovato was present. The Executive Director summarized the situation. Ms. Lovato is the holder of license number 03155, initially issued on December 19, 1994, renewed in a timely fashion in February of 1996, and currently valid through February 24, 1998.

On April 1, 1996, the Board received the following allegation from staff at Healthsouth Valley of the Sun Rehabilitation Center: On March 24, 1996, Ms. Lovato, an IRS employee, was on duty at Healthsouth. At 3:40 a.m. Ms. Lovato was found sleeping in the front lobby of the hospital. There was an additional allegation that Ms. Lovato had pre-charted patient therapies and then did not perform the therapies charted. Ms. Lovato wrote the Board a letter in response to the allegation in which she admitted falling asleep on duty.

John Coleman moved to invite Ms. Lovato to an informal interview hearing and for Staff to invite representatives from the hospital and the registry to that hearing. Karen

Staudenmier seconded. **The Motion passed unanimously.**

6. Kevin Nelson

Mr. Nelson was present. The Executive Director reviewed the situation. Mr. Nelson is the holder of license number 00274, originally issued on November 27, 1992 and renewed in a timely fashion in April of 1994 and 1996. His license is currently valid through April 22, 1998.

On May 21, 1996, the Board received an allegation, in the form of a unsigned note, stating that Mr. Nelson had been terminated from Vencor Hospital for unprofessional conduct. The note also states that the writer also believed "that Vencor intends not to report them (Mr. Nelson and Mr. Scott Kathan) to the Board."

At 1:17 p.m. Karen Staudenmier moved that the Board go into Executive Session to receive legal advice. Kit Mehrtens seconded. The Motion passed unanimously. At 1:20 p.m., John Coleman moved that the Board return to public session. Sheila Bowen seconded. The Motion passed unanimously.

Karen Staudenmier moved that the Board open an investigation into whether Mr. Nelson's termination from Vencor was for unprofessional conduct, and, if so, what the unprofessional conduct entailed. Sheila Bowen seconded. **The Motion passed unanimously.** Karen Staudenmier moved to subpoena personnel records for Mr. Nelson, and for Board Staff to interview Ms. Wilcox, Mr. Harrington and the Assistant Administrator for Clinical Operations. Sheila Bowen seconded. Mr. Nelson asked if she would amend the motion to include Mr. Rob Clary, the immediate supervisor. Karen Staudenmier agreed to the addition. **The Motion passed unanimously.**

7. Scott Kathan

Mr. Kathan was present. The Executive Director summarized the situation. Mr. Kathan is the holder of license number 02432, originally issued on June 17, 1993 and renewed in a timely fashion in January of 1995. His license is currently valid through January 27, 1997.

On May 21, 1996, the Board received an allegation, in the form of a unsigned note, stating that Mr. Kathan had been terminated from Vencor Hospital for unprofessional conduct. The note also states that the writer also believed "that Vencor intends not to report them (Mr. Kathan and Mr. Kevin Nelson) to the Board."

On June 17, 1996, a letter was sent to Mr. Kathan asking him to confirm or deny the

above allegation. Mr. Kathan explained the circumstances that surrounded his termination.

At 1:31 p.m., Karen Staudenmier moved that the Board go into Executive Session to receive legal advice. Sheila Bowen seconded. The Motion passed unanimously. At 1:35 p.m., Karen Staudenmier moved that the Board return to public session. John Coleman seconded. The Motion passed unanimously.

After discussion, Karen Staudenmier moved that the Board open an investigation into whether Mr. Kathan's termination from Vencor was for unprofessional conduct, and, if so, what the unprofessional conduct entailed. Kit Mehrstens seconded. **The Motion passed unanimously.** Karen Staudenmier moved to subpoena personnel records for Mr. Kathan, and for Board Staff to interview Ms. Wilcox, Mr. Harrington and the Assistant Administrator for Clinical Operations. Sheila Bowen seconded. **The Motion passed unanimously.**

IX CONSIDERATION AND ACTION ON INFORMAL INTERVIEWS PURSUANT TO A.R.S. 32-3553(G)

1. Felix B. Ortega Case No. 02208-96-044

Mr. Ortega was not present. The Executive Director summarized the allegation. Mr. Ortega's submitted his biennial renewal application on April 18, 1996 which is the day it was due. He answered yes to the continuing education requirement statement. On April 23, 1996, Board staff audited Mr. Ortega and sent him a written request to submit verification that he had completed his CEU requirement. On May 6, 1996, the Board received verification from the NBRC that he had passed the RRT exam, but that he had passed it on 6-5-93 which would not apply to the CEU requirements for his April 18, 1994 - April 18, 1996 license renewal period. Therefore, on May 6, Mr. Ortega and his employer were informed that his license was not valid and that he would not be able to practice respiratory care until he produced the necessary documentation of acquiring the necessary CEUs. (Board Rule 211 states that if documentation of completion is not produced within 60 days, a license will be revoked and the renewal fee forfeited.) On June 12, 1996, Mr. Ortega provided documentary evidence that he had acquired 20 approved CEUs.

The purpose of the informal interview with Mr. Ortega was to attempt determine whether he knew he did not have the necessary CEUs at the time he submitted his application. Mr. Ortega's supervisors (Mr. Charles Cox and Mr. R. Allen White) were invited to attend the informal interview hearing in order to help the Board determine whether Mr. Ortega knew that he did not have the necessary CEUs but they failed to appear.

John Coleman moved that, pursuant to A.R.S. § 32-3553(G), since Mr. Ortega had declined the Board's invitation to an informal interview hearing, that the Board move to a formal disciplinary hearing on the issues of whether Mr. Ortega committed fraud on his biennial renewal application and whether Mr. Ortega had been found by a court of competent jurisdiction to be habitually intemperate in the use of alcohol. Karen Staudenmier seconded. **The Motion passed unanimously.**

2. Clyde David Sigmon

Mr. Sigmon was not present. The Executive Director summarized the situation. Mr. Sigmon is the holder of a Temporary License issued on February 7, 1996 and valid through October 7, 1996. The Board voted to approve a licence to him in February, but he has not paid his license fee. On March 21, 1996, the Board received an allegation of unprofessional conduct against Mr. Sigmon from Penny Schmiede at Boswell Memorial Hospital.

John Coleman moved that, pursuant to A.R.S. § 32-3553(G), since Mr. Sigmon had declined the Board's invitation to an informal interview hearing, that the Board move to a formal disciplinary hearing on the issues of whether Mr. Sigmon on the issues outlined by the Executive Director. Kit Merhrtens seconded. **The Motion passed unanimously.**

3. Frank Mamone * Case No. 01460-96-040

Mr. Mamone was not present. The Executive Director reviewed the allegation. Mr. Mamone is the holder of license number 01460. On April 29, 1996, pursuant to a Board order, Mr. Mamone was issued a Decree of Censure and placed on probation for 3 years. On July 1, 1996, the Board received a notice from staff at John C. Lincoln Hospital that Mr. Mamone had been terminated.

On July 26, 1996, Board staff wrote to Mr. Mamone asking him to confirm or deny the allegation and to inform the Board whether he had informed his employer of his probation (as required in his Order.) Mr. Mamone signed for the letter on July 27, 1996. As of August 15, 1996, no response had been received.

Board Staff had spoken with staff from John C. Lincoln to see if someone from that facility would be available to provide testimony to the Board in this matter.

John Coleman moved that, pursuant to A.R.S. § 32-3553(G), since Mr. Mamone had declined the Board's invitation to an informal interview hearing, that the Board move to a formal disciplinary hearing on the issue of whether Mr. Mamone had failed to comply with the terms of his probation outlined by the Executive Director, and that Staff again

speak to representatives of John C. Lincoln Hospital to ensure that someone from that facility will be available to testify at the hearing. Karen Staudenmier seconded. **The Motion passed unanimously.**

4. Kerry Adair * Case No. 02156-96-045

Mr. Adair was present. The Executive Director summarized the situation. Mr. Adair is the holder of license no. 02156. On February 4, 1996, a stipulated probationary period of 5 years was begun by Mr. Adair. The allegation was that there were several instances where Mr. Adair was in direct violation of his Probationary Order.

John Coleman moved to initiate a formal disciplinary hearing on the allegation that Mr. Adair had failed to comply with the terms of his probation as outlined by the Executive Director. Kit Mehrtens seconded. **The Motion passed unanimously.**

5. Julie Evans Barba Case No. 00824-96-023

Ms. Barba was not present. The Executive Director summarized the situation. Ms. Barba is the holder of license no. 00824, renewed on December 27, 1995 and currently valid through December 12, 1997. On March 7, 1996, the Board received a letter from Penny Schmeige at Walter O. Boswell Memorial Hospital containing an allegation of possible unprofessional conduct against Ms. Evans Barba: that she had committed fraud on her employment application. The Board inquiry into this allegation revealed a further allegation: that she had committed fraud on her license application. Ms. Evans Barba responded with a letter to the Board in which she denied the allegation.

Dr. Schwartzberg moved that, pursuant to A.R.S. § 32-3553(G), since Ms. Barba had declined the Board's invitation to an informal interview hearing, that the Board move to a formal disciplinary hearing on the issues outlined by the Executive Director. Kit Mehrtens seconded. **The Motion passed unanimously.**

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

XI CONSIDERATION AND ACTION ON PREVIOUS BOARD ACTION

A. PROBATIONARY ORDER COMPLIANCE

1. Frank Mamone *

No further action. See Agenda Item IX: Consideration and Action on Informal Interview Hearings Pursuant to A.R.S. § 32-3553(G)

2. Kerry Adair *

No further action. See Agenda Item IX: Consideration and Action on Informal Interview Hearings Pursuant to A.R.S. § 32-3553(G)

B. REQUEST FOR MODIFICATION OR TERMINATION OF PROBATION

1. Hank Eyring

Mr. Eyring was present. The Executive Director summarized this request. According to A.R.S. § 32-3554(A), if an RCP is placed on probation, he may apply to the Board for modification of the conditions of the probation one year after the date of the imposition of the probation.

On June 28, 1996, Mr. Eyring requested that the Board consider discontinuing his probation.

Kit Mehrrens moved to deny Mr. Eyring's request and have him re-apply in 1 year. The Motion failed for lack of a second. After further discussion, Karen Staudenmier moved to deny Mr. Eyring's request and have him apply again in 6 months to have his probation lifted. Dr. Schwartzberg seconded. The Motion passed unanimously.

XII. CONSIDERATION AND ACTION REGARDING THE DISOBEYING OF A BOARD SUBPOENA: INVOKING THE AID OF THE COURT IN REQUIRING THE PRODUCTION OF DOCUMENTS

1. Wickenberg Medical Supply

No representatives of Wickenberg Medical Supply were present. The Executive Director reviewed the situation. Wickenberg Medical Supply had disobeyed two previously issued Board subpoenas, the most recent one having been issued in April, 1996. Legal counsel informed the Board that pursuant to A.R.S. § 32-3555, the Board may invoke the aid of any court in Arizona requiring the production of documentary evidence. After discussion, Kit Mehrrens moved to issue a subpoena to Wickenberg Medical Supply in order to receive information about whether lawfully licensed persons are providing respiratory care services for that facility. Karen Staudenmier seconded. The Motion passed unanimously.

XIV CALL TO THE PUBLIC

Mr. Michael Barry asked the Board a question regarding allegations. Board members briefly discussed the Board's statutory authority to initiate investigations, A.R.S. § 32-323553(A).

XV DISCUSSION/ACTION ON EXECUTIVE DIRECTOR'S REPORT

A. Discussion and Action on update of Legislative Sunset Review

The Executive Director reported that the Board complied with the deadline for submitting its answers to the Sunset Questionnaire.

B. Discussion and Action on office activities, budget update, computer news

The Executive Director reported that the Board Office spending for the 1996 fiscal year was within its Legislative Appropriation and updated the Board on office issues. After discussion, Meryl Salit moved to approve the Executive Director going to the NBRC meeting in Kansas City on September 14, 1996, with the trip being paid for by the NBRC. Kit Mehrtens seconded. **The Motion passed unanimously.**

XVI EXECUTIVE SESSION

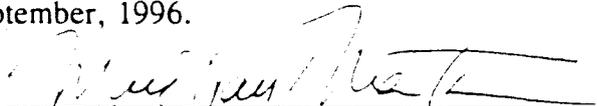
XVII ESTABLISH DATE AND TIME OF NEXT BOARD MEETING

Thursday, September 26, 1996 at 10:00 a.m.

XVIII ADJOURNMENT

John Coleman moved to adjourn the meeting at 3:50 p.m. Kit Mehrtens seconded. **The Motion Passed unanimously.**

DATED this 2th day of September, 1996.


Mary Hauf Martin, Executive Director

Meryl S. Salit, R.C.P., Chair
Kit Mehrtens, Vice-Chair
Sheilah N. Bowen, R.C.P.
John E. Coleman, R.C.P.
Mary Lynn Kelly
Gerald Schwartzberg, M.D.
Karen L. Staudenmier



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ANNUAL REPORT JULY 1994 - JULY 1995

BOARD MEETINGS - 13 CONF CALLS 4 REG BRD MTGS 9

TOTAL # LICENSES ISSUED - 300

TOTAL # DISCIPLINE ACTION REVIEWED (UNPROF CONDUCT) - 58

TOTAL # INFORMAL INTERVIEWS - 19

TOTAL # FORMAL COMPLAINTS - 26

HOW MANY ON PROBATION - DRUG RELATED - 10 PRACTICE RELATED - 5

DECREE OF CENSURE ISSUED - 6

SUSPENSIONS ISSUED - 6

REVOCATIONS ISSUED - 6

TOTAL # OF LICENSES - 2900

HOW MANY MEETINGS ATTY ATTENDED - 9, 8/11/94 MH, 10/6/94 MH, 11/17/94 MH,
12/22/94 DC, 1/19/95 DC, 2/16/95 DC, 3/16/95 DC, 4/27/95 DC, 5/25/95 DC,
7/6/95 MH & DC

Meryl S. Salit, R.C.P., Chair
Kit Mehrrens, Vice-Chair
Sheilah N. Bowen, R.C.P.
John E. Coleman, R.C.P.
Mary Lynn Kelly
Gerald Schwartzberg, M.D.
Karen L. Staudenmier



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ANNUAL REPORT JULY 1995 - JULY 1996

BOARD MEETINGS - 13 CONF CALLS 4 REG BRD MTGS 9

TOTAL # LICENSES ISSUED - 254

TOTAL # DISCIPLINE ACTION REVIEWED (UNPROF CONDUCT) - 34

TOTAL # INFORMAL INTERVIEWS - 16

TOTAL # FORMAL COMPLAINTS - 10

HOW MANY ON PROBATION - DRUG RELATED - 10 PRACTICE RELATED - 4
CIVIL RELATED - 1

DECREE OF CENSURE ISSUED - 7

SUSPENSIONS ISSUED - 1

REVOCATIONS ISSUED - 10

TOTAL # OF LICENSES - 3000

HOW MANY MEETINGS ATTY ATTENDED - ALL

MINUTES OF COMMITTEE OF REFERENCE MEETING

AND ATTENDANCE LIST

(Sections C & D)

ARIZONA STATE LEGISLATURE

**SENATE AND HOUSE HEALTH COMMITTEES OF REFERENCE
SUNSET REVIEWS OF THE**

BOARD OF RESPIRATORY CARE EXAMINERS

**ARIZONA GOVERNOR'S COUNCIL ON ARTHRITIS
& MUSCULOSKELETAL DISEASES**

**JOINT LEGISLATIVE COMMITTEE FOR THE ARIZONA HEALTH CARE
COST CONTAINMENT SYSTEM**

Minutes of the Meeting
Wednesday, October 23, 1996
9:00 a.m., Senate Hearing Room 2

MEMBERS PRESENT

Senator Day, Co-chairman
Representative Gerard, Co-chairman
Senator Brewer
Senator Petersen
Representative Aldridge
Representative Horton
Representative Foster

MEMBERS EXCUSED

Senator Kennedy
Senator Henderson
Representative Preble

STAFF

Kitty Boots, Senate Analyst
Lisa Block, House Analyst

Co-chairman Day convened the meeting at 9:10 a.m. and the attendance was noted. Senator Day explained the purpose of the sunset hearings is to review the purpose and function of each entity to determine whether they should be continued, revised, consolidated or terminated.

BOARD OF RESPIRATORY CARE EXAMINERS

Mary Hauf Martin, Executive Director, Board of Respiratory Care Examiners, explained the Board was created in 1990 and oversees Respiratory Care Practitioners (RCPs) who provide services in hospital settings and increasingly in alternative settings such as skilled nursing facilities and private homes. She explained the Board must insure an RCP cares for patients safely and effectively. Ms. Martin explained RCPs work with health care teams to insure quality patient care and cost containment in a continually changing environment.

In response to Senator Day's request to hear examples of ways RCPs are adapting to a changing environment, Ms. Martin explained RCPs at St. Joseph's Hospital in Phoenix are now integrated into all departments, rather than being centralized in a department of their own, and are involved in total patient care, e.g. helping to move a patient as well as

October 23, 1996

Page 2

**HEALTH COMMITTEES OF
REFERENCE SUNSET REVIEWS**

performing respiratory care. She also indicated that since patients are leaving the hospital sooner after medical procedures, RCPs have gone into homes to train patients on the use of respiratory equipment.

Senator Day asked if Ms. Martin sees managed health care as supporting an adequate number of home visits and extended care by RCPs. Ms. Martin indicated that managed care has worked collaboratively to provide necessary services.

In response to Senator Day's request to know if Ms. Martin sees services being cut back by managed care, Ms. Martin indicated that she did not feel qualified to respond. She emphasized there is an effort on the part of the respiratory care industry to answer the need that exists.

Ms. Martin explained the Board is made up of three practitioners, one medical doctor, one hospital administrator and two members of the public, emphasizing that the majority of the Board is not made up of practitioners and takes its responsibility to protect the public health very seriously. She noted that Board meetings are very well attended by health care facility representatives and interested licensees.

Ms. Martin further explained disciplinary procedures are reviewed to assure that people are being treated fairly and equally. She indicated an independent study performed by the Auditor General reveals the Board compares favorably to similar boards. Ms. Martin indicated it has taken the Board about 60 days to process a complaint from beginning to resolution, that 26 percent of complaints have resulted in disciplinary action and that 34 percent have resulted in a warning letter of concern in the past year.

In response to Representative Aldridge's request to know what qualifies a person to be an RCP, Ms. Martin explained an applicant for a license must be a high school graduate and graduate from an accredited respiratory therapy training program. Once training is completed, an application for a license may be filed and is granted within 24 hours at which time the applicant may seek on-the-job training under the supervision of a doctor or another licensee until he or she can pass a national exam called the CRTT. Ms. Martin indicated that once the applicant passes the CRTT, he or she is eligible for a permanent license.

In response to Representative Aldridge's request to know how long the training program is, Ms. Martin explained it lasts approximately a year, which is longer now than in the recent past, due to enhanced education in using high-technology equipment.

Representative Horton referred to page five of the preliminary sunset report (filed with original minutes) and asked for the reason behind the fluctuation in the number of license denials and total number of complaints charted there. Ms. Martin explained a backlog in

processing complaints occurred last year, but was alleviated once a staff position was authorized by the Legislature.

In response to Senator Day's inquiry, Ms. Martin acknowledged that every year there has been a gradual increase in the number of complaints. She explained that the biggest problem behind complaints is substance abuse by practitioners.

Representative Horton asked if criteria used for foreign applicants are the same for citizens of the United States. She asked how the Board determines how the foreign applicants have the same standardized training.

Ms. Martin explained that Canada, where the majority of foreign applicants are from, has a very rigorous training program which is accepted as an equivalent by a national organization for respiratory care examiners.

In response to Representative Horton's wish to know what legislation the Board would be pursuing next session, Ms. Martin indicated it would be developing technical legislation to clarify language only.

In response to Senator Brewer's request to know if the Board certifies the respiratory care training facilities that applicants attend, Ms. Martin explained a national accreditation body, consisting of four groups of practitioners, determines what constitutes an approved program. She further explained the Board assures that applicants have attended an American Medical Association-approved program.

In response to Senator Brewer's further inquiry about where applicants go to school, Ms. Martin related the majority are attending community colleges to obtain their training.

Ms. Martin confirmed Senator Brewer's observation there are no independent, privately-owned respiratory therapy colleges in Arizona.

Representative Horton asked what the Board does to screen applicants for drug abuse. Ms. Martin explained this is a collaborative effort between the Board and care facilities that employ RCPs. She indicated the Board does not have the ability to perform criminal background checks on every applicant, however does ask them specific questions about their backgrounds and requires they submit a sworn statement that everything they have told the Board is true and factual. Ms. Martin additionally noted that facilities routinely perform preemployment drug screenings and also have the ability to perform "for cause" drug screenings when necessary.

David Feuerherd, Program Director, American Lung Association, expressed his support for continuing the Board in response to Senator Day's inquiry.

John Coleman, RCP and Member of the Board, explained the process whereby a patient is transferred from a hospital setting to home care using skilled, licensed RCPs.

In reference to Senator Day's concern about benefits being cut back in the managed health care environment, Mr. Coleman asserted the issue requires that home-care companies adapt their contracts with managed care health plans. He explained that typically, depending on the patient's level of acuity, they may be seen once a week, once every six weeks or more often in the case of ventilator patients.

Senator Day indicated that according to information she receives from constituents, managed care cuts back on benefits to home care facilities and is not always providing services that patients need.

Representative Gerard asked if complaints from patients received by the Board concern quality of care. Mr. Coleman indicated the Board does not receive these types of complaints, as these are directed to the home care company or the insurance provider.

Representative Gerard asked if employers of RCPs have an obligation to report unprofessional conduct or incompetency to the Board and Mr. Coleman responded affirmatively.

Representative Gerard indicated she has never received a complaint about the Board, acknowledged the need to license RCPs and recommended continuing the Board for ten years.

Senator Brewer asked if RCPs bill directly or through the organization they work for. Mr. Coleman explained this depends upon the environment in which the RCP is working, noting that at this point in time, there is no set fee the RCP charges to go into a home care setting. He explained that compensation for the RCPs is built into the charge for equipment that is reimbursed. In hospital settings, Mr. Coleman explained, payment is disbursed through the hospital, not billed to the patient directly.

In response to Senator Brewer's reference to oxygen suppliers' problem with needing to hire RCPs to deliver their product, Mr. Coleman stressed this is a way to protect the public. He emphasized that it is perfectly appropriate and desirable to have a licensed practitioner teaching patients about the use of prescription drugs and oxygen equipment in their homes.

Representative Gerard moved that the Committee of Reference recommend to the full body the continuation of the Board of Respiratory Care Examiners for ten years. The motion CARRIED by a voice vote.

**ARIZONA GOVERNOR'S COUNCIL ON ARTHRITIS AND MUSCULOSKELETAL
DISEASES**

Pami Kowal, Member, Governor's Council on Arthritis and Musculoskeletal Diseases, explained that Gail Riggs, Council Chairperson, was only notified of the meeting yesterday and could not attend with such short notice.

Senator Day acknowledged the notice was late due to a lag in communication.

In response to Senator Day's inquiry about Ms. Kowal's understanding of the Council budget matters, Ms. Kowal indicated the budget is small, has not changed and the Council does not anticipate the need to request an increase.

Bob Gilligan, Legislative Liaison, Arizona Department of Economic Security (DES), explained DES provides a staff person part-time to perform Council duties as well as many other duties for DES. He indicated DES provided a little more than \$600 this year to the Council to reimburse members for travel to four meetings, and approximately \$400 the year before for the same purpose.

After some discussion it was determined that per diem expenses were compensated at the rate of \$600 for an entire year, hotel and transportation expenses at \$1,200, and that 5 percent of DES clerical staff committed to the Council amounted to \$3,800, for a total cost of approximately \$6,000 per year.

Senator Day questioned the purpose of the Council in view of the fact that the Arthritis Foundation exists for much the same purpose.

Ms. Kowal acknowledged the Foundation serves its purpose very well, but explained the Council functions in addition to the Foundation in pursuing legislative activities and community outreach and education.

In response to Senator Day's request to know how the Council specifically serves an education function, Ms. Kowal indicated that the Council holds public forums in outlying areas to educate people about arthritis and the importance of early detection and treatment.

Senator Day asked if the educational activities are conducted by volunteers and Ms. Kowal confirmed that everything the Council does is conducted on a volunteer basis.

Representative Gerard read from the Executive Summary of the preliminary sunset report (filed with original minutes) that the Council's purpose is to "develop recommendations the

State may adopt to help victims of these diseases," and asked if anything specific has been done other than to call the congressional delegation, which is noted in the Council's response.

Ms. Kowal responded that the Council has been actively involved in assuring vocational rehabilitation is continually supported and has applied for funding for particular research grants.

In response to Senator Day's request to know how successful the Council has been in obtaining a research grant, Ms. Kowal expressed her understanding the Council has obtained one research grant but it has not moved forward for some reason.

In response to Representative Gerard's inquiry, Ms. Kowal acknowledged the Council would not be conducting research, only applying for grants and providing support. Representative Gerard suggested the University of Arizona Medical Center could apply for such a grant as well. Ms. Kowal acknowledged this and noted the Foundation also applies for grants.

Representative Gerard asked if the Council is a pass-through agency for receiving any type of federal monies and Ms. Kowal expressed her understanding it is not.

Representative Gerard asserted there is no need for the Council and that its function should be handled in the private sector.

Representative Aldridge suggested the work of the Council should be coordinated with the Arthritis Foundation.

Ms. Kowal emphasized that the Council is a group of close-knit professionals who want to provide additional support to the Foundation, especially in the legislative area to see that arthritis is eradicated and people educated about it. She emphasized that the Council members would want to continue in their efforts even without funding.

Representative Aldridge asserted he does not see any concrete results provided by the Council.

Ms. Kowal reviewed goals and objectives for the following year including setting up an informal arthritis registry as an outreach, especially to outlying areas, to get people properly channeled to see a specialist as soon as possible after diagnosis. She emphasized that the Council is composed of many committed people with outstanding ideas and has only had a chance to hold one meeting out of six planned so far this year.

Senator Day acknowledged Ms. Kowal's dedication and that of Council members, and suggested they may enjoy the status of being appointed by the Governor. She suggested that if members are dedicated enough, they can pursue their goals independently.

Representative Horton read a recommendation from the preliminary sunset report stating the "Arizona legislature should increase funding" and read from goals and objectives, noting the Council asks for a "full match of State funding to pull down maximum federal funding for DES."

Senator Day related that in a recent conversation, Ms. Riggs indicated the Council expects no additional funding from DES and is working with the Foundation to obtain matching funds.

Ms. Kowal urged the Committee to allow the new Council members an opportunity to show the State what it can do.

In response to Representative Foster's inquiry about how much the Council collaborates with the Foundation, Ms. Kowal acknowledged it collaborates functions a great deal and noted some members of the Board are also members of the Foundation.

In response to Representative Horton's suggestion that the Council function as an advisory committee to the Foundation, Ms. Kowal explained the Foundation, based in Atlanta, Georgia, already has quite a few committees in place and questioned whether a particular state's Governor's Council could become an advisory committee, suggesting this would probably take quite a bit of convincing.

Representative Gerard moved that the Committee of Reference recommend to the full body the termination of the Arizona Governor's Council on Arthritis and Musculoskeletal Diseases. The motion CARRIED by a voice vote.

Senator Brewer voted against the recommendation, asserting that not enough information was received to warrant termination and suggested the Council should be continued for one year so it could be clearly established whether money should come out of DES to fund it or not.

Representative Horton voted against the recommendation because she had remaining questions and felt uncomfortable about terminating the Council when Ms. Riggs could not be present to respond.

**JOINT LEGISLATIVE COMMITTEE FOR THE ARIZONA HEALTH CARE COST
CONTAINMENT SYSTEM (AHCCCS)**

Kitty Boots, Senate Research Analyst, explained the Committee charge is to conduct negotiations relating to all agreements with the federal government and the State concerning Title XIX programs, to review and make recommendations concerning all proposals for additions or modifications to populations covered or services provided by AHCCCS or any state agency providing services to populations eligible under Title XIX. She additionally explained the Committee is charged with monitoring the implementation of additional fees and modifications including the review of preadmission screening instruments, the eligibility and enrollment system and the service delivery system. Ms. Boots indicated the Committee is also to review the implementation of the hospital payment methodology and must review and approve all hospital rate changes before the implementation of changes in hospital rates.

Ms. Boots indicated the Committee has met six to seven times over the past six years to address issues, including those listed on page two of the preliminary sunset report (filed with original minutes). She noted the Committee is required by statute to meet at least four times per year and this charge has not been met.

Ms. Boots noted there are ongoing projects the Committee may choose to review, including reviewing and holding public testimony on the rules proposals for the new AHCCCS reimbursement pilot project, reviewing the impact of the new federal welfare reform bill and reviewing the impact of pending initiatives should they pass in the November election.

Senator Day stressed the need to continue this Committee, recommended doing so for ten years and recommended changing the statutory requirement of meeting four times a year to "meeting at the discretion of the co-chairmen."

Representative Horton expressed her concern the Committee does not meet frequently enough as it is and needs to meet more often.

Representative Gerard asserted the Committee is not necessary and recommended using the Joint Legislative Health Committees of Reference to treat AHCCCS issues. She acknowledged there was a need for the oversight when AHCCCS first started up and received its federal waiver, but the need has run its course.

Representative Aldridge agreed there is no longer a need for the Committee and Senator Day withdrew her previous recommendation.

Representative Gerard moved the Committee of Reference recommend to the full body the termination of the Joint Legislative Oversight Committee on the Arizona Health Care Cost Containment System (AHCCCS), expanding the scope of the Joint Legislative Health Committees of Reference to encompass dealing with questions concerning AHCCCS. The motion CARRIED by a voice vote.

Without objection the meeting was adjourned at 10:30 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Alice Kloppel".

Alice Kloppel,
Committee Secretary

(Tape and attachments on file in the Office of the Senate Secretary)

