

Minutes of the March 3, 2022
Board of Respiratory Care Video Conference Meeting

1. ROLL CALL

Jill Sand, Vice-Chairperson, called the meeting of the Board of Respiratory Care to order at 9:03 a.m. on Thursday, March 3, 2022, in the Fifth Floor Conference Room B at the Nebraska State Office Building located at 301 Centennial Mall South, Lincoln, Nebraska. In accordance with Neb. Rev. Stat. § 84-1411 of the Nebraska Open Meetings Act, copies of the agenda were e-mailed to the Board members and other interested parties, posted on the DHHS web site at <https://dhhs.ne.gov/licensure/Pages/Agendas-and-Minutes.aspx>, and posted outside the Licensure Unit at least twenty-four (24) hours prior to the meeting.

Sand announced that this is an open meeting and the Open Meetings Act is posted.

Members Present: The following members answered roll call:

Jill H. Sand, Vice-Chairperson
Ryan A. Martin, Secretary
Rene A. Botts, Member
Marcy Wyrens, Member

Others Present:

Milissa Johnson-Wiles, Assistant Attorney General
Joe Neuhaus, Assistant Attorney General
Suzanna Glover-Ettrick, DHHS Legal Counsel
Jeff Newman, Investigator
Mark Meyerson, Investigator
Dennis Scott, Investigations Program Manager
Claire Covert-ByBee, Licensure Program Manager
Amy Blinston, Health Licensing Coordinator

Guests Present:

Heather Nichols

2. INTRODUCTIONS

Covert-ByBee announced that there are several introductions, to include new Board member Marcy Wyrens, Amy Blinston, Health Licensing Coordinator, and Joe Neuhaus, Assistant Attorney General. All board members and staff present introduced themselves.

3. ADOPTION OF THE AGENDA

MOTION: Botts moved, seconded by Sand to adopt the agenda for the meeting.
Voting aye: Botts, Martin, Rush, and Sand. Voting nay: None. Motion carried.

4. REAFFIRMATION OF MAIL BALLOT

Covert-ByBee stated that there has been one mail ballot since the last Board meeting. The mail ballot approved minutes from the September 2, 2021 Board Meeting. Voting to approve, Botts, Martin, and Sand on October 19, 2021.

5. INVESTIGATIONAL & CONFIDENTIAL INFORMATION / REPORTS – CLOSED SESSION

MOTION: Martin moved, seconded by Wyrens to move into closed session at 9:11 a.m. to hear discussions regarding confidential information and to protect the reputation of individuals named or referenced in such discussions. Voting aye: Botts, Martin, Botts, and Sand. Voting nay: None. Motion carried.

6. BOARD RECOMMENDATIONS ON APPLICATIONS – OPEN SESSION

The Board returned to open session at 10:10 a.m.

MOTION: Wyrens moved, seconded by Sand to recommend reinstating a Respiratory Care Practitioner license to Shane Marik under the previous terms and conditions that existed when the license was placed on inactive status. Voting aye: Botts, Martin, Wyrens, and Sand. Voting nay: None. Motion carried.

7. LEGISLATIVE UPDATE AND LB 752

Covert-ByBee provided a synopsis of legislative items:

LB 709 is an act to change the Occupational Board Reform Act and the preliminary conviction review process. Professional and Occupational Boards would be required to ratify their decisions, and put more restriction on the process. LB 742, LB 743, and LB 908 propose changes to the Open meetings Act, which defines what can be done during open and closed sessions, define laws regarding public bodies and virtual conferencing. These bills would allow for meeting minutes to be kept as an electronic record.

Covert-ByBee stated LB 753 would require the Department to put out information regarding stem cell therapies. Specifically, any health care practitioner who performs stem-cell-based therapy would be required to communicate to any patient seeking such therapy, that it is not approved by the United States Food and Drug Administration.

LB 885 would require implicit bias training for anyone interacting with post-partum women and require annual training on implicit bias as part of the renewal process beginning October 1, 2023.

LB 908 pertains to requirements for virtual conferencing, notice of meeting publication, and emergency meetings.

LB 963 involves the Medical Ethics and Diversity Act and protect facilities/providers in instances of a conscientious medical objection.

These minutes have been approved by the Board of Respiratory Care via mail ballot 3.21.2022

Covert-ByBee stated LB 752 is the main bill affecting this Board as it would further define the scope of practice for respiratory care practitioners. This legislative bill states that respiratory care shall also include the administration of all pharmacologic, diagnostic, and therapeutic agents for the treatment and diagnosis of cardiopulmonary disease for which the respiratory care practitioner has been professionally trained, or has obtained advance education or certification. Wyrens indicated that LB 752 was being read on the floor of the Nebraska Legislature at the time of this Board meeting.

8. UPDATE ON LANCE

Covert-ByBee stated that the projected launch date of the new licensure database, LANCE (Licensing And Credentialing Environment), is April 4, 2022. Licensees will be able to create a profile, complete their application electronically, make fee payments, submit documentation, and view their application process through an online system. The first professions enabled in LANCE will be Physical Therapy and Cosmetology, all other professions will follow suit in rapid succession. Respiratory Care will likely be added later than other professions as it has just entered into the renewal period.

9. LICENSURE AND EXECUTIVE ORDERS

Covert-ByBee provided the Board with 3 executive orders issued by Governor Ricketts for reference. Executive Order 21-18 is currently the only executive order still active, and expires March, 31, 2022. Executive order 21-18 directly refers to orders 21-12 and 21-15. Executive order 21-18 allows for specific medical practitioners with licensure in other states to work in Nebraska if their licenses are in good standing. The order also waives the continuing education requirement for those reinstating their license. These orders were issued in response to the Covid-19 pandemic to address medical workforce shortages.

10. CREDENTIALING REVIEW PROCESS INFORMATION

Covert-ByBee gave a synopsis of the 407 credentialing_review process. In general, that means an entity requests to review the scope of practice for the purpose of changing the scope of practice for a specific profession. An application must be submitted, then a technical review committee is created. Several meetings are held, including stakeholders and the requesting applicant, to review all of the documentation and determine if there is any opposition or support. After these meetings are conducted, the technical review committee issues a report to the Board of Health Subcommittee. The Board of Health reviews the report and makes a recommendation. The Director of Public Health also makes recommendations based on the report. Covert-Bybee provided the Board with copies of all three reports, which recommended approval of the Credentialing Review to expand the scope of practice for Respiratory Care Practitioners in the State of Nebraska. This process has moved quickly to expand the scope of practice for respiratory care practitioners.

11. CONVICTION REVIEW GUIDELINES

Covert-ByBee stated the Conviction Review document is utilized by Licensure Unit staff to determine whether an application needs to be reviewed by the Board. When applications are received noting past convictions or convictions are found, the Licensure Unit reviews the conviction guidelines to determine whether the application meets criteria for Board review. The guidelines also assist in determining what additional documentation may need to be collected for the Board.

MOTION: Botts moved, seconded by Wyrens to retain current conviction review guidelines as written. Voting aye: Botts, Martin, Wyrens, and Sand. Voting nay: None. Motion carried.

12. ELECTION OF OFFICERS

Covert-ByBee advised that the Board elects new officers annually. The officers to be elected are Secretary, and Investigations Consultant. The Board discussed roles and opted to vote via slate ballot.

MOTION: Botts moved, seconded by Wyrens to elect Jill Sand as Chair, Rene Botts as Vice-Chair, Dr. Ryan Martin as Secretary, and Marcy Wyrens as Investigative Consultant. Voting aye: Botts, Martin, Wyrens, and Sand. Voting nay: None. Motion carried.

13. NOTICE OF MEETING PUBLICATION

Covert-ByBee stated that currently, meeting notices are physically posted as the agenda outside the Licensure Unit, on the first floor of the Nebraska State Office Building. Notice is also posted as the agenda on the DHHS Board meeting website as well as sent directly to stakeholders and identified interested parties. The Department of Health and Human Services is requesting that meeting notice continues in the same fashion.

MOTION: Wyrens moved, seconded by Martin, to recommend that the Department continue providing notice of Board meetings by posting outside the Licensure Unit at the Nebraska State Office Building, on the DHHS Board Meeting website, as well as by providing notice directly to stakeholders and identified interested parties. Voting aye: Botts, Martin, Wyrens, and Sand. Voting nay: None. Motion carried.

14. PER DIEM DISCUSSION

Covert-ByBee stated that per statute, the Board members are allowed a per diem for every day that they are engaged in duties of a Board member. The maximum amount is \$50.00 per day. This Board had previously elected to only be paid a per diem for the actual day of the Board meeting. Some Boards have elected to be paid a per diem for time spent in preparation for the meeting.

MOTION: Martin moved, seconded by Sand, to keep the per diem as currently outlined. Voting aye: Botts, Martin, Wyrens, and Sand. Voting nay: None. Motion carried.

15. APPLICATION PROCESSING REPORT AND LABOR STATISTICS

Covert-ByBee indicated that at the last meeting, the Board requested data regarding the current workforce for Respiratory Therapists. The Department of Labor collects workforce information while the Licensure Unit can only provide the Application Processing Report which indicates the number of applications received, applications denied and renewed, as well as the number of active licensees and licenses issued. Covert-ByBee stated that short and long-term employment projections are available on the Department of Labor report.

16. TOPICS FOR NEXT MEETING

Covert-ByBee indicated that the standard topics would include a Legislative Update, Application Processing Report, Executive Orders and Licensure, and an Update on LANCE. Wyrens requested that additional legislative updates be provided at the next Board meeting.

17. ADJOURNMENT

There being no further business, the meeting adjourned at 10:55 a.m.

Signature on file

Respectfully submitted,

Ryan A. Martin, Secretary