

SC Board of Medical Examiners Respiratory Care Committee Minutes

Committee Meeting of January 19, 2018
10:00 a.m., Room 202-02
Synergy Business Park, Kingstree Building, 110
Centerview Drive Columbia, South Carolina 29210

The meeting was being held in accordance with the Freedom of Information Act by notice emailed to The State newspaper, Associated Press, WIS-TV and all other requesting persons, organizations, or news media. In addition, notice was posted on the Board's website and on the bulletin boards located at both of the main entrances of the Kingstree Building where the Board office is located.

Committee members present were:

Garrett Galloway, RCP -Chairman
Jerry Alewine, RCP -Secretary
Fady Nassif, MD
Scott Simms, RCP
Christopher Perry, MD
Luca Paoletti, MD Allan
Dunphy, RCP

Committee members absent were:

Scott Crego, RCP - Vice-Chairman

Members of the S.C. Department of Labor, Licensing and Regulation (LLR) staff:

Candace Gunter, RCP Program, Administrative Assistant
Sheridon Spoon, Administrator

Office of Advice Counsel

Hardwick Stuart, Advice Counsel

Court Reporter:

Gary Haygood, Capital City Reporting, LLC.

Teleconference attendees:

Zachary Portin, Reed Smith, LLP Chicago, IL
Jeremy Alexander, Reed Smith, LLP Washington, DC

The meeting was called to order at 10:05 a.m. A quorum was noted as present.

1. Meeting agenda approved.
2. Minutes from the October 20, 2017 Committee meeting were approved as to amend Committee members present removing Luca Paoletti.
3. Andrea Chambers appeared before the committee to address some concerns of her application. After Executive Session, the committee made a motion to recommend

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approval of licensure within South Carolina. Scott Sims second. Motion carries.

Respiratory Therapy Scope of Practice

Mr. Portin and Mr. Alexander are healthcare policy attorneys who represent international durable medical equipment suppliers. Mr. Alexander explained their client is a Medicare-enrolled durable medical equipment supplier that holds a Medical Gases/Legend Device Permit and is enrolled in South Carolina's Medicaid program. The supplier is proposing to ship directly to certain eligible patients certain respiratory equipment. Trained personnel would provide remote instruction to such patients regarding the proper use of such equipment. Patients would only be eligible for participation in the remote training program if (1) the equipment does not require in-home set-up based on the age of the patient; (2) the patient is able to read and write; (3) the patient has the physical ability to lift and unpack the equipment; (4) the timing of the patient's need for the equipment permits remote set-up and instruction; and (5) the patient's diagnosis is eligible for the remote program.

Products provided would be Oxygen Concentrators: a medical device used to deliver oxygen. An oxygen concentrator has a compressing element and it should not be confused with compressed oxygen or an oxygen tank. Whereas a tank has a set amount of oxygen that it dispenses, a concentrator filters air, compresses it, and delivers air continuously. It does not produce medical gas, Nebulizer equipment only (without drugs), CPAP/BiPAP Equipment and Supplies, and High Frequency Chest Wall Oscillation Devices: a vest that is attached to a machine and is frequently used by patients with cystic fibrosis. The machine mechanically performs chest physical therapy by vibrating at a high frequency. The vest vibrates the chest to loosen and thin mucus. In addition, each eligible patient would receive quick start guides, product manuals, and product videos and a respiratory therapist licensed in the state in which the therapist is located or another qualified individual acting in compliance with the requirements of the state in which such individual is located would contact the patient by telephone and/or conduct a video conference with the patient to review and instruct patient on the proper use of equipment and review any questions such patient may have regarding the product and if necessary, the supplier would also provide ongoing follow-up calls to the patient. The supplier would also be available 24 hours per day and seven days per week for support.

The client's questions are:

1. Can a respiratory therapist licensed in the state in which such therapist is located permitted to provide remote equipment instruction to residents of South Carolina over the phone or by video conference?
2. If not, may the therapist provide such instruction remotely if he or she obtains a South Carolina respiratory care therapist license?
3. Does the board permit unlicensed persons to provide such delivery, and setup services remotely, subject to the above referenced limitations under S.C. Code § 40-47-530(a), to the extent such activities may be conducted remotely by trained unlicensed individuals? If not, then would the Board grant an individual exemption to an applicant under the Trained

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Individuals Exception to provide remote set-up, application, troubleshooting and maintenance services of both artificial pressure adjuncts (e.g., CPAP and BiPAP), and ventilator settings as well as of oxygen concentrators, nebulizer equipment and/or high frequency chest wall oscillation devices, subject to the above referenced limitations under the Trained Individuals Exception?

4. Does the exception for delivery and setup of respiratory equipment or the Trained Individuals Exception permit a respiratory therapist licensed in another state or a trained unlicensed individual (“technician”) to provide remote assistance to a family member/caregiver of a patient for the purpose of making the oxygen concentrators patient-ready?

Motion made to come out of Executive Session made by Scott Sims. Jerry Alewine second. Motion carried. Garrett Galloway advised Mr. Portin and Mr. Alexander the question was brought forth to the committee in the past and based on legal advice; the South Carolina statute does not allow delivery of respiratory services, remote setup, and delivery being telemedicine. Further guidance would require special legislation. Mr. Alexander questioned should they work with the existing regulation and is this the committee’s position that such remote delivery and setup is prohibited or just not covered? Advice counsel, Wick Stuart reiterated that there is nothing in the statute that provides remote setup, exceptions are strictly construed and the exemption doesn’t allow for remote setup and delivery, 40-47-530(a)(5), employees of durable medical equipment companies delivering and setting up respiratory equipment in an individual's home, pursuant to a written prescription by a physician, except that any instructions to the patient regarding the clinical use of the equipment, any patient monitoring, patient assessment or other procedures designed to evaluate the effectiveness of the treatment must be performed by a licensed respiratory care practitioner or other individual who is exempt by statute or regulation. Case cited “Vernon vs Harrisville Mutual Casualty Company with the Supreme Court.” Sheridan Spoon explained that the minutes will be included in the board materials February 5th and at that time the board will review and make a decision at that time. The minutes will be posted on the website for follow-up. Garrett Galloway advised that any further/additional comments and/or questions would come before this committee to be forwarded to the board for review.

4. Approval of temporary to permanent licenses

Name	Credential Number	Expiration Date	City	State
Andrea Jane Alexander	RCP.6119	2/28/2018	Inman	SC
Kimberly Hollifield Barker	RCP.6127	2/28/2018	Lincolnton	NC
STACIE BECHINSKI	RCP.6134	2/28/2018	ROCK HILL	SC
MAURICE BROWN	RCP.6128	2/28/2018	CHARLOTTE	NC
Janane Hough Buice	RCP.6021	2/28/2018	Johns Island	SC
AUDREY IRENE COOPER	RCP.6138	2/28/2018	FORT MILL	SC

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CARA DENUNZIO	RCP.6129	2/28/2018	PAWLEYS ISLAND	SC
Walissa Letrelle Edwards	RCP.6027	2/28/2018	Pelzer	SC
Amanda Mary Ernst	RCP.6131	2/28/2018	Mesa	AZ
MIRIAM BRIANA FERGUSON	RCP.6137	2/28/2018	WOODRUFF	SC
OSCAR SANTIAGO GOMEZ	RCP.6135	2/28/2018	CHARLOTTE	NC
STACI HESS	RCP.6133	2/28/2018	SUMMERVILLE	SC
TAMEIKA RASHAY JENNINGS	RCP.6132	2/28/2018	DILLON	SC
Linda Nicole Oxendine	RCP.6130	2/28/2018	Maxton	NC
MONICHA PAIGE RICH	RCP.6032	2/28/2018	GREENVILLE	SC
Melissa Evan Rigdon	RCP.6047	2/28/2018	Anderson	SC
Khalif Sellers	RCP.6136	2/28/2018	Orangeburg	SC
Gena Hair Taylor	RCP.6126	2/28/2018	Evans	GA
Dorothy Madison Tellin	RCP.6097	2/11/2018	Ninety Six	SC
JOSEPH MANGET DRISKELL	RCP.6063	2/28/2018	CAYCE	SC
Meghan Elizabeth Finneran	RCP.6034	2/28/2018	Folly Beach	SC
Lisa Susan Polito	RCP.6139	2/28/2018	Murrells Inlet	SC
CHRISTINA JASMINE THIEMAN	RCP.6120	2/28/2018	NORTH CHARLESTON	SC

Motions made to approve all temporary licenses for update to permanent by Jerry Alewine, second by Scott Simms. Motion carried.

5. Committee Chair Report: Garrett Galloway briefly mentioned through research, AARC and the local SCSRC chapter that there is a lot going on at multiple levels of Respiratory care in telemedicine concerning reimbursement, care, etc. and will forward information to the committee for informational purposes.

6. Public Comment: None

Mr. Galloway made a motion to adjourn at 12.16 p.m. Dr. Perry seconded the motion which passed unanimously.

The next meeting is scheduled for Friday, April 20, 2018 at 10:00 a.m., Room 202-02.

Respectfully submitted,

Candace Gunter
RCP Program Administrative Assistant