

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT
State Board for Respiratory Therapy
October 10, 2024
89 Washington Avenue, Albany, NY
Remote public sites: Hauppauge

Present: Kathleen Beney (Albany)
Thomas Harvie (Albany)
Rebecca Albright (Albany)
Cassandra Germinal (nonpublic location)
Thomas K. McManus (Albany)

Staff: Diane Martin Board Staff
Karen Shier Board Staff
Dennis Spillane Director of the Office of Professional Discipline
Paul Thompson Board Executive Secretary

Meeting Convened

Mr. Thompson called the meeting to order at 10:10 a.m. Board members and staff introduced themselves. Mr. Thompson noted that comments and discussion are restricted to State board members and Department staff.

Presentation: Professional Discipline Process

- Dennis Spillane, Director of the Office of Professional Discipline (OPD), provided an overview of OPD and detailed the processes and roles under the Department's administrative authority.
- Cases may address applicants for licensure, licensed professionals, and licensees who are seeking restoration of a license that has been revoked or surrendered. Members of the State professional boards provide essential expertise to OPD in all instances.
- Board members inquired about the training of new members; they suggested that it may be useful to incorporate the detail provided by Mr. Spillane in his presentation. Chair Beney also asked about resources for identifying useful coursework when a practitioner needs remediation; Mr. Spillane noted that the onus is on the licensee to find coursework that meets the remediation needs specified by the professional board member(s).
- At Chair Beney's request, Mr. Spillane described the steps of the restoration process following review by the Board panel. Mr. Thompson invited Board members to follow up with him if they had any additional questions.

Executive Secretary's Report

- Mr. Thompson framed a discussion on unlicensed assistants, based on problematic job postings provided by Chair Beney and Vice Chair Harvie.
- While some of the duties in the home-based care jobs appear to be appropriate for unlicensed personnel, others reference activities that require professional knowledge and licensure.
- The Department may investigate complaints of unlicensed practice. Its enforcement mechanisms in these matters, however, are limited by Education Law to administrative actions, such as issuing a cease-and-desist order. To prosecute criminal charges, the attorney general/local law enforcement must take up the case.

- Licensed professionals bear some responsibility in deterring unlicensed practice as well, particularly as related to individuals they supervise. Example: provisions in Part 29 of Regents Rules state that it is unprofessional conduct to delegate “professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience or by licensure, to perform them...” [29.1 (10)]
- In addition, the Rules stipulate that it is unprofessional conduct if a licensee fails “to exercise appropriate supervision over persons who are authorized to practice only under the supervision of the licensed professional...” [29.2 (5)]
- As a matter of good practice—and to avoid potential charges of professional misconduct—it is important for employers and licensees to help ensure that only authorized professionals render professional services.

Adjournment

- The Board concluded its meeting at 11:58 a.m. (Motion: Kathleen Beney; second: Thomas McManus; unanimous approval)