Board of Health
Meeting Minutes
April 7, 1993

Present: Ellen Foberg, Leonard Laffond, James O'Brien, Melissa Quinn

The meeting was called to order at 7:00 P.M. Also present was Dianne Rode, Town Nurse.

It was noted that Ms. Rode had been asked to attend the meeting to discuss a better means of accounting for her ten to twelve hours of home visiting time. The Chairman, on behalf of the Board, asked her to submit a daily time sheet listing the names of those she visited along with the date, time and length of the visit. Ms. Rode took exception to this request, citing patient confidentiality. The Chairman reported that Town Counsel was consulted on this matter (at Ms. Rode's request), and a copy of Counsel's opinion was given to Ms. Rode (see attached). As stated in the opinion (which was obtained by Counsel from the Office of the Secretary of State) "the Town of Rowe may request the town nurse to keep daily activity logs and that the town nurse may be required to put the names and addresses of the patients she visits in the daily activity log, but that there should not be kept in the daily activity log any details of the patient's medical condition. So long as there are no details of the patient's medical condition in these daily logs, these daily logs are public records."

Mr. Laffond stated that he was dismayed that Ms. Rode's inimical reaction has exacerbated this matter to a greater gravity than it warrants. He reminded her that she is responsible to the Rowe Board of Health. Ms. Rode stated that she works for the Department of Public Health in Boston. The Chairman responded that the Town Nurse does not work for the DPH, but for the Rowe Board of Health, and is accountable to them. Further, the Chairman stated that the decision of the Board was that beginning Thursday, April 8, 1993, Ms. Rode would be required to complete the time log as set out in the above-mentioned letter from Town Counsel using a log form similar to one used by the Visiting Nurse Association. This log is to include the names of those visited, but is NOT to include or refer to any medical information.

It was reported that members of the Board of Health had been contacted by several residents commenting on calls that they had received from Ms. Rode regarding this issue. The Chairman noted that when the Town Nurse makes her home visits she is there to provide care and comfort to her patients and not to concern them with disputes over policy issues with her employers.

It was the consensus that the Board will amend the Town Nurse's job description to include the time log procedure. Since this change was being made, it was agreed that the entire job description would also be reviewed and updated, if necessary, by the Board at this time.

It was noted that the Board is only trying to fulfill their responsibility to taxpayers in requiring a full and accurate accounting of the Nurse's hours. (Ms. Rode is paid $13.23 per hour for a twenty hour week; eight posted office hours per week at the Town Hall, two un-posted office hours per week at the Town Hall for administrative work, and ten hours per week of "home visits" to Rowe residents for a FY 1993 annual salary of $13,759.00) At no time and in no way were any accusations made toward Ms. Rode; however, Ms. Foberg stated that in a phone conversation, Ms. Rode accused the Board of being "devious" in requesting the time log.

In an effort to insure patient confidentiality, Ms. Rode was directed to contact B & H Computer Service to have them set up a program that locks her patient files, thereby eliminating any possibility of access by unauthorized person(s).

Ms. Rode noted that she would like to take a personal leave day on April 20th. This was approved by the Board.

It was noted that the Transfer Station Attendant has requested time off from April 18 through April 25. The Attendant offered to find a suitable substitute in his absence, and this was approved.

Ms. Foberg reported that she had received a call from Paul Dunnell (Leshure Road) regarding the status of his sewage disposal system. Mr. Dunnell is involved in renovations on both the house and barn on this property. Recently he began work on converting an existing attic into a bedroom and adding another bathroom. Building Inspector William Foster issued a stop work order until the status of the sewage disposal system was ascertained. Mr. Dunnell stated that the property has a 275 gallon tank. The question of the existence of a leach field was not addressed. After consulting with Larry Golonka at the Department of Environmental Protection, Ms. Foberg informed him that according to regulations in Title 5, he would be required to install a new tank with the minimum capacity of 1000 gallons (1500 gallons with a garbage disposal) on the basis of a successful percolation test and approved plans drawn by an engineer to bring the system up to code. He may obtain a building permit for the conversion of the bedroom after his application for a Disposal Works Construction Permit are approved by the Board of Health. Upon completion of the installation and subsequent inspection and approval by the Board of Health (providing all other work is approved by the Building Inspector) he would then be issued a Certificate of Occupancy. Ms. Foberg encouraged Mr. Dunnell to call the DEP for confirmation of these regulations.

Ms. Foberg also spoke with Kurt Beaujolais of the Department of Public Water Supply relative to Rowe Camp and Conference Center. He stated that they are a non-community transient public water supplier, and as such come under the jurisdiction of DEP. They must have coliform testing performed every month and tests for nitrates done every three years. They also must have a licensed public water supply operator. Ms. Foberg was also advised that during the Board's annual inspection of the camp, they may ask to see copies of the water sample test results.

The meeting adjourned at 8:50 P.M.

Respectfully submitted,
Melissa S. Quinn, Administrative Assistant

Approved:

Ellen L. Foberg

Ellen L. Foberg, Chairman

Leonard J. Laffond

James E. O'Brien

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April 5, 1993

Ellen Foberg
Board of Selectmen
Rowe, MA 01367

Re: Time sheets - Town of Rowe Nurse

Dear Ellen:

You have requested that I research the following issues:

1) May the Town of Rowe require the town nurse to keep daily activity sheets of her house calls and time spent on duty on a daily basis, and
2) What information may be contained in those time sheets.

The Town of Rowe may require the town nurse to keep daily activity logs and those logs may contain the name of the person visited, the address, the amount of time spent, and other non-medical information that you may choose to require.

Be advised that all of these records kept by the town are public records unless encompassed by a statutory exemption in General Laws, Chapter 4, Section 7 (paragraph 26). A strict and narrow interpretation of these exemptions is mandated. Public records and any non-exempt segregable portions thereof are subject to mandatory disclosure upon request pursuant to General Laws, Chapter 66, Section 10 (a).

Disclosure of the identities of those individuals visited by the town nurse should not reveal an individual's medical condition. Personnel and medical files or information are exempt from the definition of public records pursuant to General Laws, Chapter 4, Section 7 (paragraph 26) (c). However, so long as there is no information on the individual's medical condition in the time logs, then the time logs will be public record, including the name and address of the persons visited by the nurse.

Thus, it is my legal opinion that the Town of Rowe may request the town nurse to keep daily activity logs and that the town nurse may be required to put the names and addresses of the patients she visits in the daily activity log, but that there should not be kept in the daily activity log any details of the patient's medical condition. So long as there are no details of the patient's medical condition in these daily logs, these daily logs are public records.

If you have any further questions or concerns regarding this matter, please do not hesitate to contact me.

Sincerely,

Donna L. MacNicol

DLM/nm