



Respiratory Care Board of California

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ARNOLD SCHWARZENEGGER, Governor

PUBLIC SESSION MINUTES

Friday, August 24, 2007

Department of Consumer Affairs
1625 North Market Blvd.
South Building, Room S-102 (1st Floor Hearing Room)
Sacramento, CA 95834

Members Present: Larry L. Renner, RCP, President
Barbara M. Stenson, RCP, Vice-President
Sandra Magaña
Richard L. Sheldon, M.D. (9:30 a.m. - 2:00 p.m.)
Charles "Bud" Spearman, RCP (arrived at 10:15 a.m.)

Members Absent: Gopal Chaturvedi
Murray Olson
Scott J. Svonkin

Staff Present: Don Chang, Supervising Senior Counsel
Stephanie Nunez, Executive Officer
Christine Molina, Staff Services Manager
Liane Zimmerman, Staff Services Manager
Stephanie Aguirre, Staff Services Analyst

CALL TO ORDER

The Public Session was called to order at 9:30 a.m. by President Renner. Roll call was taken, and a quorum was not present, therefore, the Board proceeded as a Committee.

COMMITTEE ON ACCREDITATION FOR RESPIRATORY CARE (Presentation by William W. Goding, MEd, RRT, Interim Executive Director)

President Renner introduced William W. Goding, MEd, RRT, Interim Executive Director, CoARC.

Mr. Goding provided the Board with an overview of the accreditation process and entertained questions from the Board.

The Board thanked Mr. Goding for his presentation.

Mr. Spearman arrived at 10:15 a.m. A quorum was established.

APPROVAL OF MARCH 2, 2007 PUBLIC SESSION MINUTES

Dr. Sheldon moved that the March 2, 2007 Public Session Minutes be approved with a noted change.

M/Sheldon/S/Stenson

Unanimous: Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

THE BOARD CONVENED INTO CLOSED SESSION

PUBLIC SESSION RECONVENED

EXECUTIVE OFFICER'S REPORT

(Stephanie Nunez)

Home Care Regulations

Interagency Agreement with Department of Public Health -

Ms. Nunez informed the Board that the Department of Health Services has been divided into two separate departments, the Department of Public Health (DPH) and the Department of Health Care Services (DHCS). She explained that the Home Medical Device Retail Facilities Program is under the jurisdiction of the DPH. She added that in March, the Board's home care regulations were promulgated, specifying those functions which are allowed, and those which are prohibited from being performed by unlicensed personnel in the home care setting. Ms. Nunez has been working with the Medical Product Safety Unit at the DPH to assist with identifying unlicensed individuals. She proposed that the Board enter into a one or two-year Interagency Agreement with DPH, allowing them to investigate possible unlicensed practice cases and possibly allow their investigators to cite and fine individuals. This will allow the Board to be more pro-active in enforcing its regulations. The revenue to cover the DPH costs would be generated from the fines collected (it is estimated that DPH would receive approximately half of the fines collected).

Discussion ensued.

President Renner moved that the Board move forward with the Interagency Agreement as explained by Ms. Nunez.

M/Renner/S/Sheldon

Unanimous: Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

Medical Director as Used in Sections 3707(b) and 3704(c) -

Ms. Nunez explained that the term "medical director" is used in the Board's law, specifically in sections 3703(b) and 3704(c). The problem being encountered is that there is often no medical direction in the home care setting. Ms. Nunez asked the Board if they would be interested in changing the current definition to better suit the home care setting. And if so, whether the Board wants to change the definition all together or just a portion?

Discussion ensued.

The Board believes the current definition remains appropriate.

Ethics Course CAS Implementation

Ms. Nunez informed the Board that the ethics course requirement becomes effective January 1, 2008 and effects the January 2008 license renewals. She added that the renewal forms are in the process of being modified to include this requirement. Eventually, she hopes to add this information to the Board's website.

Ms. Nunez did report that she has received feedback from a few licensees stating that they wished there were more options available to them in completing the ethics course instead of just the AARC and the CSRC.

Hospital Tours

Ms. Nunez acknowledged Mark Martinez, RCP and thanked him for the kindness he showed to staff during the tours of Sutter Memorial Hospital.

She added that Patrick Moore, RCP provided Ms. Magaña with a tour of Loma Linda University Medical Center and Ms. Stenson gave a tour of Scripps Memorial Hospital - La Jolla to members of the San Diego Office of the Attorney General.

Outreach

Ms. Nunez stated that the Board has continued its outreach efforts in various ways. In March, staff attended the California Association for Medical Product Suppliers Homecare Conference and the Sleep Technology Conference. In May, staff exhibited at the State Agency Expo which was sponsored by Senator Bob Margett. In June staff attended the Consumers Roundtable Meeting. Staff will also be assisting DCA by distributing pamphlets and speaking with consumers at the California State Fair during the months of August and September. Also, 10,000 "Unlicensed Practice Alert" cards were provided to DCA for inclusion in the Senior Scambuster Kits.

Department of Consumer Affairs' Executive Retreat

Ms. Nunez reported that Ms. Carrie Lopez was recently appointed as the new director of DCA. Ms. Lopez scheduled a Strategic Planning retreat and invited all DCA executive officers to attend. The retreat provided an opportunity for the executive officers to meet with each other and discuss various issues. Ms. Nunez added that she had a positive experience and found the retreat very informative.

Website Conversion

Ms. Nunez informed the Board that the Governor issued a directive for all departments to convert their websites to a new format. She referred to the attachments which provide a sample of the new format and added that the Board's website should be converted by the end of the year.

EXECUTIVE COMMITTEE REPORT

(Larry L. Renner, RCP, President)

Unlicensed Practice by Licensed Vocational Nurses Request for Office of the Attorney General Legal Opinion

Ms. Nunez explained that over a period of years, the Board has had concerns with the Board of Vocational Nursing & Psychiatric Technicians distributing a policy which allows their licensees to manage ventilators. The RCB has corresponded its concerns to them on numerous occasions with no results. Ms. Nunez believes that the Board's law allows it to cite and fine LVNs if they perform this function, and requested the Office of the Attorney General to review the matter and provide its legal advice. The Office of the Attorney General was contacted and Deputy Attorney General Mara Faust was prepared to write the legal opinion. However, as this issue rose up the chain of command, it was requested that the Board modify its original request to a "Client Advice Letter" and added that the Board should contact a legislator to ask them to request a legal opinion from the AG's Office.

Discussion ensued.

Mr. Spearman moved that Ms. Magaña and Dr. Sheldon work to secure a legislator who will request a general legal opinion regarding this issue.

M/Spearman/S/Stenson

Unanimous: Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

Unlicensed Practice of Polysomnography

President Renner explained the Board has been researching ways to make the practice of polysomnography safer for the public. He added that new legislation has been drafted, but stated that there has been difficulty in finding someone to carrying the legislation. However, the Board has received significant help from the Department of Health Services (aka: Department of Public Health), who has cited some of the facilities the Board has had specific issues with. Once cited, the facility has 15 days to comply. President Renner recommends that the Board continue to press forward with legislation and begin issuing citations and fines for the unlicensed practice of respiratory care.

Discussion ensued.

Dr. Sheldon moved to proceed with the legislation and, in the meantime, initiate the issuance of citations and fines for the unlicensed practice of polysomnography as it relates to respiratory care.

M/Sheldon/S/Stenson

Unanimous: Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

Out-of-State Approved Trips

Ms. Nunez reported that the Board has been approved to attend two out-of-state trips. One is the Federation of Association of Regulatory Board's (FARB) Annual Forum being held in February 2008 in Miami, Florida, which Ms. Nunez will be attending.

The other is the International Respiratory Conference which is being hosted by the American Association for Respiratory Care (AARC). This conference is being held in December 2007 in Orlando, Florida and a board member is approved to attend. President Renner offered to attend, but will need to check his schedule for availability.

WORKFORCE STUDY FINAL PRESENTATION

Presentation by Ernest L. Cowles, Ph.D., Director and Sandra Sutherland,
Research Specialist Institute for Social Research, California State University, Sacramento

Ernest L. Cowles, Ph.D. and his colleagues provided the Board with the findings from the workforce study.

Questions from the Board were entertained.

The Board thanked Dr. Cowles and his colleagues for their time and efforts dedicated to this survey.

LEGISLATIVE/LEGAL AFFAIRS COMMITTEE REPORT

(Larry L. Renner, RCP, Chair)

Legislation of Interest

President Renner briefly summarized the legislation of interest and stated the Board's position on each.

- ★ AB 64 (Uniform Emergency Volunteer Health Practitioners Act)

Position: Watch

- ★ AB 520 (Hospitals: Staffing)

Position: Watch

- ★ AB 1025 (Professions and Vocations: Licensure)

Position: Oppose.

President Renner sent letter to the California State Assembly addressing the Board's concerns.

- ★ ACR 13 (Chronic Obstructive Pulmonary Disease)
Position: Watch
- ★ SB 374 (Military Service: Benefits)
Position: Watch
- ★ SB 618 (State Agencies: Electronic Records)
Position: Watch
- ★ SB 963 (Regulatory Boards: Operations)
Position: Watch
- ★ SB 1047 (Professions and Vocations)
Position: Watch

Board Proposed Legislation

Pulmonary Function Testing -

Ms. Nunez explained that pulmonary function testing remains another issue of concern. After reviewing the facts, it was decided that RPFTs and CPFTs would be exempt from the existing law and that other individuals would be allowed to perform basic spirometry, with specific training. Ms. Nunez asked if the Board wished to modify the language, leave it as it currently is, or end the pursuit.

Discussion ensued.

President Renner moved that staff work with the Board's Professional Licensing Committee to work on a compromise and provide the Board with an update at its next meeting.

M/Renner/S/Sheldon

Unanimous: Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

Dr. Sheldon departed the meeting and the Board returned to functioning as a Committee.

EMERGENCY RESPONSE SUPPORT COMMITTEE

(Murray Olson, RCP, Chair)

California Department of Health Services: Healthcare Surge Project

Ms. Nunez informed the Board that Mr. Olson has attended numerous meetings regarding this issue and added that he has assisted in the drafting of the upcoming Health Care Surge Standards and Guidelines Manual.

Further information regarding emergency preparedness can be obtained by going to www.bepreparedcalifornia.ca.gov

Scope of Practice and Liability During Emergency - DHS Draft Proposal

Ms. Nunez referred to the DHS draft proposal attachment (Scope of Practice and Liability During Emergency) and explained that although this plan provides immunity for specific medical practitioners and facilities, however, RCPs are not specifically mentioned.

Discussion ensued as to the best course of action to ensure RCPs are included.

President Renner requests that an amendment be explored to include RCPs.

MEETING AND STRATEGIC PLANNING SCHEDULING

Tentative meeting dates for 2008 are as follows:

- March 13-14, 2008 (Palm Springs)
- June 13, 2008 (Sacramento)
- November 7, 2008 (Southern California)

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

None were received at this time.

ADJOURNMENT

The Public Session Meeting was adjourned by President Renner at 3:25 p.m.

LARRY L. RENNER, RCP
President

STEPHANIE NUNEZ
Executive Officer