

PUBLIC SESSION MINUTES

November 17, 2006

State Capitol
10th & L Streets, Assembly Room 126
Sacramento CA

Members Present: Larry L. Renner, RCP, President
Sandra Magaña
Murray Olson, RCP
Richard L. Sheldon, M.D.
Charles "Bud" Spearman, RCP
Barbara M. Stenson, RCP

Members Absent: Gopal Chaturvedi
Scott J. Svonkin

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

CALL TO ORDER

The Public Session was called to order at 9:15 a.m. by President Renner. A quorum was present. President Renner informed the Board that Mr. Svonkin requested to be excused from this meeting.

CLOSED SESSION

The Board convened into Closed Session, as authorized by Government Code Section 11126(c), subdivision (3) to discuss the Non-Adoption of Proposed Decisions in the matters of Antonio Mena and Cindy M. Cudney.

The Closed Session adjourned and the Public Session convened at 10:00 a.m..

APPROVAL OF JUNE 9, 2006 PUBLIC SESSION MINUTES

Dr. Sheldon moved to adopt the June 9, 2006 Public Session minutes with requested changes.

M/Sheldon/S/Stenson

Unanimous: Olson, Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

At this time President Renner introduced and welcomed Charles "Bud" Spearman to the Board.

CALIFORNIA CODE OF REGULATIONS SECTIONS 1399.302 & 1399.360 HOME RESPIRATORY CARE: DISCUSSION/VOTE

Ms. Nunez presented the final proposed language and advised the members that no oral or written comments were received in response to the proposal.

Mr. Olson moved to adopt the language as presented.

M/Olson/S/Sheldon

Unanimous: Olson, Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

Discussion ensued.

Dr. Sheldon moved to delegate authority to Ms. Nunez to make non-substantive or technical amendments to the regulatory proposal, if necessary.

M/Sheldon/S/Spearman

Unanimous: Olson, Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

EXECUTIVE OFFICER'S REPORT

Workforce Study Update

Ms. Nunez provided the Board with an update on the Workforce Study. She explained that of the 3,000 licensees selected to participate, 1,710 responses were received. Usually, only a 30% response is received, however, the survey received an overwhelming 59% response rate.

Upcoming plans include:

- November - Continue analysis of the survey data and continue developing models forecasting future supply and demand of RCPs in California. Also, work with the Board to assemble and coordinate an educator/employer expert

panel.

December - Outline analysis for Board's approval and complete analysis. Also, meet with the expert panel and survey revision.

January - Final report for first survey complete.

January, February, March - Expert panel will collect data.

April - Analyze and survey data collected by expert panel.

Citation and Fine for Unlicensed Practice Regulations
(California Code of Regulations Section 1399.391)

Ms. Nunez informed the Board that the amendments made to California Code of Regulations Section 1399.391 have been approved by the Office of Administrative Law, and became effective on October 7, 2006.

Emergency Preparedness

Ms. Nunez reported that as a result of the potential pandemic bird flu epidemic, a meeting was held on August 16, 2006 with the Secretaries of the Department of Health and the State and Consumer Services Agencies, the Office of Emergency Services, and the Department of Health Services to discuss emergency preparedness. The Board assisted the Department of Health Services to solicit the expertise of various respiratory therapists to participate in vendor demonstrations to determine which ventilator the State should select to purchase in the event of an emergency outbreak that attacks or debilitates the respiratory system. Based on the input from various licensees, the Department of Health Services recommended the purchase of the LTD-1200 ventilators.

CSRC Conference: May 4-6, 2007 Costa Mesa

Ms. Nunez informed the Board that the annual CSRC Conference is being held May 4-6, 2007 in Costa Mesa, and that the CSRC has requested that a Board representative attend and provide a presentation on the application process. A staff member will attend and provide a presentation as requested.

General Report

Ms. Nunez noted that she has also been invited to participate, as a presenter, in a home care conference on March 7-8, 2007 in San Diego.

EXECUTIVE COMMITTEE REPORT

Fiscal Review

President Renner summarized the Board's revenues and expenditures and entertained questions from the Board.

Ms. Nunez added that FY 05/06 has been closed and that the Board overspent its revenues by \$20,000, an amount considerably less than the \$400,000 difference overspent five years ago. She was also pleased to report that the Board currently has a six-month reserve.

Polysomnography Sunrise Questionnaire

President Renner explained that a draft of the Polysomnography Sunrise Questionnaire has been completed with the anticipation of it being presented to the Sunset Review Committee.

Ms. Nunez stated that the Board may need to find an author to carry the proposal, and advised that finding an author may be difficult. She added that the Board could consider seeking assistance from the CSRC.

Ms. Nunez recently spoke with Gary Smith, Executive Director of the National Board for Respiratory Care (NBRC), who stated that the NBRC is continuing to research the possibility of developing and administering a polysomnography examination.

President Renner recommended that the Board move forward with trying to secure an author. Otherwise, present the sunrise questionnaire during the Board's Sunset Review process.

Discussion ensued.

President Renner moved to accept the draft, and to allow for substantive changes, if necessary.

M/Renner/S/Stenson

Ayes: Magaña, Renner, Sheldon, Spearman, Stenson

Abstain: Olson

MOTION PASSED

President Renner moved to allow staff to develop language and seek an author.

M/Renner/S/Olson

Unanimous: Olson, Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

Consideration to Establish "Emergency Response Support Committee"

President Renner inquired as to whether the Board should establish an Emergency Response Support Committee, and if so, what the functions and responsibilities of the Committee should be.

Discussion ensued.

President Renner moved to establish an Emergency Response Support Committee consisting of one individual who would report to the Board.

M/Renner/S/Stenson

Unanimous: Olson, Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

Ms. Nunez suggested that the committee be responsible for communicating with other organizations and presenting information to the Board on an on-going basis.

President Renner moved to establish an Emergency Response Support Committee consisting of one individual responsible for communicating with other organizations, both public and private, keeping the Board abreast of issues regarding emergency care, keeping therapists advised of new information, and bringing issues of interest back to the Board.

M/Renner/S/Sheldon

Unanimous: Olson, Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

ENFORCEMENT COMMITTEE REPORT

Enforcement Statistics

President Renner entertained questions from the Board regarding the Enforcement Statistics.

EDUCATION COMMITTEE REPORT

Law and Professional Ethics Course Evaluations/Update

Ms. Stenson entertained questions from the Board regarding the Law and Professional Ethics Course data and information. She added that an annual report will be prepared in January and provided at the next Board meeting.

Oversight and Standards of Respiratory Care Educational Programs

Ms. Stenson stated that the Education Committee sent a letter to CoARC requesting opportunity for Board involvement in the accreditation process for California programs.

CoARC replied that they welcome the collaboration and indicated that the topic would be placed on their November 2006 agenda and that the Education Committee would be provided with additional information following the meeting.

President Renner suggested that the Board share its workforce study results with CoARC.

Discussion ensued.

President Renner moved that the Board share the workforce study results with CoARC.

M/Renner/S/Spearman

Ms. Nunez stated that it is very important to follow up and take the program accreditation issue seriously as it is an item that will be addressed during the Sunset Review process.

Ms. Nunez indicated that Bill Goding, CoARC's Interim Executive Director, was under the assumption that it was the Board's intention to have a representative attend all of CoARC's California site visits. Ms. Nunez advised Mr. Goding that this is not the Board's intention. Rather, the Board would like the opportunity to visit random California locations during the site visit process.

President Renner's motion was again presented for vote.

Unanimous: Olson, Magaña, Renner, Sheldon, Spearman, Stenson
MOTION PASSED

CoARC's Consideration to Eliminate Entry-Level Programs - Input Requested

Ms. Nunez stated that she recently contacted Mr. William Goding, CoARC Interim Executive Director, to inquire if CoARC was seeking input about the proposed abolishment of entry-level programs. She was advised that CoARC is currently only seeking input from its sponsors (e.g., AARC, NBRC, etc.).

LEGISLATIVE/LEGAL AFFAIRS COMMITTEE REPORT

Legislation of Interest

President Renner reported that all of the Assembly bills of interest were unsuccessful, while all of the Senate bills of interest have been signed by the Governor.

Ms. Molina informed the Board that there was an amendment made to SB 162. At one point it proposed the creation of a 13-member committee comprised of various healthcare individuals, which did not include a respiratory therapist. The Board took a "Support if Amended" position and sent a letter to the author requesting the inclusion of a respiratory therapist on the proposed committee. However, the bill was subsequently amended, and as signed by the Governor, did not include the establishment of the proposed committee.

Proposed Legislation: Pulmonary Function Testing Exemptions

Ms. Nunez explained that the proposed legislation is a follow up to the pulmonary function testing study and recommendations of the Professional Licensing Committee. Ms. Nunez stated that the proposal comes at an opportune time because the AARC has nearly completed its spirometry training course. However, she advised the Board that following enactment of the proposed legislation, it would still need to follow through with regulations to define acceptable

course(s).

Ms. Nunez added that if the Board supports the proposed legislation, she will move forward with finding an author, and may solicit the assistance from the CSRC. Ms Nunez also requested permission to work with the Chair of the Legislative Affairs Committee and DCA's Legal Counsel to fine tune the language.

Dr. Sheldon moved that the Board move forward with this legislation and allow Ms. Nunez to work with the Chair of the Legislative Affairs Committee and DCA's Legal Counsel to fine tune the language, if needed.

M/Sheldon/S/Magana

Ayes: Magaña, Renner, Sheldon, Spearman, Stenson

Abstain: Olson

MOTION PASSED

AARC Office Spirometry Achievement Certificate Program - Review

President Renner brought to the Board's attention the AARC guidelines regarding the requirements candidates must meet as part of the AARC's Office Spirometry Achievement Certificate Program. Specifically, it states:

"Candidates must meet the following requirements: Be credentialed and/or licensed as a professional nurse, respiratory therapist, cardiopulmonary technologist, or other relevant health professional specialty; OR have a minimum of a high school diploma with at least two years of relevant training and education or experience directly supervised by a licensed physician; . . . "

President Renner stated that he feels this language will need to be amended at some point.

Ms. Nunez requested that the Board send a letter to the AARC asking it to consider not having any requirements or, at a minimum, have a high school degree. The Board may also want to inform the AARC of the proposed legislation, and mention that the Board would like to consider the AARC course when it begins reviewing various training courses for approval.

President Renner suggested sending a letter to the AARC requesting clarification of the AARC Office Spirometry Achievement Certificate Program requirements.

Discussion ensued. No action taken.

Unlicensed Practice of Respiratory Care by Licensed Vocational Nurses

President Renner briefly summarized the various correspondence between the Respiratory Care Board and the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) related to unlicensed practice. He added that he has requested to meet with their Board, but has yet to be invited to do so.

Ms. Nunez stated that this issue has been ongoing since the mid-1990's, and more recently within the last two years. The response from the BVNPT has not been favorable. The Board can continue to wait for a response from the BVNPT or consider a couple of options. One is to move forward with citing and fining LVNs, the other is to seek a legislative amendment to specify that LVNs are not authorized to practice respiratory care.

Mr. Olson moved to allow staff to obtain an informal legal opinion from the Office of the Attorney General to determine if an LVN is authorized to perform respiratory care.

M/Olson/S/Stenson

Unanimous: Olson, Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

Sexual Offender, Emergency Suspension

Ms. Nunez explained that during the past year, the Board has received a surge of cases involving respiratory therapists committing sexual crimes against children and is suggesting legislation which, in part, states that “. . . the executive officer or his or her designee may suspend without a hearing the license of a respiratory care practitioner for up to 60 days upon receipt of a certified arrest report or certified court record that alleges the licensee committed or was convicted of a sex offense as defined in section 729 or section 44010 of the Education Code . . .”

Ms. Nunez indicated that there is no fiscal impact and that the economic impact would only effect a licensed respiratory care practitioner arrested for a crime involving sexual misconduct as it would result in the loss of income during the period of suspension.

Mr. Chang advised that Board that he believes this would be a difficult proposal to accomplish as there are due process concerns.

Discussion ensued.

Dr. Sheldon moved that the proposed language be amended to read “. . . the executive committee may suspend without a hearing the license of a respiratory care practitioner for up to 60 days upon receipt of a certified arrest report or certified court record that alleges the licensee committed or was convicted of a sex offense as defined in section 729 or section 44010 of the Education Code.”

M/Sheldon/S/Olson

Unanimous: Olson, Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

OUTREACH COMMITTEE REPORT

Outreach Activities - Update

Dr. Sheldon referred to the outreach events information and entertained questions from the Board.

Ms. Nunez stated that unless the Board requests further outreach participation, staff will focus on participating in limited DCA sponsored events.

ELECTION OF OFFICERS

Dr. Sheldon nominated Mr. Renner as President

M/Sheldon/S/Stenson

Unanimous: Olson, Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

Mr. Olson nominated Ms. Stenson as Vice-President.

M/Olson/S/Sheldon

Unanimous: Olson, Magaña, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

SCHEDULING OF 2007 MEETINGS

W Friday, March 2, 2007 (Los Angeles)

W Friday, August 3, 2007 (Sacramento)

W Friday, November 9, 2007 (San Diego)

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

No comments were received at this time.

FUTURE AGENDA ITEMS

- ' Workforce Study Update
- ' Law and Professional Ethics Course Annual Report

ADJOURNMENT

The Public Session Meeting was adjourned by President Renner at 12:45 p.m.

LARRY L. RENNER

STEPHANIE A. NUNEZ

President

Executive Officer