



PUBLIC SESSION MINUTES

Friday, March 1, 2019

**Children's Hospital of Orange County
Wade Center, 2nd Floor
1201 W. La Veta Avenue
Orange, CA 92868**

Members Present: Mary Ellen Early
Rebecca Franzoia
Ricardo Guzman
Michael Hardeman
Sam Kbushyan, MBA
Ronald Lewis, M.D.

Staff Present: Fred Chan-You, Legal Counsel
Stephanie Nunez, Executive Officer
Christine Molina, Staff Services Manager

CALL TO ORDER

The Public Session was called to order at 9:00 a.m. by Ms. Nunez. Due to inclement weather and an unexpected emergency, the Board's President and Vice President were not able to attend the meeting.

Ms. Molina called roll (present: Early, Franzoia, Guzman, Hardeman, Kbushyan, Lewis), and a quorum was established.

Ms. Nunez thanked Mark Rogers and Children's Hospital of Orange County for hosting the Board's meeting. She added that Children's Hospital of Orange County is one of sixteen organizations honored by the American Association for Respiratory Care for best practices in the profession and promoting patient safety by providing access to respiratory therapist to deliver their care.

Ms. Nunez introduced the Board's newest members, Ricardo Guzman, a Respiratory Care Practitioner and Clinical Director at Napa Valley College. She stated Mr. Guzman is actively involved in the respiratory professional community and the Board is excited to have him as a member.

1 Mr. Guzman stated he is honored to serve as a member of the Board and looks forward to learning
2 from the Board and promoting its mission. He added, as an educator he tells his students the Board's
3 mission is all about patients. He is looking forward to serving in any capacity that the Board needs.
4

5 6 **PUBLIC COMMENT** 7

8 Ms. Nunez stated the Board encourages public comment as the issues being discussed directly affect
9 the profession and the RCP's in attendance. She explained that public comment would be allowed on
10 agenda items, as those items are discussed by the Board during the meeting. She added that under
11 the Bagley-Keene Open Meeting Act, the Board may not take action on items raised by public
12 comment that are not on the Agenda, other than to decide whether to schedule that item for a future
13 meeting.
14

15 16 **11. ELECTION OF OFFICERS FOR 2019** 17

18 Ms. Nunez explained that Board President, Alan Roth needed to step down due to an out-of-state
19 move. Judy McKeever will remain in her position of Vice President, but a new president needs to be
20 elected to serve for the remainder of the calendar year.
21

22 Ms. Nunez opened the floor for nominations for Respiratory Care Board President.
23

24 A motion to nominate Mr. Guzman for President was made by Ms. Franzoia and seconded by Mr.
25 Guzman.
26

27 M/Franzoia /S/Guzman
28 In favor: Franzoia, Guzman
29

30 A motion to nominate Mr. Goldstein for President was made by Dr. Lewis and seconded by Ms. Early.
31

32 Request for Public Comment: No public comment was received.
33

34 M/Lewis /S/Early
35 In favor: Early, Hardeman, Kbushyan, Lewis
36 MOTION PASSED
37

38 Ms. Nunez acknowledged the outstanding contributions President Roth made to the Board. She
39 added he consistently went above and beyond and was always there when needed. He was
40 exceptional at presenting the respiratory care profession and the Board is thankful for all his efforts.
41

42 43 **2. APPROVAL OF OCTOBER 26, 2018 MEETING MINUTES** 44

45 Mr. Hardemen moved to approve the October 26, 2018 Public Session minutes as written.
46

47 Request for Public Comment: No public comment was received.
48

49 M/Hardeman /S/Kbushyan
50 In favor: Early, Franzoia, Guzman, Hardeman, Kbushyan, Lewis
51 MOTION PASSED
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53

3. LEGISLATION OF INTEREST

Ms. Molina reviewed the Legislation of Interest and staff recommended positions as listed below:

- AB 193: Professions and vocations
AB 193, would require the Department of Consumer Affairs to conduct a comprehensive review of all the occupational licensee requirements (beginning January 2021) and identify any that are unnecessary. This is in line with the elimination of barriers to licensure. The information they collect will be presented to the Legislature to see what action, if any, is needed for the boards to move forward and possibly change licensure requirements.
Status: Referred to Assembly Business and Professions Committee on 2/4/19
Board's Position: Watch
- AB 241: Implicit bias
AB 241, declares the intent of the Legislature to enact legislation that would address implicit bias in the healing arts professions essentially saying anyone who seeks a license, should not be discriminated against.
Status: Pending referral: may be heard in committee after 2/21/19
Board's Position: Watch
- AB 476: DCA: task force: foreign-trained professionals
AB 476, would require the Department of Consumer Affairs to create a task force to study and write a report of its finding and recommendations regarding the licensing of foreign-trained professionals with the goal of integrating foreign-trained professionals into the state's workforce.
Status: Pending referral as of 2/12/19
Board's Position: Watch
- AB 496: Business and professions
AB 496, would replace gendered terms with nongendered terms and make various other nonsubstantive changes.
Status: Pending referral as of 2/12/19
Board's Position: Watch
- SB 181: Healing arts boards
SB 181, would make nonsubstantive changes to the displaying of licenses.
Status: Referred to Senate Rules Committee on 2/6/19
Board's Position: Watch
- SB 207: Medi-Cal: asthma preventive services
SB 207, would include asthma preventative service, as a covered benefit under the Medi-Cal program. This bill is looking at having the Department of Public Health, in consultation with external stake holders, develop a coverage policy
Board's Position: Watch
Status: Pending referral: may be acted upon on or after 3/7/19

Dr. Lewis inquired about the votes for AB 241.

Ms. Molina responded it is early in the legislative cycle and the bill has not yet been assigned to an initial policy committee.

Request for Public Comment: No public comment was received.

M/Lewis /S/Franzoia

In favor: Early, Francoia, Guzman, Hardeman, Kbushyan, Lewis

MOTION PASSED

4. 2020 LEGISLATIVE PROPOSAL

Ms. Nunez reviewed the staff's recommendation to amend section 3758 of the Business and Professions Code to include registries as an entity required to provide mandatory reports. She explained that currently if a person comes from a registry to a hospital, and faces a disciplinary situation, the hospital is not in the position to suspend or required to report them.

Dr. Lewis inquired if a registry terminates their employment and it doesn't involve patient care are they required to report it.

Ms. Molina responded it must be for the six specified causes specified within the mandatory reporting statute.

Ms. Nunez stated the legislation would also add mandatory reporting if someone resigns in lieu of termination for those same causes currently in the law.

Mr. Guzman moved to approve the legislative proposal.

Request for Public Comment: No public comment was received.

M/Guzman /S/Lewis

In favor: Early, Franzoia, Guzman, Hardeman, Kbushyan, Lewis

MOTION PASSED

5. INFORMATIONAL UPDATE ON MEETINGS WITH THE BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

Ms. Nunez updated the Board on the progress made between the RCB and the BVNPT regarding respiratory tasks performed in sub-acute facilities. She stated meetings with President Roth, RCP expert, Michael Santos, Board staff, Agency, DCA Executives, Legal Counsels and BVNPT members were held where they were able to clarify roles and reach an agreement that LVNs are not authorized to provide care for patients requiring invasive mechanical ventilation.

Within the next month, the boards will have a finalized Joint Statement which will be posted on both websites as well as distributed to all interested parties and subacute facilities in California as some have been using LVNs in placed of RCPs to perform these tasks. Ms. Nunez stated these were very successful meetings and the Board is looking forward to continuing its great relationship with the BVNPT moving forward.

Request for Public Comment:

An unidentified attendee stated this was "good work" by the Board and that he understands the Board has been working very hard for a long time on this.

Ms. Nunez stated it was a group effort involving staff, investigators, board members, experts, the BVNPT, the Department, and Agency with a good outcome.

6. CLINICAL EDUCATION

Ms. Nunez stated one of the things the Board wanted to accomplish from its Strategic Plan was to develop an action plan to establish laws and regulations or accrediting standards for student clinical requirements to increase consumer protection and improve education outcomes. The Board recognized that clinical education was not similar in all institutions. While some were great, others need improvement. The Board recognizes any school that has been approved by CoARC (the Committee on Accreditation for Respiratory Care). However, CoARC only reviews schools every ten years and it is hard to make changes as CoARC is a national organization.

The Board reviewed different options presented by staff for consideration:

1. Send an education letter to clinical directors at education programs
2. Ask CoARC to include the Board's standards in its standards for approval.
3. Establish legislative and regulatory requirements that allow for inspection and administrative fines as a form of reactive enforcement in response to complaints.

Ms. Nunez stated the main requirement would be to have qualified preceptors that meet certain requirements (all the suggestions made by the Board at its October 2018 meeting are included in the proposal):

- holds a current and valid RRT credential
- has a minimum of 5 years' experience practicing as a respiratory care practitioner
- has no prior or existing relationship with any student that he or she precepts

Ms. Nunez added, as proposed preceptors responsible for direct supervision and instruction to students may claim CE credits as live hours of leadership. The proposal also requires clinical educators to meet with the student and the preceptor an hour per week while they are practicing at the facility.

Mr. Guzman stated CoARC has been very interested in preceptors for training respiratory care students. As a clinical director, he appreciates the intent of this proposal. However, his concern is how this will be implemented at hospitals. Due to turnover, he anticipates some difficulty making sure that there will be someone who has gone through the training and has been approved. Planning schedules months ahead would be problematic not knowing if a qualified preceptor would be available.

Ms. Nunez requested the Board allow her and staff to work with Mr. Guzman and President Goldstein at getting a proposal together to bring back to the Board.

Request for Public Comment:

Kevin Booth, East Los Angeles College, stated this will be problematic when the responsibility is on the education program as the programs have no authority over the preceptors since they are hospital employees. CoARC offers preceptor training and encourages programs to provide it for their respective institutions. Still, there are a large number of practitioners who have no desire or capability to be a clinical instructor. She stated, it is an excellent idea in theory, but it seems there is a gap between the idea and possible action.

Jim Hutchinson, Mt. San Antonio College, Director of Clinical Education, stated he likes the idea and it would benefit students to have better qualified preceptors. However, he agrees with his colleague from East LA College and recognizes there is a gap from where we are now to where we want to be. He suggested the Board gather information by surveying hospitals to find out how many have dedicated preceptors. He added, in his experience, most do not.

1 Jeff Davis, Director of Respiratory Care at UCLA, stated coming from the clinical side, his expectation
2 is that his staff are to precept a student on any given day. He added, he tries to make it a point to put
3 students with stronger therapists. The way this is worded, it looks like he might have to require all his
4 staff (or at least a majority) to go through this training program.

5
6 Ms. Early stated consideration needs to be taken in how to deal with preceptors who might,
7 unexpectedly, not be available. Unless an institution has an additional preceptor available as a
8 backup, there will be a gap in that student's learning experience if that backup that fills in does not
9 have the training necessary.

10
11 Dr. Lewis moved to table this agenda item to a later meeting.

12
13 M/Lewis /S/Guzman

14 In favor: Early, Francoia, Guzman, Hardeman, Kbushyan, Lewis

15 MOTION PASSED
16
17

18 **7. PROPOSED CONTINUING EDUCATION REGULATORY LANGUAGE** 19

20 Ms. Nunez reviewed a summary of hundreds of comments received through December 7, 2018, on
21 the proposed changes to the continuing education regulatory language, highlighting some of the most
22 contentious. The requirement would be changed to include online courses as long as there is live
23 interaction.

24
25 Mr. Kbushyan inquired, of the people who had issues, did any of them express that this would
26 alleviate those issues.

27
28 Ms. Nunez responded they did not have any input into the suggested solution
29

30 Dr. Lewis inquired if there was an interested party meeting with stakeholders.
31

32 Ms. Nunez responded, the original language was sent out in August, giving stakeholders until
33 December to comment. At the October meeting, the Board elected to add the live interaction
34 requirement but that was not sent back out to the public. Public comment is not required until the
35 Board begins the regulatory process. She added, if changes need to be made, they ideally should be
36 done prior to starting the process.
37

38 Dr. Lewis moved to adopt the proposed changes and instruct staff to begin the rulemaking process
39 and to allow staff the authority to make any non-substantive and technical changes.
40

41 Request for Public Comment:
42

43 Kevin Booth inquired what the opposition was, adding a lot of the continuing education courses are
44 free, such as online webinars and some are interactive. She stated, providers need to better publicize
45 adding maybe the Board can reach out to let people know these courses are available.
46

47 Ms. Francoia requested ideas and comments from the public in attendance stating the Board and staff
48 put a lot of thought and effort into these suggestions and input would be appreciated.
49

50 An unidentified attendee stated he likes how the Board answered the public comments and
51 elaborated on what constitutes live CEUs. It clarifies for people that they do not always have to go to
52 a conference, that webinars are available. AARC always has live webinars as well as other
53 companies. He added, he feels like this is clear and fair and has no problems with it.

1 Mr. Kbushyan stated one of the things the Board looked at was the comprehensive process and
2 contemplated the consequences of developing this. Staff has done a great job. He added in today's
3 world of technology, there are times when webinars can have technical difficulties, which is why you
4 see the research compiled here.

5
6 M/Lewis /S/Kbushyan

7 In favor: Early, Franzoia, Guzman, Hardeman, Kbushyan, Lewis

8 MOTION PASSED
9

10 11 **8. RESPIRATORY CARE EDUCATION: FUTURE DIRECTION, BACCALAUREATE PROGRAMS**

12
13 Ms. Nunez stated President Roth requested the Issue Paper: "Entry to Respiratory Therapy Practice
14 2025" be included in the agenda for members to be aware of the AARC's commitment to ensuring all
15 respiratory therapists entering practice in 2025 have a baccalaureate degree in respiratory therapy
16 and to encourage members to consider moving forward towards the advancement of the minimum
17 education requirements.

18
19 Request for Public Comment: No public comment received.
20

21 Ms. Early stated she thought it was interesting there is so much talk about increasing the level of
22 education. Looking at the nursing profession and how far they have come mandating nurse-to-patient
23 ratios, but she is not aware of any ratio for respiratory care therapist and patients at this time. She
24 fully supports increasing the level of education for RCPs but salaries need to be commensurate with
25 other health care professionals as nurses currently make more money than respiratory therapist.

26
27 Dr. Lewis inquired if the Board has ever looked at therapist-to-patient ratio and if this something that
28 might need to be put on a future agenda item.
29

30 Ms. Nunez responded, a couple of years ago, the Board asked for CSRCs help to establish some
31 ratios partly as a result of an inquiry from the Department of Health. CSRC spent a lot of time and
32 resources to develop this but the way respiratory is set up, makes it difficult to develop a ratio.
33

34 A member of the CSRC, stated the challenge was the fact that each facility assigns the work to
35 therapist differently. They don't all use a certain number of RVUs (Relative Value Units) per patient.
36 RVUs essentially convert specific work to minutes so that it could be determined how many minutes
37 would be assign per therapist. With nursing it is more straight forward where as respiratory therapist
38 are more varied in their patients and all over the hospital. Different hospitals do it differently.
39

40 Mr. Chan-You, Legal Counsel, reminded the Board the agenda item is about the white paper and
41 recommends the discussion be limited to this white paper. A full discussion about what ratios should
42 be is outside the scope of this agenda item.
43

44 A member of the AARC stated, the point of the paper is that the associate degree is entry level and
45 does not prepare the therapist adequately for what they are required to do. The AARC is proposing
46 that a respiratory therapist, in the future, should have necessary skills a be a good practitioner in the
47 environment they work in. A more educated respiratory therapist will be able to take on the
48 challenges more adequately and be more prepared. Proposing that respiratory therapist pursue
49 additional education is something that every agency involved in respiratory care supports (CoARC,
50 AARC, CSRC, NBRC). Therapists want to be equal players in the hospital and come to the table with
51 equal education.
52

Kevin Booth agreed with the comment and reminded everyone that CoARC already established a mechanism for an advanced practice respiratory therapist but there has been little response. She stated, if the goal is to have a better prepared graduate on par with other health care practitioners, then the advance practice might be the more practical way to pursue it. She added she wishes the Board would consider an add on or extra license, something mandated, to give practitioners an incentive to work towards the advance practice respiratory therapist commensurate with an increase in pay, authority and responsibility.

Wayne Walls, practicing RCP, former educator stated this is a complex issue and it will take a team effort (involving the RCB, CSRC, CoARC, AARC and NBRC) to move the profession forward. The profession needs more baccalaureate level training programs to consider a mandate in California. Associate programs sometimes don't offer enough time to get all the entry level requirements in much less the advanced practice education. He suggested finding some other vehicle that everyone can collaborate and agree upon might be a solution and added, maybe a committee can come together and help provide guidance to the Board.

9. PROPOSED REGULATORY LANGUAGE FOR APPROVAL: AMEND DISCIPLINARY GUIDELINES, SUBSTANTIAL RELATIONSHIP CRITERIA (FOR LICESEES), REHABILITATION CRITERIA (FOR LICENSEES), AND HANDLING OF MILITARY APPLICATIONS; ADD SUBSTNTIAL RELATIONSHIP CRITERIA FOR APPLICANTS AND REHABILITATION CRITERIA FOR APPLICANTS (AB 2138); REPEAL SPONSORED EVENT PROVISIONS

Ms. Nunez reviewed the following proposed regulatory language and Disciplinary Guidelines (2020 Edition) in accordance with the Board's strategic plan and the passage of AB 2138:

§1399.326 Driving Record

Dr. Lewis moved to adopt the proposed amendments giving staff the authority to proceed with the rule making process and allowing staff to make technical non-substantive changes as necessary.

Request for Public Comment: No public comment was received.

M/Lewis /S/Hardeman

In favor: Early, Franzoia, Guzman, Hardeman, Kbuschyan, Lewis
MOTION PASSED

§1399.329. Handling of Military and Spouse Applications

Mr. Guzman moved to adopt the proposed amendments giving staff the authority to proceed with the rule making process and allowing staff to make technical non-substantive changes as necessary.

Request for Public Comment:

An unidentified attendee stated, as an active member of the military, he wanted to thank the Board for their efforts concerning this legislation.

M/Guzman /S/Early

In favor: Early, Franzoia, Guzman, Hardeman, Kbuschyan, Lewis
MOTION PASSED

1 **§1399.343 - §1399.346 Definitions (Repeal section)**

2
3 Dr. Lewis moved to adopt the proposed amendments giving staff the authority to proceed with the
4 rule making process and allowing staff to make technical non-substantive changes as necessary.

5
6 Request for Public Comment: No public comment was received.

7
8 M/Lewis /S/Kbushyan

9 In favor: Early, Franzoia, Guzman, Hardeman, Kbushyan, Lewis

10 MOTION PASSED

11
12 **§1399.370 - §1399.372.1 Substantial Relationship Criteria**

13
14 Mr. Kbushyan moved to adopt the proposed amendments giving staff the authority to proceed with
15 the rule making process and allowing staff to make technical non-substantive changes as
16 necessary.

17
18 Request for Public Comment: No public comment was received.

19
20 M/Kbushyan /S/Guzman

21 In favor: Early, Franzoia, Guzman, Hardeman, Kbushyan, Lewis

22 MOTION PASSED

23
24 **§1399.374 Disciplinary Guidelines (2020 Edition)**

25
26 Mr. Guzman moved to adopt the proposed amendments giving staff the authority to proceed with
27 the rule making process and allowing staff to make technical non-substantive changes as
28 necessary.

29
30 Request for Public Comment: No public comment was received.

31
32 M/Guzman /S/Franzoia

33 In favor: Early, Franzoia, Guzman, Hardeman, Kbushyan, Lewis

34 MOTION PASSED

35
36
37 **10. COST RECOVERY HISTORY**

38
39 Ms. Nunez presented the cost recovery history as requested by Ms. McKeever at the last Board
40 meeting.

41
42 Ms. Molina stated the Board recently changed collection agencies contracting with a new vendor and
43 staff is hopeful to see an increase in the amount of costs collected.

44
45 Ms. Nunez stated in the past the Board has been recognized for having the highest amount of costs
46 recovered of any board.

47
48 Ms. Molina added, it is part of the Board's process to send out monthly invoices which make an
49 impact on the amounts recovered.

50
51 Dr. Lewis expressed his concern for excessive AG fees stating they need to be monitored.

1 Ms. Molina stated they are monitored carefully and reported in the final meeting of each calendar
2 year.

3
4 Ms. Early commented there are also expert witness's costs.

5
6 Request for Public Comment: No public comment was received.
7

8 9 **12. FUTURE AGENDA ITEMS**

10
11 Dr. Lewis asked to have some document giving an idea of the type of violations the Board sees most
12 often to share with students.

13
14 Request for Public Comment: No public comment was received.
15

16 17 **13. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

18
19 Mr. Rogers stated he appreciated the Board meeting at CHOC and appreciates all the Board does for
20 the profession.

21
22 An unidentified attendee commented on Dr. Lewis's idea about the sharing violation information with
23 students. He stated there are memberships, especially the CSRC who do go out to the schools and
24 talk to the students. If an outline or script was provided, that would add on to the conversation they
25 have with the students and would be important information to relay to the students especially those
26 getting closer to graduation.

27
28 Dr. Lewis added one of the Board's members may want to be involved in the sharing of such
29 information with students.
30

31 Ms. Booth stated hearing this information from the powers that be is extremely effective and added
32 that, in the past, she would just show her students the disciplinary actions listed on the RCB's
33 website. Ms. Booth commented, that this Board, with all its iterations, has been the most proactive,
34 professional and supportive board for the profession. She thanked the members of the Board and
35 their predecessors for all the work they have done to support the profession.
36

37 Sherleen Bose suggested using social media outlets as a tool to reach out and share information.
38

39 A representative from American Career College stated he appreciates all the Board does for the
40 profession. Adding Ricardo Guzman as a Board member is a positive as he has been an amazing
41 asset to the community and will be a great addition to the Board.
42

43 44 **ADJOURNMENT**

45
46 The Public Session Meeting was adjourned by Ms. Nunez at 10:30 a.m.
47

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49
50
51 Not in Attendance

52
53 President

STEPHANIE A. NUNEZ
Executive Officer