PUBLIC SESSION MINUTES

Friday, October 26, 2018

Fresno City College
Room HS 230
1101 E. University Avenue
Fresno, CA 93741

Members Present: Alan Roth, MS MBA RRT-NPS FAARC, President
Mary Ellen Early
Rebecca Franzoia
Mark Goldstein, MPA, RCP, RRT
Michael Hardeman
Sam Kbushyan, MBA
Judy McKeever, RCP, RRT

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 President Roth. Ms. Molina called roll (present: Early, Franzoia, Goldstein, Hardeman, Kbushyan, McKeever, Roth), and a quorum was established.

PUBLIC COMMENT

President Roth explained that public comment would be allowed on agenda items, as those items are discussed by the Board during the meeting. He added that under the Bagley-Keene Open Meeting Act, the Board may not take action on items raised by public comment that are not on the Agenda, other than to decide whether to schedule that item for a future meeting.

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2. APPROVAL OF MAY 14, 2018 MEETING MINUTES

President Roth moved to approve the May 14, 2018 Public Session minutes as written.

Request for Public Comment:

No public comment was received.

M/Roth /S/Goldstein
In favor: Early, Franzoia, Goldstein, Hardeman, Kbushyan, McKeever, Roth
MOTION PASSED

3. BUDGET UPDATE

Ms. Nunez stated the State of California has implemented a new statewide system (FI$CAL) for budget, accounting, and procurement which has experienced technical issues preventing the availability of reports. However, to assist with budgeting efforts, DCA has produced a non-official report for use which documents the Board's fund is in good standing and that the renewal fee increase is helping to establish a stable projected reserve.

Request for Public Comment:

No comments were received.

4. ANNUAL LICENSING AND ENFORCEMENT STATISTICS

Ms. Nunez reviewed the annual statistics for licensing and enforcement.

Ms. Franzoia inquired why more applications were issued than received. Ms. Molina replied this is due to carryover applications from the prior fiscal year.

Ms. McKeever inquired if the cost recovery amounts were for this year or last year. Ms. Nunez replied they were for last fiscal year and were not carried over from previous years. Ms. McKeever requested the total ordered and collected cost recovery amounts be shared at the next Board meeting.

President Roth pointed out the number of consumer complaints seems high, but relative to the number of licensed professionals there is actually a low percentage of complaints which reflects positively on the profession.

President Roth stated the statistics also show the quick time frame for follow up on complaints from investigations to imposing formal discipline, and that the Board is well within the established metrics and doing extremely well.

Request for Public Comment:

No comments were received.

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5. LEGISLATION OF INTEREST

Ms. Molina reviewed the Legislation of Interest highlighting the following:

- SB 1003, which would prohibit any state agency other than the Board from defining the practice of respiratory care or developing professional standards unless required by statute. The bill also authorizes the Board to promulgate regulations to further clarify the respiratory care practitioner scope.

- SB 1491, the health care omnibus bill which includes two provisions specific to the respiratory care practice act. One to accurately reflect the name of the examinations for licensure to ensure clarity in the law. The second, to require an individual petitioning for reinstatement of licensure to pass the current licensing exams (both the Therapist Multiple Choice and Clinical Simulation Exams) to ensure competency at the current minimum required level.

- AB 2138, Ms. Molina stated just about every DCA board opposed this bill. She noted the final version approved by the Senate attempted to address some of the concerns expressed by the consumer protection boards and becomes effective January 1, 2019 with an implementation of July 1, 2020. Ms. Molina indicated this bill primarily excludes the Board from considering any crime over 7 years old, excluding more serious crimes. Ms. Molina added, the Board will have to reevaluate its rehabilitation criteria and procedures to see if anything needs to be changed.

Ms. Molina further reviewed the Board's positions listed below:

SB 715: ~~Department of Consumer Affairs: regulatory boards: removal of board members~~.
Status: This bill was amended to address an issue not applicable to the Board
Board's Position: Watch

SB 769: Baccalaureate Degree Pilot Program
Status: This bill has failed
Board's Position: Support

SB 1003: Respiratory Care
Status: Signed by Governor 8/20/18 [Chapter 180, Statutes of 2018]
Board's Position: Support

SB 984: State boards and commissions: representation: women
Board's Position: Watch

SB 1137: Veterans: professional licensing benefits
Status: Signed by the Governor 9/14/18 [Chapter 414, Statutes of 2018]
Board's Position: Watch

SB 1491: Healing arts: omnibus bill
Status: Signed by the Governor 9/22/18 [Chapter 703, Statutes of 2018]
Board's Position: Support

AB 710: Cannabidiol
Status: Signed by the Governor 7/9/18 [Chapter 62, Statutes of 2018]
Board's Position: Watch

AB 1793: Cannabis Conviction
Status: Signed by the Governor 9/30/18 [Chapter 993, Statutes of 2018]
Board's Position: Watch

AB 2138: Licensing boards: denial of application: criminal conviction
Status: Signed by the Governor 9/30/18 [Chapter 995, Statutes of 2018]
Board's Position: Oppose

AB 2409: Professions and vocations: occupational regulations
Status: Failed passage (with reconsideration) by Assembly Business and Professions 4/17/18

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Board's Position: Oppose

AB 2483: Indemnification of public officers & employees: antitrust awards
Status: This bill has failed
Board's Position: Watch

Request for Public Comment:

Hank Perry, Clinical Coordinator, Community Regional Medical Center in Fresno, commented he has seen people who cannot get licensed after going through a respiratory program and added the schools need to inform students of the criteria for licensure before accepting them into their programs as some of these programs cost up to $40,000 - $50,000.

Ms. Nunez stated most schools do inform their students of the licensing guidelines before entering the program. Further, the Board posts in house penalty determination guidelines on its website along with program pass/fail success rates for every school. She added nearly every catalog indicates applicants should contact the licensing board to check their requirements.

Ms. Nunez added very few applications are denied, more often applicants are offered probation.

Lorraine Smith, Fresno Community College stated, a community college cannot deny access to the education even if the student is informed of the issues they may face getting licensed. However, before they get clinical placement, they do a background check that the hospitals review, apply their criteria and determine if they will accept the student. She believes there are checkpoints along the way to prevent a student from getting too far along without having the knowledge.

President Roth stated, speaking for Modesto Community College, everyone can participate. However, during initial counseling, before choosing a respiratory care major, an effort is made to allow self-examination to determine if one is up to par to enter the field of respiratory care. Also, during orientation, there is a formal introduction into respiratory care relative to licensing requirements.

6. UPDATE ON PROPOSED CONTINUING EDUCATION REGULATORY LANGUAGE

President Roth thanked those who submitted comments on the proposed continuing education regulation changes. He added it is important to get clarification on the CEs required and how they need to be obtained. He commented there are opportunities within institutions for medical directors to educate their respiratory care departments as it is a requirement within their scope to give a minimum of three lectures per year. President Roth added he does not believe it to be an onerous burden expanding the requirements to a certain number of in-person continuing education units. The CSRC holds regional events in which one day is usually 5-6 CEUs at minimum to no cost. He added, hospital directors could do more to get the education required by formally applying to the CSRC or the AARC for continuing education credits. This would also put an emphasis on both the CSRC and the AARC to be more responsive to their practitioners. Only 10% of the practitioners in this state belong to the CSRC and under 50% nationally, whereas other allied health organizations require mandatory membership within their national group. President Roth stated the Board's interest is in learned competency and it needs to ensure respiratory care practitioners have the most current information relative to their profession by requiring a certain number of in-person CEs.

Request for Public Comment:

Mr. Perry commented he just completed rewriting all his practitioner job descriptions requiring that they belong to CSRC or AARC. He further stated it is also a CCS requirement for ongoing education.

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In addition, his institution is already doing a lot of live education. Every month they have live M&M's, where everyone in attendance gets one CEU and it is a requirement that they attend 50% of these to meet their job description. Mr. Perry inquired whether webinar training would be considered live. Their issues would be staffing and getting that many people off for that amount of time in two years and concern that time off would not be paid.

Ms. Nunez reviewed the notice sent out to interested parties, programs and directors thanking CSRC for helping get the notice out to managers to distribute to their staff. Stakeholders have until December 1, 2018 to respond. She highlighted the changes to the continuing education requirements that are receiving comments:

- 3 comments have been received in opposition to "A minimum of 10 hours must be directly related to practitioner leadership, case management, or health-care financial reimbursement, cost containment or management"
- 72 comments received opposing the requirement of "A minimum of 15 hours of CE as outlined in subdivision (a) must be earned from courses or meetings provided in a live in-person format requiring physical attendance." A petition with 34 more opposing signatures was received as well.
- 1 comment requesting clarification of cardiovascular life support.
- 1 comment in opposition to the many different caveats in support of a simpler requirement.

Mr. Goldstein commented to some it may seems onerous but in reality, it is an opportunity for the profession to grow and possibly develop more educators within individual institutions which is seen extensively in nursing. He added, respiratory has not been viewed on that professional level. He sees this as an essential step in the growth of the profession.

Ms. Nunez stated these proposed changes derived directly from feedback received as part of the Workforce Study. She believes it will even help critical thinking, seeing the bigger picture at the leadership level.

Ms. Franzoia stated she doesn't agree with the process of getting 5 units in a day just sitting at your computer and feels attending classes is more beneficial and part of the continuous growth process and what professionals should have to go through.

Ms. Nunez suggested, for consideration by the Board, possibly earning extra CEs for attending a live course, instead of making it a requirement.

Ms. Early suggested it may help to define "participatory." Is it the ability to ask questions online? She added, the interaction among people is what is missing with online training. In some instances, this is invaluable, as someone may ask a question that could be of value to everyone in the class.

Ms. McKeever congratulated Mr. Perry for his involvement in making the live learning CEUs happen and opening it up to other institutions. She added it would be great if all the other schools and institutions did that as well. Ms. McKeever stated other issues are getting time off to attend a conference as well as the cost (the flight and hotel can be expensive). In most cases, vacation time is being used because educational leave is not getting approved. Ms. McKeever stated she also feels management classes should be offered but not required as some therapists want to learn what is new in their field and have no interest in learning management. She added, she is personally opposed to that requirement.

President Roth stated that 35% of people in management are expected to retire in the next few years. Practitioners need exposure to management and leadership roles to fill in these projected gaps. He pointed out there are multiple sources to get CEUs.

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Mr. Goldstein stated both Mercy and Sutter in Sacramento hold free classes once a year where therapists can earn up to 7 CEUs. In addition, the Ethics Course can be applied towards continuing education. He added, other hospitals are notorious for not approving educational time off but stated, respiratory therapists are ultimately responsible for their own professional development and growth. CEUs can also be earned by attending training on new machines or new products brought into an institution.

Mr. Perry stated he agrees this is a good thing and that his staff responds well to webinars.

Ms. Nunez questioned if webinars need to be considered live training.

President Roth and Mr. Goldstein responded the webinars must be participatory, where participants can ask questions and interact with the instructors and other participants.

Ms. McKeever inquired if there is a way the Respiratory Care Board can send a strong recommendation to the hospitals to allow their employees to use their educational leave to attend CE courses.

Ms. Nunez agreed with the idea of communicating with a letter covering the stricter changes to continuing education, asking that they make allowances for these changes and consider having more live events at hospitals.

President Roth stated if we do not train the next generation of leaders, there won't be leaders relative to respiratory which would make the departments invisible while other departments take over the directorship and management of the respiratory department. If a respiratory care person does not advocate for the position, then we are in trouble as a profession. He added, increasing the requirements and making them useful is important.

Ms. McKeever stated from her experience she has seen that those people interested in being in management will attend management training.

Ms. Early commented, hospitals in bigger cities, have registries that should be able to cover while respiratory therapists attend the required training.

Mr. Kbushyan stated he has spoken to students at the college near his home and it seems many are looking for shortcuts to get through their education, but he believes the elements of having hands-on, participatory CEs will have long term benefits for the profession and consumers.

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7. INFORMATION UPDATE ON MEETINGS WITH THE BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

President Roth attended the meetings with the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) facilitated by SOLID and stated BVNPT's new willingness to look for common ground between the two professions was eye opening. The new executive officer and assistant executive officer really want to look at skill sets and what LVN and psychiatric technicians are allowed to do as it relates to respiratory care. One of the things specifically looked at were the sites, where LVNs have filled in the areas of respiratory because there were no respiratory therapists in the institution. He stated, the Respiratory Care Board needs to educate and try to delineate what functions are assessments versus just logging numbers. The meeting also included a discussion on what is included in the Practice Act. President Roth added, with the introduction of SB 1003 into law, it will help delineate the functions and skill levels necessary to give guidance to the facilities.

President Roth added it was a positive step, in a positive environment with further discussions and regular meeting planned to be held on this topic.

Ms. Nunez stated President Roth gave a fantastic presentation at the meeting.

President Roth thanked Ms. Nunez and Ms. Molina for their diligence and efforts to make this happen to iron out these details.

8. CLINICAL EDUCATION OVERSIGHT DISCUSSION

President Roth stated one of the things the CoARC looks at relative to education and competencies is who is teaching the respiratory students. Do they have the education and competency in order to be able to teach and is there some degree of educational reliability and consistency? The AARC has formed a preceptor education program. He stated, one of the things the Board needs to look into, and communicate with institutions, is what is necessary to be a preceptor, so students know exactly what they are doing when they receive their competencies. The Board needs to determine if there are any regulations to promulgate that would allow the Board to put an emphasis on the role of the preceptor at a hospital in order to guarantee a student's education is what it is meant to be. He reviewed the agenda article about Respiratory Care Clinical Education: A Needs Assessment for Preceptor Training covering what is required for clinical education. RT students need appropriate clinical experiences to be work prepared. President Roth stated, when CoARC grants a school accreditation, they only see the school every ten years with an evaluation every three year. He added, one of the things that the Board should look at is to try to make sure the preceptor the student has is qualified.

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Request for Public Comment:

Hank Perry, Clinical Coordinator, Community Regional Medical Center in Fresno, commented they have three educators at his facility. He stated he spends two hours every week with the students providing information on current practices. He suggested the Board help by requiring the students show up with a list of competencies that need to be covered. He added respiratory therapists need to do a better job educating the new students as they are the future of the profession.

Discussion ensued.

Ms. Nunez suggested the AARC preceptor classes should count as leadership continuing education.

Ms. McKeever stated precepting is something she is passionate about as she has been a preceptor for a lot of students and earned the reputation of being demanding but someone from which they will learn. She had seen it done incorrectly so many times and feels the Board should somehow enforce within the hospitals that the precepting be done correctly. She added the preceptor needs to be at an RRT and RCP2 level and above.

Mr. Goldstein stated he would like the Board to encourage hospitals to have designated preceptors that have completed the AARC preceptor course and to be a registered respiratory therapist.

President Roth would like the Board to investigate regulatory or legislative actions relative to requiring preceptors to be formally trained with the AARC (or equivalent) preceptor training to ensure competencies for students.

Ms. McKeever added practitioners should have a minimum of 5 years of experience to be a preceptor.

Ms. Nunez inquired if there should be a minimum standard that clinical education directors be at the site a required frequency or amount of time.

President Roth stated someone from the program should be there as oversite relative to the students.

Ms. Nunez suggested starting with a policy recommendation.

Discussion ensued.

Ms. Franzoia reiterated the students should have a checklist from each of the learning institutions listing what needs to be covered.

Ms. Nunez agreed it is important to have it consistent throughout all programs although not all hospitals cover the same things.

President Roth stated nursing has simulation labs to ensure all competencies can be met.

Mr. Goldstein stated it is necessary to establish community benchmarking so that therapists can go from one facility to another with the assurance of quality care for the consumers no matter what institution they are in.

9. COMMISSION ON ACCREDITATION FOR RESPIRATORY CARE CHANGES-DISCUSSION

Discussed as part of agenda item 8.

10. AMERICAN ASSOCIATION FOR RESPIRATORY CARE'S TASKFORCE ON COMPETENCIES FOR ENTRY INTO RESPIRATORY THERAPY-DISCUSSION

President Roth stated the competencies from AARC will allow the Board to develop the framework for differentiating the skill levels that need to be delineated pursuant to SB 1003 to understand what functions must be performed by a licensed respiratory care practitioner.

Ms. Nunez suggested staff draft something based on those competencies for the Board to consider.

Request for Public Comment:

No comments were received.

11. PLANNING AND DISCUSSION FOR SB 1003

President Roth covered Senate Bill 1003 and commended Ms. Nunez, Ms. Molina as well as the CSRC leadership and lobbyist involved in the hearings for all their work toward getting the bill passed. He added, everyone was prepared and went above and beyond to make sure this legislation was essentially passed intact.

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12. ELECTION OF OFFICERS FOR 2019

a. Vice President

President Roth opened the floor for nominations for Respiratory Care Board Vice President.

A motion to nominate Mr. Goldstein for Vice President was made by President Roth, and seconded by Mr. Kbushyan.

No public comment.

M/Roth /S/Kbushyan
In favor: Goldstein, Roth

A motion to nominate Ms. McKeever for Vice President was made by Ms. Early, and seconded by Ms. Franzoia.

No public comment.

M/Early /S/Franzoia
In favor: Early, Franzoia, Hardeman, Kbushyan, McKeever
MOTION PASSED

b. President

President Roth opened the floor for nominations for Respiratory Care Board President.

A motion to nominate Mr. Goldstein for President was made by Ms. McKeever and seconded by President Roth.

No public comment.

M/McKeever /S/Roth
In favor: McKeever, Kbushyan

A motion to nominate Mr. Roth for President was made by Ms. Franzoia and seconded by Mr. Goldstein.

No public comment.

M/Franzoia /S/Goldstein
In favor: Early, Franzoia, Goldstein, Hardeman, Roth
MOTION PASSED

13. CALENDAR 2019 MEETING DATES

The following Public Meetings were scheduled for 2019:

March 1, 2019 in San Diego, CA (location subsequently changes to Orange, CA)
June 7, 2019, Teleconference (if needed)
November 1, 2019 in Sacramento, CA

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14. FUTURE AGENDA ITEMS

Mr. Perry requested the Board add education requirements and competencies for students as a future agenda item.

Ms. McKeever requested an agenda item reviewing the total overall cost recovery amounts.

15. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

ADJOURNMENT

The Public Session Meeting was adjourned by President Roth at 11:40 a.m.

ALAN ROTH President	STEPHANIE A. NUNEZ Executive Officer

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