



**PUBLIC SESSION MINUTES**

**Friday, October 28, 2022  
PUBLIC WEBEX MEETING**

Members Present: Mary Ellen Early  
Mark Goldstein  
Ricardo Guzman  
Raymond Hernandez  
Sam Kbushyan  
Ronald Lewis  
Michael Terry

Staff Present: Reza Pejuhesh, Legal Counsel  
Stephanie Nunez, Executive Officer  
Christine Molina, Staff Services Manager  
Kathryn Pitt, Associate Governmental Program Analyst  
Tara Yoshikawa-Heu, Associate Governmental Program Analyst

**CALL TO ORDER**

The Public Session was called to order at 9:30 a.m. by President Guzman.

Ms. Molina called roll (present: Early, Goldstein, Guzman, Hernandez, Kbushyan, Lewis, Terry), and a quorum was established.

**1. PRESIDENT’S OPENING REMARKS**

President Guzman asked everyone to please turn their cell phones to silent. He added, this is an official business meeting of the Respiratory Care Board. You may notice Board members accessing their laptops, phones, or other devices during the meeting. They are using the devices solely to access the Board meeting materials that are in electronic format. Public comment will be allowed on each agenda item, as each item is taken up by the Board, during the meeting. Under the Open Meetings Act, the Board may not take any 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. If you would like to provide comment, it would be appreciated -though not required - if you would provide your name and the organization you represent if applicable, prior to speaking. To allow the Board sufficient time to conduct its scheduled business, public comment may be limited.

1 The Board welcomes public comment on any item on the agenda and it is the Board's intent to ask for  
2 public comment prior to the board taking action on any agenda item. If for some reason I forget to ask  
3 for public comment on an agenda item and you wish to speak on that item, please raise your hand  
4 and you will be recognized.  
5

6 Request for public comment: No public comment was received.  
7  
8

## 9 **2. APPROVAL OF JUNE 9, 2022, MEETING MINUTES**

10 President Guzman asked if there were any additions or corrections to the June 9, 2022, minutes.  
11

12 Dr. Lewis moved to approve the June 9, 2022, Public Session Minutes as written. The motion was  
13 seconded by Vice President Goldstein.  
14

15 Request for public comment: No public comments were received.  
16  
17

18 M/Lewis /S/Goldstein

19 In favor: Early, Goldstein, Guzman, Hernandez, Kbushtyan, Lewis, Terry

20 MOTION PASSED  
21  
22

## 23 **3. FISCAL REPORT**

24 Ms. Molina stated last fiscal year revenues exceeded expenditures by approximately \$450K resulting  
25 in 5.5 months in reserve at the close of the FY. Revenues are projected to exceed expenditures  
26 again in the current fiscal year, with an estimate of 5.9 months in reserve come June 30th. This is an  
27 ideal fund condition. However, there is always a possibility that expenditures will increase as salaries  
28 rise – and this generally results in a trickle-down effect since salary increases also impact other  
29 expenditure line items such as pro rata costs and even AG rates. In addition, the current rise in  
30 inflation brings about even greater concerns regarding potential expenditure increases in our overall  
31 operating expenses. These possibilities are taken into consideration when calculating projections.  
32 Ms. Molina added, her and Ms. Nunez do continually strive to identify areas where savings can be  
33 achieved, including by way of attrition. Several staff members will likely be retiring in the coming  
34 years, and the Board is looking at ways to modify processes to possibly keep some positions vacant.  
35 In the event expenditures do remain steady, the current fund could provide flexibility should the Board  
36 wish to pursue a special project such as when it pursued outreach efforts in the past, or contracted for  
37 its workforce studies. She added that overall, staff is optimistic a fee increase will not be needed again  
38 for at least a decade.  
39

40 Comments:  
41

42 Dr. Lewis inquired whether bargaining unit agreements might potentially increase salaries.  
43  
44

45 Ms. Nunez explained most of the larger contracts expired this year and will be renegotiated next  
46 spring. Usually contracts extend 2 – 3 years out. At that time the Board will have a better idea of the  
47 impacts if there are salary increases in the future.  
48

49 Dr. Lewis asked for an explanation of why pro rata is so high.  
50

51 Ms. Molina explained there are two different types of pro rata services. There are internal services  
52 within the Department of Consumer Affairs such as legal services, business services, IT services,  
53 accounting and more. The other type is an outside pro rata for control agencies that do business for

1 the State of California such as the State Personnel Board, CalPERS, and the State Controller's Office.  
2 Those costs are generally driven by salaries and the Board does not have control over the charged  
3 amounts.  
4

5 Mr. Hernandez inquired about the process for using reserves for projects.  
6

7 Ms. Nunez replied, the Board would first need to wait for bargaining unit agreements to be completed.  
8 Afterwards, projections can be made for the Board's reserves and potential future projects. A good  
9 time to look at this would be next year at this time.  
10

11 Public Comment: No public comment was received.  
12  
13

#### 14 **4. LICENSING AND ENFORCEMENT ACTIVITY ANNUAL REPORT** 15

16 Ms. Molina stated, while the Licensing and Enforcement Annual Statistics for fiscal year 2021/22  
17 remained consistent with prior year reporting, one change is the Board is now being asked to report a  
18 few probation statistics, specifically the number of probations completed, probationers pending, and  
19 the number of subsequent disciplinary actions taken. As it relates to licensing, initial application  
20 numbers are remaining steady at about 1600, and continue to include quite a few out of state  
21 applicants. The number of renewals has also remained consistent at just under 10K per fiscal year.  
22 Staff continues to closely monitor monthly license status reports to identify any trends, increases or  
23 decreases in the number of current, inactive, delinquent, retired and/or cancelled licenses. Recent  
24 numbers have remained relatively steady demonstrating the number of new licensees is staying  
25 consistent with practitioners leaving the profession either by way of retiring or allowing their licenses  
26 to cancel. There is even some indication the number of active licensees is slightly trending upward.  
27 Enforcement timeframes all remain well within the Board's established performance measure targets.  
28

29 Ms. Molina added, the Department of Consumer Affairs is in the process of creating a Data  
30 Governance Committee to establish consistency and standardization of reporting definitions and data  
31 among the sunset and annual reports, and for performance measure reporting, so the Board can  
32 expect to hear more about this and may see some differences in reporting structure in the future.  
33

34 Public Comments: None received  
35  
36

#### 37 **5. PROFESSIONAL QUALIFICATIONS COMMITTEE UPDATE STRATEGIC PLAN GOAL #2:** 38 **INCORPORATE BACCALAUREATE DEGREE PROVISION IN THE RESPIRATORY CARE** 39 **PRACTICE ACT** 40

41 Mr. Hernandez and Mr. Terry provided an update from the Professional Qualifications Committee  
42 (PQC). The PQC has researched and presented three study sessions and shared with the Board the  
43 different models for exploration resulting from those study sessions. The PQC also discussed next  
44 steps to move forward which would be inviting discipline experts to share perspectives in focus groups  
45 and give feedback around minimum qualifications. Currently, the PQC is defining who will represent  
46 the different areas of expertise and is looking for leaders actively engaged and involved in their  
47 communities. Mr. Hernandez and Mr. Terry have been contacting these individuals, forming a list,  
48 and in the coming months plan to meet with these experts and gain insight and feedback. Once this  
49 process is complete, the PQC will bring this back to the Board for discussion as well as a survey  
50 which would be open to all stakeholders for feedback before defining and bringing final  
51 recommendations to the Board. Mr. Hernandez pointed out this process is not new as the Board went  
52 through this in 2000 with establishing the associate degree as the minimum education qualification for

1 licensure. This process is to ensure competent care by California’s respiratory care practitioners and  
2 to provide a threshold for safety of the public.  
3  
4 Vice President Goldstein commented he would like to see home care incorporated in the areas of  
5 expertise as it is a major area of possible growth.  
6  
7 Mr. Kbushyan inquired what the residency and timeframe would look like prior to licensure. Mr.  
8 Hernandez replied, the details of the possible models are not known at this point as they still need to  
9 be explored. Mr. Terry added that is part of the discussion the PQC will have with the experts.  
10  
11 Request for public comment: No public comment was received.  
12  
13

## 14 6. LEGISLATION OF INTEREST

15  
16 Ms. Molina highlighted updates for bills for which the Board previously adopted positions:  
17

18 **AB 646 (Low) - Board Position: Watch**

19 Title: DCA: boards: expunged convictions. Status: This bill is dead.  
20

21 **AB 1604 (Holden) - Board Position: Watch**

22 Title: The Upward Mobility Act of 2022: boards and commissions: civil service: examinations:  
23 classifications. Status: Approved by the Governor on September 13, 2022 [Chapter 313, Statutes of  
24 2022]  
25

26 **AB 1662 (Gipson) - Board Position: Watch**

27 Title: Licensing boards: disqualification from licensure: criminal conviction. Status: This bill is dead.  
28

29 **AB 1733 (Quirk) - Board Position: Support**

30 Title: State bodies: open meetings. Status: This bill is dead.  
31

32 **AB 1914 (Davies) - Board Position: Watch**

33 Title: Resource family approval: training. Status: Approved by the Governor on September 29, 2022  
34 [Chapter 765, Statutes of 2022]  
35

36 **AB 2104 (Flora) - Board Position: Oppose**

37 Title: Professions and vocations. Status: This bill is dead.  
38

39 **AB 2948 (Cooper) - Board Position: Watch**

40 Title: Consumer protection: Department of Consumer Affairs: complaints. Status: This bill is dead.  
41

42 **SB 962 (Jones) - Board Position: Support**

43 Title: Healing arts: clinical laboratory technology: moderate-complexity laboratories. Status: This bill  
44 is dead.  
45

46 **SB 1031 (Ochoa Bogh) - Board Position: Oppose**

47 Title: Healing arts boards: inactive license fees. Status: This bill is dead.  
48

49 **SB 1237 (Newman) - Board Position: Watch**

50 Title: Licenses: military service. Status: Approved by the Governor on September 17, 2022 [Chapter  
51 386, Statutes of 2022]  
52

53 **SB 1365 (Jones) - Board Position: Watch**

1 Title: Licensing boards: procedures. Status: This bill is dead.

2

3 **SB 1436 (Roth) - Board Position: Support**

4 Title: Respiratory therapy. Status: Approved by the Governor on September 27, 2022 [Chapter 624,  
5 Statutes of 2022]

6

7 Ms. Molina stated many of the tracked bills were unsuccessful this year. SB 1436, the RCB's Sunset  
8 Bill received unanimous support by both the Senate and Assembly and was signed by the Governor  
9 on 9/27/22. In addition to extending the Board's inoperative date to January 1, 2027, the bill also  
10 added additional categories or types of employment that would be subject to mandatory reporting for  
11 violations already defined in law, addressed the ongoing issues with the practice of respiratory care by  
12 licensed vocational nurses, and authorized the Board to provide a temporary, rapid response  
13 beneficial to consumers during a State of Emergency.

14

15 As it relates to the LVN issue, SB 1436 added new language to the Vocational Nursing Practice Act  
16 and the Respiratory Care Practice Act allowing the Board to, among other things, develop definitions  
17 for "basic respiratory tasks." In the coming year, the RCB plans to hold meetings to address tasks and  
18 services related to home care, which will ultimately result in an additional future rulemaking package  
19 to fully implement the provisions within SB 1436.

20

21 Ms. Molina added, the other bills the Board was watching that were signed by the Governor include:

22

23 AB 1604, The Upward Mobility Act of 2022, which calls for boards and committee appointments to  
24 include at least one member from an underrepresented community.

25

26 AB 1914, which provides that a licensed healthcare practitioner acting as a resource family  
27 member is not required to complete or show proof of completing CPR or basic life support.

28

29 SB 1237, which defines the phrase "called to active duty" for purposes of waiving fees for military  
30 service members.

31

32 Public comment:

33

34 Michael DePeralta commented on SB 1237, the military waiver for those called into active duty,  
35 stating this bill is of great importance to the respiratory field and the State of California especially  
36 during the COVID-19 pandemic.

37

38

39 **7. CONSIDERATION OF AND POSSIBLE ACTION ON COMMENTS RECEIVED DURING THE 45-  
40 DAY COMMENT PERIOD AND HEARING FOR THE BOARD'S PROPOSED RULEMAKING TO  
41 AMEND CALIFORNIA CODE OF REGULATIONS, TITLE 16, SECTIONS 1399.349, 1399.350,  
42 1399.350.5, 1399.351, 1399.352, 1399.352.5, 1399.352.7, AND 1399.381 AND TO ADOPT  
43 1399.352.6 (CONTINUING EDUCATION, FINES)**

44

45 Ms. Nunez advised the Board it would be reviewing every comment to either accept or reject as  
46 required by the official rulemaking process.

47

48 Ms. Nunez first directed members' attention to the non-substantive comments found on page 4 of the  
49 cover attachment.

50 **Non-Substantive Comments [Comments 1, 2, 4, 5, 6, 8, and 12]**

51

1 Ms. Nunez explained that all of these comments were non-substantive and occurred through  
2 discussion between staff and the regulatory legal office. The Board agreed with Ms. Nunez's  
3 recommendation to accept all of these comments.  
4

5 Directing members and the public to the handout titled Public Comments by Topic, Ms. Nunez  
6 proceeded through the document for consideration and discussion of each comment:  
7

### 8 **Categories for 30 Hours of Required CE [Comments 15, 16, 17, 39, 40 and 41]**

9

#### 10 Comments 15, 16, and 17:

11 Ms. Nunez stated that comments 15, 16, 17 should be rejected because the comments appear to be  
12 referencing an outdated document suggesting there is a conflict in the number of hours required for  
13 said categories. Ms. Nunez explained to members that there is in fact no contradiction. As provided  
14 in the "RCB Staff Note" on the handout, "No contradiction exists. Proposed text published 8/12/22  
15 repeals the 2/3 requirement and instead provides that at least 25 of the 30 required CE shall be  
16 completed in the following content areas: 1) minimum of 10 hours from leadership and 2) a minimum  
17 of 15 hours directly related to clinical practice."  
18

19 [Comments rejected]

#### 20 Comment 39:

21 The comment suggested adding topics such as "communication, empathy, emotional intelligence  
22 [and] working as a team" to the category of Leadership CE.

23 Discussion ensued with differing opinions. An unofficial poll was taken for members to vote for one of  
24 the following: 1) Keep the section 1399.350(a)(1) as written 2) Modify this section to include  
25 "communication" or 3) Modify this section to include both communication and emotional intelligence.

26 The majority of members supported adding communication to the types of CE that would be counted  
27 as Leadership CE in section 1399.350(a)(1). In the discussion it was noted that many medical errors  
28 occur as a result of poor communication between physicians and other care workers and that this was  
29 an area where staff RCPs, perhaps those that do not want to climb the ladder, could strengthen their  
30 leadership skills.

31 [Comment rejected but will be adding "communication"]  
32

#### 33 Comment 40:

34 Ms. Nunez recommended rejecting this comment because the commenter did not appear to have a  
35 clear understanding of the regulations as currently written, since the commenter noted concern with  
36 taking time from work to attend training, which would not be necessary. The commenter also  
37 suggested to change what the leadership classes should include but did not offer any suggestions.

38 [Comment rejected]  
39

#### 40 Comment 41:

41 The commenter provided that attending leadership workshops or seminars were not going to enhance  
42 the development of managers or leaders and that formal education would be required to do that. Ms.  
43 Nunez recommended rejecting this comment as the Board fundamentally disagrees with that opinion  
44 as provided by the proposed language they have approved.

45 [Comment rejected]  
46

### 47 **CE Credit for Attendance at Public/Private Meetings – 1399.350(b) [Comments 3 and 18]**

48

#### 49 Comment 3:

50 This comment was derived from discussion between RCB staff and the CSRC to allow meetings of  
51 the CSRC and the AARC that are not open to the public to still be recognized for CE credit under  
52 1399.350(b). Ms. Nunez pointed out to members to consider that on one side, allowing CE credit for  
53 meetings only open to the association's membership could be construed as an incompatible activity.

1 However, on the other hand, any person can become a member of those associations, and the  
2 regulatory proposal could be perceived as getting licensees more invested in the profession and even  
3 serving on one of these associations' boards. Discussion ensued noting that in the Board's strategic  
4 planning session the previous days it was noted that RCP engagement was of importance. This  
5 comment was accepted to allow private meetings of the AARC and the CSRC to count towards CE  
6 credit.

7 [Comment accepted]

8  
9 Comment 18:

10 This comment directly from the CSRC provided recommendations to allow CE credit open only to its  
11 membership and prescribed many specific types of meetings to be included in the language of  
12 1399.350(b). Legal counsel pointed out the actual recommendation of adding the specific types of  
13 meetings. Members agreed it was not necessary.

14 [Comment rejected]

15  
16 **15 of 30 CEs Live Course Requirement 1399.350(c) [Comments 13, 14, 19, 39, 40, 41, 42, and**  
17 **43]**

18 Ms. Nunez noted that we received a lot of comments in opposition to this section. She added,  
19 however, when you look at the comments closer, you can see the commenters did not notice the  
20 language had been changed from a draft that had circulated previously. The commenters believed  
21 that you would still have to travel and be physically present to meet the live CE requirement.

22  
23 Comment 13:

24 Commenter wrote in opposition of the requirement that 15 of the 30 required CE hours must be  
25 earned from live courses or meetings. Ms. Nunez suggested to reject this comment because the  
26 Board has already taken a position on this.

27 [Comment rejected]

28  
29 Comment 14:

30 Commenter, who also made comment 13, created a change.org petition with 169 signatures, with  
31 an estimated 105 of those signatures from CA licensed RCPs. The petition requested the board  
32 to not make any live or face-to-face requirements for continuing education. Ms. Nunez stated that  
33 she believes that the current language has done that and that the comment should therefore be  
34 rejected.

35 [Comment rejected]

36  
37 Comment 19:

38 The commenter agreed with the language but asked that "instructor led skills days" be included.  
39 Discussion ensued to add instructor led skill days to the language. It was noted that the language  
40 already permits instructor led skill days and that it was not a statewide accepted term. Ultimately  
41 the board chose not to add the language but noted such in person skill days are already covered.

42 [Comment rejected]

43  
44 Comment 39:

45 Commenter suggested live courses will create hardships for those in rural areas having to travel.  
46 Commenter stated that employer skills days or workshops would make the requirement  
47 permissible and suggested phasing in the number of hours required.

48 [Comment rejected]

49  
50 Comment 40:

51 Comment poses a question about use of Zoom for those in rural areas.

52 [Comment rejected]

53

1 Comment 41:  
2 Commenter states that live courses are an unfair burden for those in rural areas, referencing  
3 travel, and states that face-to-face communications do not provide any advantages.  
4 [Comment rejected]  
5

6 Comment 42:  
7 Commenter states she is in complete support of moving forward of mandating live CEs noting the  
8 vast availability of on-line live courses.  
9 [Comment accepted]  
10

11 Comment 43:  
12 [same person who made comments 13 and 14] suggested at the Board's hearing on the  
13 regulation that the Board review the change.org petition and that she wanted to have on record  
14 that 175 RCPs are in disagreement with the live requirement. The attachments to the petition  
15 were reviewed and it was noted that they were in support of on-line courses. It was determined  
16 that the comment was based on draft language disseminated previously that did not include on-  
17 line interactive courses.  
18 [Comment rejected]  
19

20 RCB Staff Note:  
21 Section 1399.350(c) should state "subdivisions (a) and (b)" not "subdivision (a)."  
22 [Comment accepted]  
23

24 **Law and Professional Ethics Course –1399.350.5(b) and 1399.352.7(e)(1) [Comments 20 and 11]**  
25

26 Comment 20:  
27 CSRC agrees with the language  
28 [Comment accepted]  
29

30 Comment 11:  
31 Comment describes a conflict in the existing proposed language regarding the number of hours  
32 dedicated to ethics and law. Suggested change was accepted.  
33 [Comment accepted]  
34

35 **Approved CE: Credentials and Certifications – 1399.351 [Comments 22, 21, 23, and 24]**  
36

37 Comment 22:  
38 CSRC agrees with the language  
39 [Comment accepted]  
40

41 Comment 21:  
42 CSRC agrees with the language. But it was noted that NBRC now offers the Asthma Educator  
43 Specialist credential. Staff suggested the credential be added to the language.  
44 [Comment accepted]  
45

46 Comment 23:  
47 CSRC agrees with the language  
48 [Comment accepted]  
49

50 Comment 24:  
51 CSRC agrees with the language  
52 [Comment accepted]  
53 **Approved Course Providers – 1399.352 [Comments 25 and 26]**



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Comment 25:

CSRC agrees with the language.

[Comment accepted]

Comment 26:

CSRC agrees with the language.

[Comment accepted]

**Preceptors 1399.352.6(a)(b) General Inquiry and “Acute care facility vs. other types of facilities” [Comments 42, 27, 7, 28, 29, and 35]**

Comment 42:

Inquiry made on whether courses are required for precepting. The statement is not suggesting an action and is not relevant to this rulemaking process.

[Comment rejected]

Comment 27:

Commenter states that the preceptors at any facility should be accepted, not just acute care facilities. Commenter also suggested to alter the full-time experience to allow part-time employees with equivalent experience to participate. Both comments were accepted. Staff requested additional input into the justification for the change. Members stated that quality education is provided at a variety of facilities. The level of quality education provided by employers cannot be broken down by facility type.

[Comment accepted]

Comment 7:

Allow for part-time experience to qualify.

[Comment accepted]

Comment 28:

Commenter requests that a person teaching the preceptor course qualify at any facility.

[Comment accepted]

Comment 29:

Commenter requests preceptors qualify for credit at any facility which accepts RT students performing clinical rotation at that facility and not limiting it to acute care facilities.

[Comment accepted]

Comment 35:

Commenter requests the person be able to be employed at any facility, not limited to acute care facilities. [Comment accepted]

**Preceptors 1399.352.6(b)(2) Preceptor Hours Equivalency to CE Hours [Comments 30, 31 & 32]**

Comment 30:

Commenter suggested changing the hours of preceptorship that qualify for the number of CE hours, specifically suggesting 300-500 hours instead of 1000-1999 hours to count for 5 hours of CE. Members performed calculations and discussion ensued.

Members suggested 500-1000 hours qualify for 5 hours of CE.

[Comment rejected]

Comment 31:

1 Commenter suggested changing the hours of preceptorship that qualify for the number of CE  
2 hours, specifically suggesting 500-800 hours instead of 2000-2999 hours to count for 10 hours of  
3 CE. Members performed calculations and discussion ensued. Members suggested 1000-1499  
4 hours qualify for 5 hours of CE.

5 [Comment rejected]

6  
7 Comment 32:

8 Commenter suggested changing the hours of preceptorship that qualify for the number of CE  
9 hours, specifically suggesting 800-1200 hours instead of 3000+ hours to count for 15 hours of CE.  
10 Members performed calculations and discussion ensued. Members suggested 1500-1499 hours  
11 qualify for 5 hours of CE.

12 [Comment rejected]

13  
14 **Preceptors – 1399-352.6(b)(2)(D) – Preceptor Hours Recordkeeping [Comments 33, and 41]**

15  
16 Comment 33:

17 Commenter suggests simpler method creating a form and allow supervisor, manager or director  
18 sign off and validate at the end of the year. There was a note regarding the Family Education  
19 Rights and Privacy Act (FERPA). Legal counsel contends that these regulations are related to  
20 keeping the records, not disclosing, and that legal counsel would look further into it.

21 [Comment rejected]

22  
23 Comment 41:

24 Commentor states it would be very difficult to obtain verification signatures.

25 [Comment rejected]

26  
27 **Preceptors – 1399.352.6(c) Instructors of Preceptor Courses [Comments 34, 9, 10 and 35]**

28  
29 Comment 34:

30 Commenter agrees with language.

31 [Comment accepted]

32  
33 Comment 9:

34 Comment provides a suggested change to experience. Staff note that it has subsequently been  
35 changed to say 8000 hours instead of years of experience to avoid any misunderstandings.

36 [The concept of using hours was accepted by members]

37  
38 Comment 10:

39 Comment states at an acute care facility. Staff noted it should be any facility staying in line with  
40 the earlier comments. Members agreed.

41 [Comment accepted]

42  
43 Comment 35:

44 Same comment made in comment 10 changing who may provide the course to include a designee  
45 of AARC or CSRC.

46 [Comment accepted]

47  
48 **Preceptors – 1399.352.6(c)(2) (d) and (e) [Comments 36, 37, and 38]**

49  
50 Comment 36:

51 CSRC agrees with the language.

52 [Comment accepted]

1 Comment 37:  
2 CSRC agrees with the language.  
3 [Comment accepted]  
4

5 Comment 38:  
6 CSRC agrees with the language.  
7 [Comment accepted]  
8

9 Ms. Nunez noted that she thought there was some discussion regarding allowing credit for “online”  
10 CSRC, AARC and RCB board meetings and was not sure if it was overlooked. She asked the Board  
11 if they wanted to accept attendance at online meetings. Discussion ensued.  
12 [Members decided to accept interactive online meetings]  
13

14 After Ms. Nunez relayed each comment and recapped the Board’s position, Dr. Lewis made a motion  
15 for the Board to accept and/or reject comments as identified, and authorize Board staff to amend the  
16 language accordingly, including any other non-substantive changes, and pursue the promulgation of  
17 the regulatory amendments. Regardless of whether any further comments are received during the 15-  
18 day public notice, Board staff shall place the language and any comments received during the 15-day  
19 notice period on the agenda of the next Board meeting for review and approval to proceed with the  
20 rulemaking and adoption of the amended proposed regulations at Section(s) 1399.349, 1399.350,  
21 1399.350.5, 1399.351, 1399.352, 1399.352.5, 1399.352.7, 1399.381 and 1399.352.6 of Title 16,  
22 California Code of Regulations.  
23

24 Public comments:

25  
26 Wayne Wall, President, California Society for Respiratory Care commented that making these  
27 changes is daunting. He appreciates and applauds the Board’s attempt to improve the profession but  
28 most of all the safety of patients. He added, the CSRC is also trying to improve patient outcomes and  
29 safety along with enhancing the profession to make a stronger more robust profession.  
30

31 Katie Sabato commented, the Board offered 3 different scenarios for leadership. She stated in her 32  
32 years of experience in leadership and management, she didn’t learn through continuing education just  
33 how important it is to walk a mile in the shoes of her staff which attributes to emotional intelligence  
34 (which includes empathy) as a category in leadership which would help make better leaders at the  
35 bedside. She added communication is the number one cause of safety issues to the consumer.  
36

37 She commented it is very important to have live continuing education units, however many acute care  
38 facilities do not have educators. They simply have a director and staff and are often very short  
39 staffed. They don’t have the opportunity to have workshops and skill days. She inquired when all  
40 these changes would go into effect.  
41

42 Alex Millington, legal counsel, stated the effective date is complicated and is dependent on when the  
43 Office of Administrative Law approves the final regulation package. If the package was submitted in  
44 March 2023 and it comes before their filing break point, it would go into effect at the beginning of the  
45 following quarter but if it comes after the filing break point, it would be delayed another quarter.  
46

47 President Guzman added regardless of when it is effective, the RCP would not be affected until the  
48 following renewal period.  
49

50 Ms. Nunez stated it would probably be effective either July 1 or January 1, then the Board would give  
51 everyone a two-year notice. After that renewal cycle is when it would be required.  
52

1 Katie stated she believes that to be acceptable. She inquired about the 50 minutes to get one CEU  
2 requirement. If the goal is to improve RTs ability to gain current knowledge by taking live CEUs, the  
3 CEUs should be 40 minutes of content and 20 minutes for the RT to discuss, ask and interact.  
4

5 Krystal Craddock, UC Davis Medical Center and adjunct faculty at Skyline Community College,  
6 thanked the Board for its efforts today. She stated preceptorship is fantastic, but she would  
7 recommend the Board consider a hospital preceptorship of new hires or newer RTs being precepted  
8 in a children's hospital or specialty areas. She added she believes new hires and the preceptors  
9 training them should be granted CEUs if they meet the qualifications

10 M/Lewis /S/Goldstein

11 In favor: Early, Goldstein, Guzman, Hernandez, Kbushtyan, Lewis, Terry

12 MOTION PASSED  
13

14  
15 Mr. Hernandez thanked the Board's executive staff for the excellent job bringing together this  
16 conversation even though it was a daunting task.  
17

18 **8. CONSIDERATION FOR AND POSSIBLE ACTION ON APPROVAL TO BEGIN THE**  
19 **RULEMAKING PROCESS FOR THE PROPOSED REGULATION TO ADOPT CALIFORNIA CODE**  
20 **OF REGULATIONS, TITLE 16, SECTION 1399.365, BASIC RESPIRATORY TASKS AND**  
21 **SERVICES**  
22

23 Ms. Nunez stated the passing of SB 1436 was a two or three decade attempt to get a resolution to the  
24 dangerous practice of LVN's practicing respiratory care at skilled nursing facilities. This regulation only  
25 impacts the basic respiratory care tasks that LVNs will be permitted to perform at any location. She  
26 emphasized that this does not include home care. Home care will be addressed next year. If the public  
27 would like to be included in those meetings, they are encouraged to subscribe to receive email updates  
28 from the Board via its website, or to email the office at [rcbinfo@dca.ca.gov](mailto:rcbinfo@dca.ca.gov) and ask to be put on the  
29 interested parties list for LVNs performing in the home care setting.  
30

31 The LVN board's law was changed to ensure there is no authorization that LVNs can perform  
32 respiratory care but can practice basic tasks and services that the RCB says they can provide. This  
33 proposed language is concerning basic respiratory tasks and was taken primarily from a joint  
34 statement between the Respiratory Care Board and Board of Vocational Nursing and Psychiatric  
35 Technicians (BVNPT) which was a joint decision on what LVNs could and could not do. A few months  
36 after releasing the statement, the BVNPT backed out of that decision. After exhausting other methods  
37 of attempting to resolve the issue, the RCB requested help with a resolution from the legislature  
38 during its recent Sunset Review which resulted in the provisions relating to vocational nurses in SB  
39 1436, and ultimately, to the language proposed by the Board for section 1399.365.  
40

41  
42 Dr. Lewis moved for the Board to approve the proposed regulatory text for section 1399.365 as  
43 presented in Attachment A, direct staff to submit the text to the Director of the Department of Consumer  
44 Affairs and to the Business, Consumer Services, and Housing Agency for review, and if no adverse  
45 comments are received, authorize the Executive Officer to take all steps necessary to initiate the  
46 rulemaking process, make any non-substantive changes to the package, and set the matter for a  
47 hearing if requested. If no adverse comments are received during the 45-day comment period or during  
48 the public hearing if requested, authorize the Executive Officer to take all steps necessary to complete  
49 the rulemaking and adopt the proposed regulations at section 1399.365 of Title 16, California Code of  
50 Regulations as noticed.  
51

52 Public comment: No public comment was received.  
53

1 M/Lewis /S/Kbushyan  
2 In favor: Early, Goldstein, Guzman, Hernandez, Kbushyan, Lewis, Terry  
3 MOTION PASSED  
4

5 Ms. Nunez applauded the BVNPT's Executive Officer and relayed how well they were able to work  
6 together, adding she enjoyed working with her and looks forward to working with her again on the home  
7 care regulations.  
8  
9

## 10 9. ELECTION OF OFFICERS FOR 2023

### 11 **Vice President**

12  
13  
14 President Guzman opened the floor for nominations for Respiratory Care Board Vice President.  
15

16 A motion to nominate Mr. Goldstein for Vice President was made by President Guzman and seconded  
17 by Mr. Goldstein.  
18

19 No public comment.  
20

21 M/Guzman /S/Goldstein

22 In favor: Early, Goldstein, Guzman, Hernandez, Kbushyan, Lewis, Terry  
23 MOTION PASSED  
24

### 25 **President**

26  
27 President Goldstein opened the floor for nominations for Respiratory Care Board President.  
28

29 A motion to nominate President Guzman for President was made by Vice President Goldstein and  
30 seconded by Mr. Kbushyan.  
31

32 Public comment:

33 Katie Sabato stated the Board seems to be missing clinically practicing front line worker  
34 representation. President Guzman replied he is a bedside practitioner.  
35

36 M/Goldstein /S/Kbushyan

37 In favor: Early, Goldstein, Guzman, Hernandez, Kbushyan, Lewis, Terry  
38 MOTION PASSED  
39  
40

## 41 10. SCHEDULE 2023 BOARD MEETING DATES AND LOGISTICS

42  
43 After Board member discussion and agreement, Mr. Kbushyan moved to schedule the 2023 meetings  
44 as follows:  
45

46 Thursday, March 9, 2023 - Webex

47 Thursday, June 22, 2023 – Temecula (Pechanga) in conjunction with CSRC Conference

48 Tuesday, October 24, 2023 - Sacramento  
49

50 M/Kbushyan /S/Lewis

51 In favor: Early, Goldstein, Guzman, Hernandez, Kbushyan, Lewis, Terry  
52 MOTION PASSED  
53

1  
2 **11. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**  
3

4 President Guzman stated the Board is unable to take action on any items not listed on the agenda. The  
5 only action the Board may take is to decide whether to place an item on a future agenda. He asked if  
6 anyone would like to make a public comment on anything that was not on the agenda?  
7

8 Michael DePeralta, Contra Costa Health Services and Kaiser Permanente, Oakland Medical Center.  
9 He is also a CSRC and AARC Military State Community Liaison but stated the views and opinions he  
10 expresses are his own and do not represent any organization. He stated he is an Air Force veteran and  
11 would like to stress the importance of providing waived fees for active-duty military respiratory care  
12 practitioners as their incomes are lower than civilian RCPs and they are needed to provide services  
13 when California needs them as with the recent COVID-19 pandemic or any other potential disasters.  
14

15 Katie Sabato would like to see some sort of quality assurance program to determine if there is an  
16 increase in the quality of education for clinical students when a preceptor course is given, and that  
17 requiring leadership does enhance the future leaders of our profession. It is unfortunate in the field of  
18 respiratory care – RCPs are criticized for not having an evidence-based practice so she would like to  
19 see the RCB have a quality assurance program that validates that its changes result in positive  
20 outcomes.  
21

22 Mark Martinez, Northern California President for the CSRC thanked the Board and stated Northern  
23 California is a huge area and it is difficult to have educational events in these areas. As such it is  
24 important to have online educational opportunities to break down any barriers and allow flexibility to  
25 attend these engagements.  
26

27  
28 **12. FUTURE AGENDA ITEMS**  
29

30 President Guzman asked Members if they had any specific items they would like included on the next  
31 meeting agenda.  
32

33 Mr. Hernandez requested a report on the progression of legislation for baccalaureate degrees of the  
34 community college system as a specific agenda item as there have been some updates.  
35

36 =====  
37 **CLOSED SESSION**  
38

39 The Board convened into Closed Session, as authorized by Government Code Section 11126,  
40 subdivision (c)(3) at 12:25 p.m. and reconvened into Public Session at 12:45 p.m.  
41 =====

42  
43 **ADJOURNMENT**  
44

45  
46 The Public Session Meeting was adjourned by President Guzman at 12:45 p.m.  
47  
48  
49  
50

51 \_\_\_\_\_  
52 RICARDO GUZMAN  
53 President

51 \_\_\_\_\_  
52 STEPHANIE A. NUNEZ  
53 Executive Officer