



PUBLIC SESSION MINUTES

Friday, November 14, 2025

PUBLIC MEETING

Member Attending In-Person: Raymond Hernandez, RCP

Members Attending Virtually: Ricardo Guzman, RCP
Manuel Magpapián, Esq.
Preeti Mehta, MD
Abbie Rosenberg, RCP
Michael Terry, RCP

Member Absent: Cheryl Williams

Staff Present: Reza Pejuhesh, Legal Counsel
Deepi Miller, Regulatory Counsel
Christine Molina, Executive Officer
Kathryn Pitt, Manager

CALL TO ORDER

The Public Session was called to order at 1:14 p.m. by President Guzman.

Ms. Pitt called roll (Present: Magpapián, Mehta, Rosenberg, Terry, Hernandez, and Guzman) and a quorum was established.

PRESIDENT'S OPENING REMARKS

President Guzman requested everyone place their cell phones on silent, adding this is an official business meeting of the Respiratory Care Board (Board). Board members may be accessing their laptops, phones, or other devices during the meeting. He explained 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 providing 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.

The Board welcomes public comment on any item on the agenda, and it is the Board's intent to ask for public comment prior to the Board taking action on any agenda item. If for some reason public comment is not requested on an agenda item and you wish to speak on that item, please let the moderator know and you will be recognized.

President Guzman added if you are an RCP and would like to earn CE credit for your attendance at today's meeting, be sure that you sign in and sign out before leaving. If you have any questions, one of our staff members can provide assistance.

For those attending virtually via WebEx, please ensure you provide your first and last name as it appears on your license when logging in. Your arrival and departure times will be verified via the WebEx "Attendance Report" following the meeting. Verification of CE hours awarded will be emailed to all attendees within 30 days.

President Guzman entertained any comments or questions from the members.

None were received.

President Guzman then asked if there was anyone in the audience that would like to make a public comment.

None were received.

**CONSIDERATION OF FINDING OF EMERGENCY AND POSSIBLE ACTION
TO ADOPT FINDING OF EMERGENCY AND INITIATE EMERGENCY RULEMAKING
FOR PROPOSED AMENDMENTS TO CALIFORNIA CODE OF REGULATIONS, TITLE 16,
SECTION 1399.365, TO ADDRESS IMMEDIATE PUBLIC HEALTH AND SAFETY CONCERNS**

President Guzman introduced the item, noting that the Board would consider adopting a Finding of Emergency pursuant to Government Code section 11346.1 and initiating emergency rulemaking to amend California Code of Regulation (CCR) section 1399.365 in response to urgent public health and safety concerns.

Executive Officer Molina summarized the purpose of the emergency action was to exempt Licensed Vocational Nurses (LVN) working in exempt settings under Business and Professions Code (B&PC) sections 3765(i) and 3765(j) from the Basic Respiratory Tasks and Services regulation. Ms. Molina reviewed the list of exempt settings, explained the relationship between Agenda Item 2 and the proposed task list under Agenda Item 3, and clarified the Board's planned enforcement approach and the statutory effective date of January 1, 2028, for the 3765(j) exemption.

Following Ms. Molina's presentation, President Guzman asked for a motion to make a Finding of Emergency pursuant to Government Code section 11346.1 relating to the implementation of California Code of Regulations, Title 16, section 1399.365, to approve the proposed regulatory text for Section 1399.365 as noticed, and to direct staff to take all steps necessary to complete the emergency rulemaking process, including the filing of the emergency rulemaking package with the Office of Administrative Law (OAL), authorize the Executive Officer to make any non-substantive changes to the emergency rulemaking text and documents, and adopt the proposed regulatory language as written in the Order of Adoption. If no adverse comments are received and the text is approved by

OAL, authorize re-adoption as needed and authorize the staff to take all steps necessary to complete the regular rulemaking process, including setting the matter for a hearing if requested, to make the regulations permanent and adopt the proposed regulations at Title 16, CCR section 1399.365, as noticed.

Mr. Terry moved to approve the motion as read.
The motion was seconded by Mr. Magpalian.

President Guzman opened public comment.

The Board received over an hour of public testimony from in-person and virtual participants, including:

- Parents and conservators of medically fragile adults and children.
- Representatives of Pediatric Day Health Care Centers (PDHCC), Adult Residential Facility for Persons with Special Health Care Needs (ARFPSHN), Adult Day Programs (ADP), Adult Residential Facilities (ARF), Congregate Living Health Facilities (CLHF), Skilled Nursing Facilities (SNF), and Intermediate Care Facilities (ICF).
- Representatives of school districts and statewide education associations.
- Private-duty nursing agencies.
- LVNs, Registered Nurses, administrators, and training program representatives.

Key themes of the public comments included:

- Support for exempting home and community-based settings from the Basic Respiratory Tasks and Services regulation to avoid disruption of essential services and better protect patient health and safety.
- Requests to expand exemptions to include ADPs, ARFs, ARFPSHNs, and other Department of Social Services Community Care Licensing programs, and 18-bed CLHFs.
- Concerns from education agencies about ensuring continuity of student services under Individual Development Plans (IDPs).
- Concerns from SNFs and assisted living communities about impacts on resident safety and admissions.
- Concerns from LVN education programs about loss of clinical training opportunities.
- Requests for a broader pause or more comprehensive emergency action.
- Appreciation for the Board's timely response following the October 24 meeting.

After public comments, Board members discussed their statutory authority and the ways the existing statutory framework limits their ability to promulgate broad regulatory exemptions relating to LVN performance of respiratory tasks and services. Staff and legal counsel clarified that expanding exemptions beyond those set forth in B&PC 3765 requires a legislative amendment and could be explored during the upcoming Sunset Review process. Members expressed interest in addressing this issue legislatively given stakeholder feedback.

M/Terry/S/Magpalian

In Favor: Magpalian, Mehta, Rosenberg, Terry, Hernandez, Guzman

MOTION PASSED

CONSIDERATION AND POSSIBLE ACTION TO INITIATE A RULEMAKING FOR THE PROPOSED REGULATION TO ADOPT CALIFORNIA CODE OF REGULATIONS, TITLE 16, SECTION 1399.361, HOME AND COMMUNITY-BASED RESPIRATORY TASKS AND SERVICES

Executive Officer Molina presented the proposed regulatory text for CCR §1399.361, explaining that this regulation is intended to operationalize the statutory exemptions set forth in Business and Professions Code sections 3765(i) and 3765(j) by identifying the specific respiratory tasks and services that LVNs may perform in those exempt settings. She clarified that Item 3 is distinct from the emergency action taken under Item 2, but the two items are closely related and designed to work together to provide continuity of care while ensuring public protection.

Ms. Molina explained that the proposed regulation identifies respiratory tasks and services commonly performed by LVNs in home and community-based settings, including tasks related to oxygen administration, tracheostomy care, ventilator-related activities, suctioning, and associated monitoring and documentation functions. She emphasized that the regulation is intended to reflect longstanding practice in these settings and to provide clarity and consistency for LVNs, employers, patients, and families.

Staff further explained that adoption of §1399.361 through the regular rulemaking process would allow the Board to receive public input, refine the regulatory language as appropriate, and establish a permanent regulatory framework aligned with statute. Molina also noted that the Board would retain enforcement discretion and that any changes to the scope of the statutory exemptions themselves would require legislative action.

Following Ms. Molina's presentation, President Guzman asked for a motion to move for the Board to approve the proposed regulatory text for section 1399.361 as presented (or as amended during the meeting), direct staff to submit the text to the Director of the Department of Consumer Affairs and to the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing. If no adverse comments are received during the 45-day comment period or during the public hearing if requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at section 1399.361 of Title 16, California Code of Regulations as noticed.

Ms. Rosenberg moved to approve the motion as read.
The motion was seconded by Mr. Magpalian.

President Guzman opened public comment.

The Board received multiple public comments from in-person and WebEx participants, including representatives of home health agencies, pediatric day health care programs, community-based service providers, long-term care organizations, advocacy groups, and individual practitioners.

Public comments focused on themes including:

- General support for identifying a clear list of respiratory tasks that LVNs may perform in exempt settings;
- Requests to ensure the task list reflects actual clinical practice in home and community-based environments;
- Concerns that the proposed task list may be too narrow or may not fully capture the needs of medically fragile patients;
- Requests for additional data, outcome measures, and flexibility as the regulation is implemented; and

- Support for continued collaboration with stakeholders and the Legislature to address remaining statutory limitations.

After confirming there were no additional commenters at any location, President Guzman closed public comment.

Following public comments, Board members discussed the proposed list of respiratory tasks and services for home and community-based settings. During discussion, members identified the need to clarify that routine hygiene care related to tracheostomy management was intended to be included within the scope of permissible tasks. Specifically, the Board discussed including language to expressly recognize replacement of tracheostomy ties and gauze and cleaning of stoma sites as part of allowable hygiene care.

Following discussion, the motion was amended to include clarifying language specifying that hygiene care includes replacement of tracheostomy ties and gauze and cleaning of stoma sites.

Ms. Rosenberg moved to approve the amended motion as read.
The motion was seconded by Mr. Magpalian.

M/Rosenberg/S/Magpalian

In Favor: Magpalian, Mehta, Rosenberg, Terry, Hernandez, Guzman

MOTION PASSED

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

President Guzman asked the Board members if they had any specific items they would like to see on the next agenda.

Mr. Terry requested the Board revisit Agenda Item 2 as it relates to suctioning. Vice President Hernandez suggested the Professional Qualifications Committee look into this issue and bring its findings and recommendation back to the Board at a future meeting.

President Guzman then entertained questions and comments from the public in attendance at the Respiratory Care Board location.

Mr. Brad Mortensen requests the Board consider pausing requirements and present data representing the various stakeholders.

Ms. Chillemi with Leading Edge requests outcome data from the LVN Board.

Public comments were requested from the remote locations.

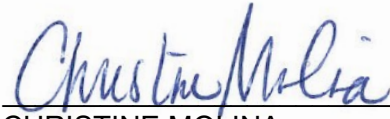
None were received.

ADJOURNMENT

The Public Session Meeting was adjourned by President Guzman at 3:49 p.m.



RICARDO GUZMAN
President



CHRISTINE MOLINA
Executive Officer