PUBLIC SESSION MINUTES

Thursday, June 9, 2022
PUBLIC WEBEX MEETING

Members Present:	Mary Ellen Early
	Ricardo Guzman
	Raymond Hernandez
	Sam Kbushyan
	Ronald Lewis
	Michael Terry
	Cheryl Williams
Staff Present:	Reza Pejuhesh, Legal Counsel
	Stephanie Nunez, Executive Officer
	Christine Molina, Staff Services Manager
	Kathryn Pitt, Associate Governmental Program Analyst

CALL TO ORDER

The Public Session was called to order at 1:00 p.m. by President Guzman.

Ms. Molina called roll (present: Early, Guzman, Hernandez, Kbushyan, Lewis, Terry, Williams), 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.

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 I forget to ask for public comment on an agenda item and you wish to speak on that item, please raise your hand and you will be recognized.

Request for public comment: No public comment was received.

2. APPROVAL OF MARCH 24, 2022, MEETING MINUTES

President Guzman asked if there were any additions or corrections to the March 24, 2022, minutes.

Dr. Lewis moved to approve the March 24, 2022, Public Session Minutes as written. The motion was seconded by Mr. Kbushyan.

Request for public comment: No public comments were received.

M/Lewis /S/Kbushyan
In favor: Early, Guzman, Hernandez, Kbushyan, Lewis, Terry, Williams
MOTION PASSED

2. DISCUSSION AND POSSIBLE ACTION TO CONSIDER CHANGES TO PREVIOUSLY APPROVED TEXT AND REAUTHORIZATION OF A REGULAR RULEMAKING TO AMEND TITLE 16, CALIFORNIA CODE OF REGULATIONS SECTIONS 1399.349, 1399.350, 1399.350.5,1399.351,1399.352, 1399.352.5, 1399.352.7, AND 1399.381 AND TO ADOPT 1399.352.6

Ms. Nunez stated item 3 includes language originally presented to the Board in November 2019, along with language modified more recently allowing updates to the Board's regulations relating to continuing education (CE). It also establishes a new preceptor program to give incentives to RCPs to become preceptors by giving CE credit for taking a course to become a preceptor and then offer additional credit by being a preceptor for students. The language has gone through several different legal revisions and ultimately it was decided to reorganize the language so it would have a better success rate at the Office of Administrative Law (OAL). This language is being brought back before the Board today for approval.

Ms. Nunez added, there are other documents that need to be attached to the proposed language before it goes to OAL. One of those documents, the Initial Statement of Reasons, is a detailed explanation of every change made. That document is currently being drafted and the Board is on schedule to have the rulemaking package filed with the Office of Administrative Law by the target date of August 1, 2022. Once the language is published, it will still need to go through a comment period, a possible hearing, and a formal approval process by OAL. Ms. Nunez expects these regulatory changes to be approved by next summer.

Dr. Lewis moved that the Board rescind prior proposed text and approve the proposed regulatory text and changes to 16 CCR sections 1399.349, 1399.350, 1399.350.5, 1399.351, 1399.352, 1399.352.5, 1399.352.7, and 1399.381, and the adoption of section 1399.352.6, as provided in the materials and direct staff to submit all approved text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review. If no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any nonsubstantive changes to the package, and set the matter for hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested,

authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section(s) 1399.349, 1399.350, 1399.350.5, 1399.351, 1399.352, 1399.352.5, 1399.352.6, 1399.352.7, and 1399.381. The motion was seconded by Mr. Terry.

Public comment: No comments were received

M/Lewis /S/Terry
In favor: Early, Guzman, Hernandez, Kbushyan, Lewis, Terry, Williams
MOTION PASSED

4. PROFESSIONAL QUALIFICATIONS COMMITTEE PRESENTATION: INCORPORATION OF BACCALAUREATE DEGREE REQUIREMENT IN THE RESPIRATORY CARE PRACTICE ACT

President Guzman introduced Mr. Hernandez and Mr. Terry for their presentation regarding the incorporation of a baccalaureate degree requirement into the Respiratory Care Practice Act.

Mr. Hernandez reminded the Board and the public of the strategic plan goal to, "Develop an action plan to incorporate a baccalaureate degree provision in the respiratory care act to ensure education requirements meet the demands of the respiratory care field." The Professional Qualifications Committee (PQC) aimed to bring information and all sides of the conversations to the Board by presenting two study sessions; one held on June 30, 2021, and the other on March 24, 2022. The next steps for the PQC were to summarize the main points derived from the study sessions to elicit discussion from the Board. Mr. Hernandez gave an overview of the following main points:

Growth of Respiratory Care Profession

There have been a lot of conversations, studies and information gathered around the growth of the profession. In looking at that information, some points that came out are this profession has moved from providing technical procedural expertise to a complex need for, not only understanding how to deliver respiratory therapy, but also to understand the complexity of the patient and how that fits into context. There have been some conversations about what the therapist does at the bedside and the complexities required. From the feedback received, there is a list of where the increased complexity has led the profession. Some examples are ECMO, conscious sedation, specialty populations: case management and development of care plan, advanced mechanical ventilation, and responsibility for high acuity patients and situations. Integration of evidence-based medicine and complex knowledge base require a higher level of critical thinking and decision making in providing safe, competent respiratory care. The two main guiding organizations, the American Association for Respiratory Care (AARC) and the California Society for Respiratory Care (CSRC), both have position statements concerning the education requirements for RCPs. The AARC started its conversation with the "2015 and Beyond Symposium" and has identified 153 of 202 competencies that should be attained prior to entering the profession. However, the number of competencies is challenging to attain within an associate degree program.

Mr. Terry highlighted the number of tasks an RCP must perform. Some RCPs seem to do them with great ease but in the background, they must consider multiple things. You must assess the patient before, during and after. The complexities are different now than in the past. The Board needs to recognize that the profession is growing in responsibility and needs to prepare and legislate for that type of growth.

President Guzman asked if the Board had any comments.

Ms. Williams inquired if some therapists have bachelor's degrees and some do not, will that create a classist environment that may come back to the Board as being unfair? Will other people have to take classes or tests or something that will put them on the same level as the incoming therapists with bachelor's degrees?

Mr. Hernandez stated the Board has a historical perspective with the requirement for licensure when that began in California. Ms. Nunez explained therapists were grandfathered in then had to complete a ten-month respiratory care program. The requirement eventually became an associate degree. Another example is when the exam requirement was changed from an entry level to an advanced level in 2015. Existing therapists will not need to do anything additional to maintain their licenses, they will be grandfathered in.

President Guzman stated when he started as a respiratory therapist, an associate degree was not required. But as the profession moved in that direction, so did the therapists. He went back to school so he could be eligible for advancement. That's what will happen with this change. Those that have an associate degree will not lose their jobs and everyone will eventually progress in their own way to stay competitive.

Mr. Hernandez stated what he has seen, as an educator, is the expectation and the quality of care have been elevated for the profession as a whole, as well as the institutions. He added, like Ms. Williams, he does have concerns about the workforce with an increase in expectation as it can easily be construed as a barrier which often marginalizes people. Should these changes come about, the Board will need to be cognizant about how it is framed to be sure people have access to train, become licensed and serve their communities.

Ms. Early stated she worked in a hospital for over 40 years and has seen a lot of changes. She remembers when members of this profession were called inhalation techs. There have been so many advances in what respiratory therapists are now doing. However, it would be difficult for some therapists to take time to get more training and education. Many are women and single mothers who don't have that extra time.

Public Comment:
Monique Steffani stated she's been a respiratory therapist for 22 years. She can attest to the opportunities to advance in this profession. As a minority, single mother and working therapist, she went to school to receive her bachelor's and master's degrees and participates in CSRC committees, on a transport team as well as teaching at the university and a tech program. She thanked the Board for continuing to elevate the practice.

An individual affiliated with Cedars-Sinai Medical Center (name inaudible) stated he attended an associate degree program and moved on to receive his undergraduate, graduate, and doctorate degrees. He is an associate director, and teaches. It seems like respiratory therapy is slowly advancing as compared to other health care professions. There is a cost factor to consider but there are a lot of employers who are willing to help pay for tuition. At Cedar Sinai, even though the minimum qualification for an RRT is an associate degree, they only hire those with bachelor's degrees. He thanked the Board for being willing to progress and elevate the field to where it is supposed to be.

Nancy Brown stated she is new to California and has 50 years of respiratory care experience. She is one of those that was grandfathered in. As the field progressed, an associate degree was required to continue to work in the field. She sat for the RRT and passed and was registered in 1998. She applied for a license in California and was denied because she didn't go to an accredited school back in 1967. She couldn't believe she had 50 years in the field and couldn't get a position in California. She thinks moving to a bachelor's degree is a great idea. The more education therapists have, the

more the field will be recognized. She believes it will be tough for those who only have an associate degree right now. It would make it easier if they are given time to get their bachelor's degree. She added, this is growth, and this is how the field progresses.

A respiratory care therapist who is employed at a Northern California hospital (name inaudible) and has been an RCP for 23 years stated she earned her bachelor's degree at the University of South Carolina and moved to California in 2014. In South Carolina, respiratory therapists have a much wider scope of practice than some of the other states she has worked. Two things need to happen when working towards a bachelor's degree: increasing the scope of practice and some protections for that. In other states, only RTs can touch a ventilator but in ICUs here there's nothing preventing a nurse from making vent changes because it is in their scope of practice. Also, the RT pay needs to increase to match the scope of practice.

An advocate (name not provided) supports the bachelor's degree but wants to know what would manifest after getting the bachelor's degree. Would it be an extra credential or another title? How would it be meaningful to the employer?

Krystal Craddock, Operations Manager at UC Davis Medical Center stated they currently have 200 respiratory care practitioners employed and only one CRT. 45% - 50% have bachelor's degrees or are in progress. She believes the focus should be on furthering the profession and patient and public safety. UCDMC hires RCPs in case manager roles to help be the physician extender and the bachelor's degree is a necessity for that role. Getting a baccalaureate degree is important not only to fill those roles but to have that voice and understanding at the bedside.

Mr. Hernandez summarized what he heard from most comments was the profession has grown. What does that constitute? He heard comments about pay and scope of practice. The scope of practice for respiratory care practitioners in the State of California is very wide. It's up to the profession and the employers to figure out how to use that scope of practice. The opportunity is already there in that area. The issue is what will it take moving forward to protect and serve the public and to help practitioners get there from a legislative standpoint.

Mr. Terry stated looking at the future of respiratory care, medicine now is focusing much more on patient safety than it was 10-20 years ago. In the medical literature, the evidence is strong for enhanced safety by better prepared practitioners. There is a lot of associational research in nursing that points clearly to the fact that a greater proportion of better prepared practitioners in the profession will result in better safety. There's nothing in respiratory care to say that yet, but comparing respiratory to nursing, the benefits for the respiratory profession are clear. The Institute of Medicine did a great job laying out that evidence and coming up with a program, the Magnet Status, that is enhancing that throughout the country. The profession should be paying attention to that.

Mr. Hernandez added, while it's not a licensure requirement, more institutions seek out that magnet status therefore are looking at bachelor's degree as a minimum entry, for most positions, as a nurse, within their institutions. Patient safety is one thing the Board will be looking at while framing this.

<u>Physical Therapy Case Study</u>

The committee also looked at physical therapy as a different model. They have a tiered system with OJT aides providing care with direct supervision of a physical therapist, PT assistants directed by physical therapists can provide care without direct supervision, and physical therapists who can work independently. New York had a tiered system with respiratory care practitioners which they did away with. The committee added this to open a discussion about if a tiered system for respiratory care practitioners is something that might be integrated into the strategic plan.

Dr. Lewis added at the study session, that the Medical Board recently increased its post-graduate training for MDs from 1 to 3 years due to advanced complexities (residency program as a model) Dr. Lewis stated it is always a partnership between the physician and the respiratory care practitioner, but the Physician has the ultimate responsibility for the overall patient care. The respiratory care therapist can work in partnership with that resident to lessen the adverse outcomes.

Mr. Hernandez asked Dr. Lewis if he would see any benefit of a residency program as a requirement of training for respiratory care. Dr. Lewis responded, yes because in a residency program, it is a progression of understanding and expertise. To adopt that kind of model in a respiratory care program, would be beneficial.

Mr. Hernandez laid out 3 models for the Board to discuss:

1. A minimum bachelor's degree from a CoARC accredited institution to meet the licensure requirement. In terms of pros and cons, a pro would be it meets the need for competency building and critical thinking.

   Ms. Williams inquired if the degree needs to be specific or can it be any bachelor's degree. Mr. Hernandez responded, the language needs to be defined but it could be a CoARC accredited Respiratory Care Bachelor's Degree, or it could be graduating from an accredited program with a bachelor's degree in another discipline.

   Ms. Early stated the San Fernando Valley has a RN to BSN program. She is not sure if this has been looked at to see how effective something like this would be for respiratory care. Mr. Hernandez confirmed this is already happening in the public system.

2. A tiered system with different competencies for licensure to perform different things. New York State had that model. They had a certified Respiratory Therapist Technician and a Registered Respiratory Therapist Technician licensure. He added, New York is no longer using this model for various reasons.

3. Do not increase educational requirements (or do) but add an extra component such as added clinical exposure where more time is spent in the clinical setting as an educational component to address those complexities. That is a standard that would be created by this Board or certain people on this Board.

Mr. Hernandez added, it would be important for the Board to know both the positive and negative outcomes of each of these models.

<u>Public comment:</u>
Elayne Rodriguez, Director of Respiratory Care at Skyline College, stated they are one of the two community colleges in California with a bachelor's degree program. She is glad to hear the Board is looking at this as the profession is growing. To meet the standard in the hospitals, respiratory care needs to have that education to have better outcomes for their patients

Mr. Kbushyan stated as a defender of the consumer and member of this Board and listening to the models presented, in every industry, whether you study in undergrad or grad school, often education can be deceptive. Covid introduced the risk factors of the profession. It is important to be in good hands when in the hospital and therefore important to have a competitive workforce and well-trained programs. What is now decided by this Board will strengthen the future of the profession.

Jeff Davis, UCLA Health stated he has been a Respiratory Therapist for 37 years. He remembers graduating from his associate degree program and the amount of knowledge required now of

graduates entering the workforce has quadrupled. What he has seen is the schools are limited on the number of credits that are required for an associate degree, but what is required as a respiratory therapist with an associate degree is probably the number of credits required for a bachelor's degree. The core of why a bachelor's degree needs to be required is the students need that much education to enter the workforce and then to go through a training program in the hospital. Sometimes the schools must glaze over topics with not enough time to thoroughly teach it. The education required is so much more than what can be given in an associate degree program.

Monique Steffani, RCP stated she originally thought Option 1, requiring a bachelor's degree, was the way to go, but after listening to all the options, she now can see the benefit of extra hours of residency or certifications on top of their degrees and thinks some of the other options would be a good idea.

Jolene Burgess, Manager of Respiratory and EEG in Chico, CA stated they are in a rural area. After losing Feather River Hospital in the Paradise Fire, they received all those patients. They also received amazing employees from Feather River, that they fit into their family. That area has Butte Community College. She likes the idea of the residency program; however, they lack enough facilities to be able to support the additional time for students. Her facility can take on second year students who need more of the critical care, the hands on in the intensive care. They can only take two students per shift to give them the amount of experience they need. Their first-year students have an instructor with them. She has concern for those in rural areas where they are spread out. She supports the bachelor's requirement, but the Board needs to also consider the community colleges outside of the cities and how to get those clinical hours for a bachelor's degree.

Comments were received (name not given) indicating Option 1 sounds better because there is opportunity for more baccalaureate degree programs in California. Currently there are 4 baccalaureate degree programs: Loma Linda, SJVC, Skyline and Modesto. Three have applied since that pilot and were approved. Other community colleges can apply to offer the baccalaureate degree. More (3-4) will be applying for the August deadline. Her concern is option 2, the tiered system. She cannot see how that can be operationalized with a higher and lower tier.

Wayne Walls, RCP (representing himself) commented everyone in this room is focused on the best interests of the patient. The question that we are looking at is how to navigate the waters to advance the knowledge and skill sets of the practitioner? The reality that has been identified by many educators is that in a standard associate degree program, there are not enough hours to provide the knowledge and skill set to the width, breadth, and depth necessary for the expanding scope of the respiratory care profession in California. How do we get that extra education and skill sets? The solution appears to be to advance the education to a baccalaureate degree program. It will be up to the committee as well as other stakeholders and professional organizations to guide us through that process. He wants to encourage an ad hoc committee to be formed between the Board and maybe the CSRC (or whomever) to help navigate the waters through that and assist in the great work Mr. Hernandez and Mr. Terry have already laid groundwork for. As you get into the advanced practice techniques, it's evident that a lot of the practitioners lack, not just the basics, but they need to go into the depth of anatomy and physiology, the equipment itself and have a deeper understanding of what is at stake for a patient's safety. If this is not done right, we will be expanding the scope and get into more complex procedures, but what will happen is we will not be teaching practitioners how to critically think but how to turn knobs and make adjustments which could create another generation of technicians and not clinicians. He encouraged the Board to reach out to other groups and stakeholders, including management and leaders in California and create an ad hoc committee to address some of these issues.

Tom Serrano (speaking for himself as an RCP), who has been in the field for 39 years, stated additional time for education is needed because of the volume of material. He believes the model should be kept simple and the second choice does not meet that criterion. It would convolute it and

make it worse. They already do the 3rd option. When his students get into the clinic, he doesn't put them into critical care on day one. It is a progression. By adding additional time, they are given that opportunity. They are not training them to be ECMO specialists or transport specialists. Respiratory care licensure does provide that, but it is the sites that want them in those roles that are responsible for given them that extra training. What the colleges are trying to do is give them the foundation so that they can understand and build upon it. A bachelor's degree in respiratory is warranted but keep it simple as far as the criteria. Those institutions that want them to practice various things such as conscious sedation, ECMO, hyperbaric oxygen therapy, will provide that special training. His students just need to know what that is.

An audience member (name not provided) commented on people transferring into California and meeting minimum licensure requirements. If someone is transferring into the state trying to meet that minimum bachelor's degree requirement, there needs to be something for that 10–15-year experienced therapist coming from another state rather than requiring a bachelor's degree for licensure.

Ms. Molina stated the Board does have an education waiver provision for individuals who come from out of state and have completed a respiratory program or received on-the-job training if they can demonstrate that they have possessed a license and have practiced for a specified period within RCB regulations. It is used to satisfy the education requirement. If moving to a bachelor's degree, the Board would have to re-address this waiver provision as well.

<u>Curricular Comparison for Educational Requirement Completion</u>

Mr. Hernandez stated at the last Board meeting study session, the Board compared the minimum qualifications in the State of California to other states. In California, the minimum qualification is students graduate with an associate of science degree. Unlike Texas, which employs the next highest number of practitioners, their associates degree is an applied associate of science so when you look at the number of units and the education that they require, most students coming out of associate of science programs accumulate on the average of 90-100 units. That is different in other states and is a consideration he thinks the Board needs to have a conversation about. California graduates are close. What does that mean, what benefits, and barriers would it cost to get them to that point if the bachelor's is a minimum standard. Speaking as an educator, the California community college system was pushing to lower that standard and create a 60-unit degree for health care providers. Nursing was carved out right off the bat and in respiratory care that push has been rescinded. In Texas, that did not happen, and the legislature pushed them to change their degree to an associate in applied science. The critical thinking part is missing in an applied science degree. In looking at the Legislator's feedback from the Sunset Hearing in March 2022, the comment was,

> "Identify with some degree of specificity the differences between the "clinical experiences" for an associate program vs. bachelor's program (e.g. is clinical work done most entirely at the associate level and does the baccalaureate degree simply add liberal arts)."

One of the misnomers of Liberal Arts is really general education and what does that provide. Time and breadth provide critical thinking from his view as an educator. Compressing all the elements reduces the critical thinking aspect and the absorption of competency. He added they need to look at quantifying the programs in the State of California. The other piece to that is how much is it going to take to get to a bachelor's degree? What would it mean for students to get the extra time and improve their competencies so that by the time they get licensed the quality of care and patient safety is at a greater level? Another piece in the curricula is the CoARC accreditation education structure. As an accreditor they need a broader vision, not only what the minimum qualifications are but how to put that into context to furthering education. It is not just the Board's responsibility but also a California shared responsibility with employers, professional organizations, and the education institutions.

As a Board, we will likely not make everyone happy with whatever decision is made. Even the Board itself may not come to 100 percent agreement on what that will be, and no matter what recommendation the Board provides, it still will need to go to the Legislature.
The Board has heard comments about complexities and whether that should justify increased requirements and what the bachelor's degree will provide for the therapist. Mr. Hernandez stated the Board needs to be very clear about what the bachelor's degree is going to provide for consumers. The Board also needs to consider the impact on the workforce.

President Guzman commented, clearly for public safety, the Board needs to do something. Even if the Board does all the work and the proposal is rejected, it is still worth doing. It is the right thing to do.

Public comment:
An audience member (name not given) stated she knows respiratory is always compared to nursing. However, nursing is no longer teaching respiratory devices. They don't concentrate on the cardiopulmonary respiratory system anymore because they don't have time. When they get new nurses in, they have no idea what is going on with the lungs. Nursing is relying on respiratory therapists.

President Guzman added, at Napa Valley College, nursing and respiratory are in the same division. Anything respiratory related is taught by a respiratory therapist and all that is provided is a couple of hours of training.

Ms. Nunez commented what clinical versus residency means to her, as a lay person, is that residency is more in depth, longer in duration, and more organized and elevates the importance of it. If the Board is elevating to a bachelor's degree, it might be something to think about changing to a residency instead of clinical.

Mr. Hernandez stated at one time the licensure did identify the number of clinical hours. The Board could identify components they want to see in the programs to accept that program for licensure.

Public comment
A member of the audience (name not given) stated the concept of residency to him is a little confusing because, for nurses the residency program is an extension of an additional program beyond school. Nurses are licensed and can fully function as a registered nurse but now they receive additional training. At Cedar's they are looking at a residency program where there are licensed RCPs who are put through a residency program in additional areas of expertise. The definition of a residency program may cause some confusion.

Mr. Hernandez pointed out he has been taking notes on salient points and some questions brought up include:

- How would this impact people from other states?
- How does it impact and expand scope of practice?
- Discussions around pay (although this Board doesn't impact that directly)
- Components of a bachelor's degree.
- What would increased requirements look like?
- Added clinical hours as compared to residency programs.
- Quantifying depth and breadth and what that would look like moving from an associate to a bachelor's program.
- Safety is a priority!
- Would it be beneficial to have an ad hoc committee to get more information and have more discussion?

Mr. Hernandez asked if there was any other information the Board would like the committee to come back with.
President Guzman stated he is thinking about the employers as they will be a major component of what the Board does. The Legislature will probably point to whether the market is demanding this, as well.

Mr. Hernandez responded this does get to the utility of the survey in terms of some ideas before the end of the meeting. The Board does not have to figure out what the survey is going to be, but if he and Michael can get some feedback from the Board and the public, that would be a great start.

Mr. Hernandez asked, in thinking about the RCB's disciplinary actions, are there any themes that come out of that like with more education comes less discipline. He doesn't know if that can be quantified but what kind of data can be gathered and are there any threads between the disciplinary action and the length of time working, what schools they graduated from or other factors? It's worth taking a deeper dive with the data the RCB has.

Ms. Nunez agreed it's worth looking at. She also thinks the Board should look at how this would impact licensure. Would the number of licensees and applicants decline and how might that impact fees, budget, and revenues? She will do a workup on that before the committee finishes the survey to see if there is any data needed to be captured from that perspective.

Ms. Early stated the initial study touched on qualified preceptors, particularly in hospitals, to work with students and graduates newly hired as respiratory care therapists. What if someone calls in sick and the student or new RCP gets assigned to someone who has never been a preceptor? This is something she believes may require a deeper dive.

Mr. Terry replied he's hoping the proposed regulations will help in the quality of preceptors in the clinical setting by incentivizing them with CEUs and formalizing their training. That is what he saw in his institution when they formalized preceptor training and incentivized them by giving extra pay. They saw a lot more people who wanted to participate and they saw overall improvements.

Mr. Hernandez stated in terms of the survey and questions the Board may want to ask, talking with employers, educators, and practitioners, there will be a set of questions about the preparedness of new graduates today at the associate level.

The other piece is for the ability for the practitioners to do the precepting. Is there a correlation between the level of education and credentials and somebody's ability to do that? The Board must envision and help prepare for all the pieces that have an impact on patient care.

Mr. Hernandez asked for feedback on the utility of the survey from the Board and public about some data points that would be relevant to understanding the value of increasing educational requirements as it relates to competency and patient safety.

Ms. Williams stated getting feedback on going back to school at a certain age would be beneficial. Dr. Lewis added financial impact. Mr. Terry responded he has included a survey question involving fiscal impact.

Mike Madison, Carlsbad CA stated he works for Vyaire Medical, the largest respiratory company in the world. They are heavily scrutinized by the FDA. They do a lot of systems hazards analysis to make sure their ventilators are as safe as possible. He has always been a strong believer in the bedside triangle: the doctor, nurse, and respiratory therapist because they check behind each other. It's a very important safety factor. If the respiratory therapist is at the lower education level, does that

make them the weakest link in that triangle? Medical errors are a massive problem. Pushing to the baccalaureate level could potentially improve that safety factor.

Ms. Nunez added she is curious about the education programs and what kind of resources they need to establish a residency program or improve preceptorship. Is it adequate now or can it get better?

Ms. Early added to Ms. Nunez's question, asking what will it take for the community colleges not only in terms of instructors, but in terms of finding local facilities to do internships?

Ms. Nunez stated nurses have received attention and money for schools simply because everyone has heard about nurses and the nursing shortage. It is time, if the Board wants this expertise, to stop allowing it to be overridden. She is more concerned that California is allowing unqualified people to practice respiratory care and it will be years down the road before they realize what a grave error that was.

Mr. Hernandez asked can this Board advocate, especially since RCPs have been at the forefront of Covid? He sees an opportunity to be in front of the legislature to impress upon the members the work this Board is doing in advocating for consumers in California.

Ms. Nunez responded absolutely. If pursuing a bachelor's degree in any framework, this is the opportunity to present everything identified as being needed. Other professions have done this very thing. Years ago, physical therapy moved to a master's degree and resulted in the Legislature taking a different view toward advancing education.

Ms. Early added, there is a local high school in the LA Unified School District with a magnet program. When she was working in the hospital, students would be assigned to different staff. She had some of these medical magnet students assigned to her. Other people would have them just shadow them for the day, but she would take them to the different departments and have the people who worked there explain their jobs. The students would say when they started the program, they thought the only people who worked in hospitals were doctors and nurses, then they discovered all these other health care workers.

Ms. Williams inquired how the directors feel about this additional educational requirement? The target audience for the survey should include all stakeholders that interact with this profession.

Mr. Hernandez summarized; the Board did a couple of study sessions to explore the different concepts that led to this conversation. There is a strategic plan goal addressing that. Today the Board summarized the most salient points. The Board was engaged in a deeper conversation of the points and received interaction with the public. Next steps will be defining these models in different ways to be able to see them and what that would look like, and implications for licensing. The committee will take the last work force study, and maybe some other studies, and will come back to the Board with a draft preliminary survey to engage the Board.

Mr. Hernandez concluded, from a logistical perspective this is a recommendation, and this process could take months to even a year. There has been enlightening conversation, and he believes they are doing a good job exploring everything.

President Guzman thanked Mr. Hernandez and Mr. Terry and added the work they have done is tremendous and has exceeded his expectations.

5. LEGISLATION OF INTEREST

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

At the March 24th meeting, after consideration of the negative fiscal impact of the bill, the Board took an oppose position on SB 1237 which aimed to fully waive license renewal fees for members of the military called to active duty. The bill was amended on March 30, 2022, and no longer seeks to fully waive renewal fees, but instead requires the Board to prorate fees for periods of active duty, in line with existing procedures. As such, the bill no longer poses a negative fiscal impact,

Since the Executive Committee can be called on to make interim decisions regarding legislation as necessary, based on the March 30th amendments to the bill, Ms. Molina reached out to the Executive Committee seeking approval to change the Board's position from Oppose to Watch on SB 1237. The Executive Committee unanimously agreed to change the position. The bill is now being presented to the full Board for ratification of the change from an Oppose to a Watch position.

As introduced, SB 1436, the RCB's Sunset bill, previously included language to extend the Board's inoperative date, to January 1, 2027, and added additional categories or types of employment that would be subject to mandatory reporting for violations already defined in law. The bill was amended on April 19, 2022, and now also addresses the ongoing issues with the unqualified practice of respiratory care by licensed vocational nurses, and authorizes the Board to provide a temporary, rapid response beneficial to consumers during a State of Emergency. SB 1436 has been ordered to the Assembly and will be heard before the Assembly Business and Professions Committee on June 28, 2022. Ms. Nunez added, the LVN Board has taken a neutral position on the bill, but they do want some amendments and the author is considering those.

SB 962 has failed passage. This was the CSRC sponsored bill aimed at expanding the definition of a "laboratory director" to include an individual who meets specified requirements and guidelines. Had the bill been successful, it would have ensured that respiratory care practitioners who met the College of American Pathologists standards could work as laboratory directors and technical consultants in moderate complexity laboratories.

AB 1733 has failed passage. This was the bill seeking to specify that a "meeting" held under the Bagley-Keene Open Meeting Act would include a meeting held entirely by teleconference, so long as the state body adhered to certain specified requirements.

Ms. Molina added on a more positive note, two of the bills the Board took oppose positions on due to negative fiscal ramifications (AB 2104 and SB 1031) were held under submission in their houses of origin and have died.

AB 2104 has been held under submission in its house of origin and died. This bill sought to require the delinquency fee for any licensee within DCA to be 50% of the renewal fee for that license, but not to exceed $150, while SB 1031 proposed to establish an inactive license renewal fee to ½ of the amount of the fee for a renewal of an active license, unless the board establishes a lower fee. The RCB's current delinquent fee is $330, and the number of projected delinquent renewals for FY 22/23 was estimated at 225. Based on these figures, a $180 reduction to the existing delinquent fee (the bill proposes a maximum delinquent fee of $150), would be significant.

SB 1031 has been held under submission in its house of origin and died. Based on the current number of inactive licenses, this bill would have resulted in an estimated loss of revenue of $65k per fiscal year. Further, there was potential for an additional loss of revenue from licensees who currently maintain an active license, to choose an inactive status simply due to the lower fee. Using an

estimate of 5% of licensees who renew per year, this has potential to reduce revenues by an additional $78k for a total potential loss of -$143k, significantly impacting our revenues.

Ms. Molina then provided the statuses and positions on all the bills identified as legislation of interest for the Board in 2022:

AB 646 (Low) - Board Position: Watch
Title: DCA: boards: expunged convictions
Status: 5/4/22: Referred to Senate Committees on Business, Professions and Economic Development and Public Safety

This bill would require a board within the department that has posted on its internet website that a person's license was revoked because the person was convicted of a crime, within 90 days of receiving an expungement order for the underlying offense from the person, if the person reapplies for licensure or is relicensed, to post notification of the expungement order and the date thereof on the board's internet website. The bill would require the board, on receiving an expungement order, if the person is not currently licensed and does not reapply for licensure, to remove within the same period the initial posting on its internet website that the person's license was revoked and information previously posted regarding arrests, charges, and convictions. The bill would require a person in either case to pay a $50 fee to the board, unless another amount is determined by the board to be necessary to cover the cost of administering the bill's provisions.

AB 1604 (Holden) - Board Position: Watch
Title: The Upward Mobility Act of 2022: boards and commissions: civil service: examinations: classifications.
Status: 5/19/22 - Referred to Assembly Third Reading (Assembly Floor).
Status Update: In Senate as of 5/27 pending committee referral

This bill would require, on or after January 1, 2023, all state boards and commissions consisting of one or more volunteer members or commissioners, to have at least one volunteer board member or commissioner from an underrepresented community, as defined. This bill would further clarify that new board or commission members should be replaced, under these parameters, as vacancies occur.

AB 1662 (Gipson) - Board Position: Watch
Title: Licensing boards: disqualification from licensure: criminal conviction.
Status: 5/19/22 - Referred to Assembly Third Reading (Assembly Floor).
Status Update: 6/1 Referred to Senate Committees on Business, Professions and Economic Development and Public Safety

This bill requires each licensing board under the Department of Consumer Affairs (DCA) to establish a process for a prospective applicant who has been convicted of a crime to request a preapplication determination as to whether that crime would disqualify the prospective applicant from licensure. This bill allows a board to charge a fee for the reasonable cost of administering the predetermination process, not to exceed $50. Public protection is the highest priority for the Respiratory Care Board of California,

AB 1733 (Quirk) - Board Position: Support
Title: State bodies: open meetings.
Status: 4/20/22 - Hearing before the Assembly Committee on Governmental Organization was postponed. DEAD

This urgency bill would specify that a "meeting" held under the Bagley-Keene Open Meeting Act includes a meeting held entirely by teleconference, as defined, so long as the state body adheres to certain specified requirements such as: ensuring the public has the means to hear, observe, and address the state body during the meeting; providing the public with at least one physical location where they can participate; posting the meeting agendas online and at the physical meeting

location with information indicating how the meeting can be accessed; and ensuring that if a means of remote participation fails, the meeting must adjourn.

AB 1914 (Davies) - Board Position: Watch
Title: Resource family approval: training.
Status: 5/18/22 - Referred to the Senate Committee on Human Services
This bill would exempt a resource family member that has an active and unrestricted license issued by the Medical Board of California, the Osteopathic Medical Board of California, the Podiatric Medical Board of California, the Physician Assistant Board, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the Respiratory Care Board of California, or the Emergency Medical Services Authority from any requirement to complete, or show proof of completing, CPR or first aid training.

AB 2104 (Flora) - Board Position: Oppose
Title: Professions and vocations.
Status: This bill is dead.
This bill would authorize the Department of Consumer Affairs and each board in the Department to charge a fee not to exceed $2 for the certification of a copy of any record, document, or paper in its custody. The bill would also require the delinquency, penalty, or late fee for any licensee within the department to be 50% of the renewal fee for that license, but not to exceed $150.

AB 2948 (Cooper) - Board Position: Watch
Title: Consumer protection: Department of Consumer Affairs: complaints.
Status: This bill is dead.
This bill would require the Director of the Department of Consumer Affairs to notify a consumer of any action taken on a complaint submitted by that consumer, and any other means which may be available to the consumer to secure relief, unless doing so would be injurious to the public health, safety, or welfare. Current law requires the Director to make these notifications “if appropriate,” whereas this bill would require the notifications in most cases.

SB 962 (Jones) - Board Position: Support
Title: Healing arts: clinical laboratory technology: moderate-complexity laboratories.
Status: 5/19/22: Held under submission in Senate Appropriations. This bill is dead.
For purposes of a moderate-complexity laboratory, this bill would expand the definition of a “laboratory director” to include an individual who meets specified requirements and guidelines. The bill would authorize a laboratory director to operate as a technical consultant in a moderate-complexity laboratory if certain conditions are met, and ensures respiratory care practitioners who meet the College of American Pathologists standards may work as laboratory directors and technical consultants in moderate complexity laboratories. This bill is sponsored by the California Society for Respiratory Care.

SB 1031 (Ochoa Bogh) - Board Position: Oppose
Title: Healing arts boards: inactive license fees.
Status: 5/19/22: Held under submission in Senate Appropriations. This bill is dead.
This bill would instead require the renewal fee for an inactive license to be 1/2 of the amount of the fee for a renewal of an active license, unless the board establishes a lower fee.

SB 1237 (Newman) - Board Position to be Ratified [Update from Oppose to Watch]
Title: Licenses: military service.
Status: 5/19/22 - Referred to Assembly Committees on Business & Professions and Military & Veterans Affairs

This bill defines the phrase “called to active duty” to include active duty in the United States Armed Forces and on duty in the California National Guard, as specified for purposes of waiving license renewal fees for military service members.

SB 1365 (Jones) - Board Position: Watch
Title: Licensing boards: procedures.
Status: 5/19/22: Held under submission in Senate Appropriations. This bill is dead.
This bill would require each board within the department to publicly post on its internet website a list of criteria used to evaluate applicants with criminal convictions so that potential applicants for licensure may be better informed about their possibilities of gaining licensure before investing time and resources into education, training, and application fees. The bill would require the department to establish a process to assist each board in developing its internet website, as specified. The bill would also require the department to develop a process for each board to use in verifying applicant information and performing background checks of applicants and would require that process to require applicants with convictions to provide certified court documents instead of listing convictions on application documents. The bill would further require the board to develop a procedure to provide for an informal appeals process that would occur between an initial license denial and an administrative law hearing.

SB 1436 (Roth) - Board Position: Support
Title: Respiratory therapy.
Status: 5/19/22 - Ordered to Senate Third Reading (Senate Floor).
Status Update: 5/27: Referred to Assembly Business and Professions Committee
Existing law, the Respiratory Care Practice Act, provides for the licensure and regulation of respiratory therapy practitioners by the Respiratory Care Board of California and makes a violation of that act a crime. Existing law requires the employer of a respiratory care practitioner to report to the board the suspension or termination for cause of any practitioner in their employ. Existing law defines suspension or termination for cause to mean suspension or termination from employment for specified reasons, including gross incompetence or negligence, falsification of medical records, and the use of controlled substances or alcohol to the extent that it impairs the ability to safely practice respiratory care. This bill would expand the definition of suspension or termination for cause to include administrative leave, employee leave, or resignation from employment for specified reasons that would additionally include suspected acts, such as suspected or actual gross incompetence or negligence, suspected or actual falsification of medical records, and the suspected or actual use of controlled substances or alcohol to such an extent that it impairs the ability to safely practice respiratory care. The bill would also require an owner, director, partner, or manager of a registry or agency that places one or more practitioners at any facility to practice respiratory care to report those specified suspected or actual acts to the board. As amended 4/19/22, the bill now also addresses the ongoing issues with the unqualified practice of respiratory care by licensed vocational nurses, and authorizes the Board to provide a temporary, rapid response beneficial to consumers during a State of Emergency.

Dr. Lewis moved to ratify the Executive Committee’s approval and change the Board’s position on SB 1237, the military renewal fee waiver bill, from oppose to watch. The motion was seconded by Mr. Terry.

Request for public comment: No public comment was received.

M/Lewis /S/Terry
In favor: Early, Guzman, Hernandez, Kbushyan, Lewis, Terry, Williams
MOTION PASSED

6. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

President Guzman stated the Board is unable to take action on any items not listed on the agenda. The only action the Board may take is to decide whether to place an item on a future agenda.

He asked if anyone would like to make a public comment on anything that is not on the agenda.

Public comment:
A CSRC representative requested to get a picture of the Board for the CSRC website before it moves into closed session.

7. FUTURE AGENDA ITEMS

President Guzman asked if Members had any specific items they would like to see on a future agenda.

Mr. Hernandez stated there will be a continuation on the baccalaureate degree discussion.

President Guzman stated the Board's next meeting will be a two-day meeting scheduled for October 27 & 28, in Sacramento. The first day will be for strategic planning, followed by the Board meeting on the second day.

Public comment: No comments received.

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CLOSED SESSION

The Board convened into Closed Session, as authorized by Government Code Section 11126, subdivision (c)(3) at 3:20 p.m. and reconvened into Public Session at 4:02 p.m.

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ADJOURNMENT

The Public Session Meeting was adjourned by President Guzman at 4:02 p.m.

RICARDO GUZMAN
President

STEPHANIE A. NUNEZ
Executive Officer