



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.

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 JUNE 9, 2022, MEETING MINUTES

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

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

Request for public comment: No public comments were received.

M/Lewis /S/Goldstein

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

MOTION PASSED

3. FISCAL REPORT

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

Comments:

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

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

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

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

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

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

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

Public Comment: No public comment was received.

4. LICENSING AND ENFORCEMENT ACTIVITY ANNUAL REPORT

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

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

Public Comments: None received

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

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

licensure. This process is to ensure competent care by California's respiratory care practitioners and to provide a threshold for safety of the public.

Vice President Goldstein commented he would like to see home care incorporated in the areas of expertise as it is a major area of possible growth.

Mr. Kbushyan inquired what the residency and timeframe would look like prior to licensure. Mr. Hernandez replied, the details of the possible models are not known at this point as they still need to be explored. Mr. Terry added that is part of the discussion the PQC will have with the experts.

Request for public comment: No public comment was received.

6. LEGISLATION OF INTEREST

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

AB 646 (Low) - Board Position: Watch

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

AB 1604 (Holden) - Board Position: Watch

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

AB 1662 (Gipson) - Board Position: Watch

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

AB 1733 (Quirk) - Board Position: Support

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

AB 1914 (Davies) - Board Position: Watch

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

AB 2104 (Flora) - Board Position: Oppose

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

AB 2948 (Cooper) - Board Position: Watch

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

SB 962 (Jones) - Board Position: Support

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

SB 1031 (Ochoa Bogh) - Board Position: Oppose

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

SB 1237 (Newman) - Board Position: Watch

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

SB 1365 (Jones) - Board Position: Watch

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

SB 1436 (Roth) - Board Position: Support

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

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

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

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

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

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

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

Public comment:

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

7. CONSIDERATION OF AND POSSIBLE ACTION ON COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD AND HEARING FOR THE BOARD’S PROPOSED RULEMAKING TO AMEND CALIFORNIA CODE OF REGULATIONS, TITLE 16, 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 (CONTINUING EDUCATION, FINES)

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

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

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

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

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

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

Comments 15, 16, and 17:

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

[Comments rejected]

Comment 39:

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

Discussion ensued with differing opinions. An unofficial poll was taken for members to vote for one of the following: 1) Keep the section 1399.350(a)(1) as written 2) Modify this section to include "communication" or 3) Modify this section to include both communication and emotional intelligence. The majority of members supported adding communication to the types of CE that would be counted as Leadership CE in section 1399.350(a)(1). In the discussion it was noted that many medical errors occur as a result of poor communication between physicians and other care workers and that this was an area where staff RCPs, perhaps those that do not want to climb the ladder, could strengthen their leadership skills.

[Comment rejected but will be adding "communication"]

Comment 40:

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

[Comment rejected]

Comment 41:

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

[Comment rejected]

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

Comment 3:

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

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

[Comment accepted]

Comment 18:

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

[Comment rejected]

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

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

Comment 13:

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

[Comment rejected]

Comment 14:

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

[Comment rejected]

Comment 19:

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

[Comment rejected]

Comment 39:

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

[Comment rejected]

Comment 40:

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

[Comment rejected]

Comment 41:

Commenter states that live courses are an unfair burden for those in rural areas, referencing travel, and states that face-to-face communications do not provide any advantages.

[Comment rejected]

Comment 42:

Commenter states she is in complete support of moving forward of mandating live CEs noting the vast availability of on-line live courses.

[Comment accepted]

Comment 43:

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

[Comment rejected]

RCB Staff Note:

Section 1399.350(c) should state "subdivisions (a) and (b)" not "subdivision (a)."

[Comment accepted]

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

Comment 20:

CSRC agrees with the language

[Comment accepted]

Comment 11:

Comment describes a conflict in the existing proposed language regarding the number of hours dedicated to ethics and law. Suggested change was accepted.

[Comment accepted]

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

Comment 22:

CSRC agrees with the language

[Comment accepted]

Comment 21:

CSRC agrees with the language. But it was noted that NBRC now offers the Asthma Educator Specialist credential. Staff suggested the credential be added to the language.

[Comment accepted]

Comment 23:

CSRC agrees with the language

[Comment accepted]

Comment 24:

CSRC agrees with the language

[Comment accepted]

Approved Course Providers – 1399.352 [Comments 25 and 26]

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:

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

[Comment rejected]

Comment 32:

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

[Comment rejected]

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

Comment 33:

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

[Comment rejected]

Comment 41:

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

[Comment rejected]

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

Comment 34:

Commenter agrees with language.

[Comment accepted]

Comment 9:

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

[The concept of using hours was accepted by members]

Comment 10:

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

[Comment accepted]

Comment 35:

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

[Comment accepted]

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

Comment 36:

CSRC agrees with the language.

[Comment accepted]

Comment 37:

CSRC agrees with the language.
[Comment accepted]

Comment 38:

CSRC agrees with the language.
[Comment accepted]

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

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

Public comments:

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

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

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

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

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

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

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

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

M/Lewis /S/Goldstein

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

MOTION PASSED

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

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

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

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

Dr. Lewis moved for the Board to approve the proposed regulatory text for section 1399.365 as presented in Attachment A, 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 requested. 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 1399.365 of Title 16, California Code of Regulations as noticed.

Public comment: No public comment was received.

M/Lewis /S/Kbushyan

In favor: Early, Goldstein, Guzman, Hernandez, Kbushyan, Lewis, Terry

MOTION PASSED

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

9. ELECTION OF OFFICERS FOR 2023

Vice President

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

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

No public comment.

M/Guzman /S/Goldstein

In favor: Early, Goldstein, Guzman, Hernandez, Kbushyan, Lewis, Terry

MOTION PASSED

President

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

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

Public comment:

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

M/Goldstein /S/Kbushyan

In favor: Early, Goldstein, Guzman, Hernandez, Kbushyan, Lewis, Terry

MOTION PASSED

10. SCHEDULE 2023 BOARD MEETING DATES AND LOGISTICS

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

Thursday, March 9, 2023 - Webex

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

Tuesday, October 24, 2023 - Sacramento

M/Kbushyan /S/Lewis

In favor: Early, Goldstein, Guzman, Hernandez, Kbushyan, Lewis, Terry

MOTION PASSED

11. 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 was not on the agenda?

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

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

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

12. FUTURE AGENDA ITEMS

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

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

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CLOSED SESSION

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

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ADJOURNMENT

The Public Session Meeting was adjourned by President Guzman at 12:45 p.m.

RICARDO GUZMAN
President

STEPHANIE A. NUNEZ
Executive Officer