



PUBLIC SESSION MINUTES

Tuesday, May 10, 2011

**Bahia Resort Hotel Mission Bay, San Diego
998 West Mission Bay Drive
San Diego, CA 92109
(858) 488-0551**

Members Present: Larry L. Renner, BS, RCP, RRT, RPFT, President
Barbara M. Stenson, RCP, RRT
Lupe V. Aguilera
Murray Olson, RCP, RRT-NPS, RPFT
Richard L. Sheldon, M.D.
Charles B. Spearman, MEd, RCP, RRT

Staff Present: Dianne Dobbs, Legal Counsel
Stephanie Nunez, Executive Officer
Christine Molina, Staff Services Manager
Liane Freels, Staff Services Manager

CALL TO ORDER

The Public Session was called to order at 9:09 a.m. by President Renner. President Renner stated the Board did not have a quorum, however, two members were expected to arrive shortly.

President Renner stated this Board meeting was being webcasted.

DCA DIRECTOR COMMENT

(LaVonne Powell)

Ms. Powell, Special Advisor to the Acting Director, provided an update on the projects and issues currently at the Department of Consumer Affairs (DCA):

Hiring Freeze: Another hiring freeze Executive Order was issued requiring DCA to seek hiring exemptions for core functions which would be Licensing and Enforcement, when feasible. Ms. Powell reviewed the process: A board submits the exemption to the Department, the Department submits to Agency (who then approves or denies the exemption), Agency sends to the Department of Finance, then finally, the request is sent to the Governor's Office for approval.

President Renner welcomed Mr. Spearman to the meeting and stated a quorum was now present. (9:10 am)

Travel Restrictions: An Executive Order was issued restricting travel. DCA is waiting for the Department of Finance to come out with the Budget Letter detailing the process. Until the letter is released, the Secretary of the State and Consumer Services Agency, Anna Caballero, will be approving all travel. While recognizing the necessity for travel at times, the Department has asked all boards to be very conservative with arrangements.

Enforcement Workshop: Ms. Powell thanked Ms. Nunez for actively participating in the workshop to help the boards maximize their resources to focus on the highest priority complaints. The objective was to have the assessment be more of a tool for the boards to identify their strengths and weaknesses, and changes that can be made to maximize resources to protect the public.

Drug Testing Standards: Ms. Powell thanked Ms. Nunez for chairing the subcommittee concerning drug testing frequency for substance abusing licensees, and for the huge accomplishment of being the driving force achieving middle ground within the affected groups.

BREEZE Project: This project replaces the Department's antiquated licensing and enforcement IT programs. The Department is currently in confidential negotiations with a bidder and hopes to have a contract in place by August.

APPROVAL OF FEBRUARY 25, 2011 PUBLIC SESSION MINUTES

Vice President Olson moved to approve the February 25, 2011 Public Session minutes as written.

M/ Olson /S/Sheldon

Unanimous: Aguilera, Olson, Renner, Sheldon, Spearman

MOTION PASSED

ON-LINE LICENSE RENEWAL UPDATE

(Christine Molina)

Ms. Molina reviewed the status of the on-line license renewal project stating there are details that need to be ironed out with the contracted vendors. She advised that at this time, the Board and the Department have prepared for implementation and are simply waiting for the contracts to be executed.

CONSIDERATION TO ADOPT PROPOSED PROBATION MONITORING DRUG TESTING FREQUENCY POLICY

(Stephanie Nunez)

Ms. Nunez presented a proposed policy based on the standard developed by a subcommittee of the Substance Abuse Coordination Committee (SACC).

Ms. Nunez suggested using July 1 as the Boards implementation date. Anyone with orders effective prior to July 1, would be tested 36-104 times per year and effective dates after July 1 would be tested 52-104 times per year for the first year. Ms. Nunez stated unless a cause existed, the Board anticipates staying at the minimum number of tests on the range presented. Some exceptions apply that might reduce the times tested per year from 52 to 36 times, such as having a single conviction. Ms. Nunez stated the probationers would still pay the cost in this proposed policy but added the subcommittee is beginning to gather more statistics to review the impact and effectiveness of increased testing on the probationer. Ms. Nunez explained that "Major Violations" as identified in the Board's Disciplinary Guidelines, would likely result in an increased testing frequency.

Dr. Sheldon inquired what the financial impact is on a licensee in the first year including testing, enforcement, investigation and all related costs, and if there is a publication that identifies all these potential costs.

Ms. Nunez stated the Board does not currently have something like that though one could be developed.

President Renner added that every program in California could benefit from the information.

Dr. Sheldon motioned that the Board adopt the proposed policy.

M/ Sheldon /S/Aguilera

Unanimous: Aguilera, Olson, Renner, Sheldon, Spearman

MOTION PASSED

**BOARD ACTION IN RESPONSE TO AFFIRMATIVE RESPONSE TO APPLICATION QUESTION
NO. 20 – DISCUSSION/ACTION**
(Murray Olson)

Vice President Olson recalled a previous case where the applicant responded affirmative to question # 20 on the application (concerning the use of chemical substances) after becoming addicted to pain medicine following an automobile accident, and referred himself to a treatment program as a result. Vice President Olson stated this is the type of person the Board should be supporting and that not working with them seemed 'heavy handed.'

Ms. Powell suggested adding the word "current" to the question as in "Do you have a current medical condition or does your current use of chemical substances in any way impair or limit your ability ..."

The Board agreed with Ms. Powell's suggestion and staff will modify the question accordingly.

STUDENT BACKGROUND CHECKS – DISCUSSION/ACTION
(Barbara Stenson)

Ms. Stenson brought up the issue that not all schools and/or clinics perform background checks on students before placing them in clinical sites, and as a result, may have someone who is unable to get a license caring for a patient.

Ms. Nunez stated it is the hospital's responsibility to screen applicants. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO) requires hospitals to run the same background check on students as on their employees.

President Renner added if the correct process is followed, there is always a licensed practitioner with each student. It is that licensee's responsibility to make sure the student does what is right for the patient. He added, because the student is not licensed yet, it is beyond the Board's purview. President Renner suggested, since patient safety is the Board's concern, perhaps the Board could re-emphasize this with program directors.

Discussion ensued.

Ms. Nunez suggested the Board add some examples of different types of application denials to the pamphlet discussed earlier by Dr. Sheldon.

President Renner stated any student who has questions about violations and licensing can contact the Board directly to get answers.

Ms. Nunez added that information is also available in the Board's In-House Guidelines.

**“TRANSITIONING THE RESPIRATORY THERAPIST WORKFORCE FOR 2015 AND BEYOND”
UPDATE
(Charles Spearman)**

Mr. Spearman stated that the third publication has been released.

Mr. Spearman stated he has not yet heard any official recommendations from the NBRC whether they are in agreement with making the RRT an entry level exam, and agreed with staff's recommendation to take no action at this time and revisit the issue at each Board meeting.

Dr. Sheldon inquired whether the deadlines would conflict with one another.

Ms. Nunez replied the major hurdle would be getting Legislation passed.

Discussion ensued.

Ms. Nunez stated staff's recommendation is to explore the willingness of the NBRC to allow the Board to use the RRT examination for licensure.

Further discussion ensued.

To assist the Board in moving forward in the investigation process, President Renner suggested the Board contact the NBRC to inquire about its position.

Mr. Spearman thanked Ms. Nunez for the great job putting into perspective the potential impact the proposal would have on the Board and the State.

**RECOGNITION OF SERVICE: RICHARD L. SHELDON, MD, FACP
(Larry Renner)**

President Renner, on behalf of the Board, thanked Dr. Sheldon for more than twelve years of dedicated service, significant contributions, leadership, knowledge, commitment and passion for consumer protection. The Board then presented Dr. Sheldon with a display case as a token of its appreciation.

POLOSOMNOGRAPHY/CDPH MEETING UPDATE

(Stephanie Nunez)

Ms. Nunez explained that she met with the California Department of Public Health and expressed the Board's concerns surrounding the requirements for nursing services in sleep studies, stating a respiratory therapist is the most qualified in 99 percent of sleep studies.

Dr. Sheldon suggested the Board collaborate with other organizations for support and recommendation.

President Renner directed Ms. Nunez to arrange for another meeting with the CDPH, so that all key players could be present to further discuss this issue.

RCP RECOGNITION

(Larry Renner)

Board members convened to the Mission Bay Ballroom at 10:45 to meet with members of the California Society for Respiratory Care, and participate in a Respiratory Care Practitioner recognition ceremony honoring Dr. Barry Winn, Past President of the Board. The Board meeting reconvened in the Del Mar room at 11:11 a.m.

LEGISLATION OF INTEREST – DISCUSSION/ACTION

(Larry Renner)

President Renner recommended the following positions on legislation of interest:

- SB 103 - Watch
- SB 231 – Watch
- SB 538 – Watch (changes do not impact RCB)
- SB 539 – Watch (changes do not impact RCB)
- SB 541 – Support (letter mailed to author 4/21/11)
- SB 544 – Watch
- SB 943 – Watch (changes do not currently impact RCB)
- SB 944 – Watch (changes do not currently impact RCB)
- AB 569 – Watch
- AB 958 – Oppose unless amended (letter mailed to author 3/25/11)
- AB 991 – Watch
- AB 1273 – Watch

Dr. Sheldon moved to accept the positions as recommended and give the Executive Committee the authority to act as necessary and adopt staff recommended positions.

M/ Sheldon /S/ Spearman

Unanimous: Aguilera, Renner, Sheldon, Spearman, Stenson

MOTION PASSED

PROPOSED 2012 LEGISLATION

Ms. Stenson inquired about legislation requiring clinical supervisors to have a current and valid license.

Ms. Nunez cited Business and Profession Code section 3742 which states, "During the period of any clinical training, a student respiratory care practitioner shall be under the direct supervision of a person holding a valid and current license issued under this chapter". She suggested adding the wording "undisciplined license" to the language.

Vice President Murray suggested using the word "unrestricted" as opposed to "undisciplined."

President Renner advised the Board to research this further and discuss it as an agenda item at the next Board meeting

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

No public comment was received.



CLOSED SESSION I

The Board convened into Closed Session, as authorized by Government Code Section 11126c, subdivision (3) at 11:47 p.m. and reconvened into Public Session at 12:04 p.m.



ADJOURNMENT

The Public Session Meeting was adjourned by President Renner at 12:06 p.m.

LARRY L. RENNER
President

STEPHANIE A. NUNEZ
Executive Officer