



PUBLIC SESSION MINUTES

Friday, November 7, 2014

**1625 North Market Blvd.
South Building, Room S-102
Sacramento, CA 95834**

Members Present: Alan Roth, MS MBA RRT-NPS FAARC, President
Mary Ellen Early
Rebecca Franzoia
Mark Goldstein, BS, RRT, RCP
Michael Hardeman
Ronald Lewis, M.D.
Judy McKeever, RCP, RRT
Laura Romero, Ph.D.
Thomas Wagner, BS, RRT, FAARC

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

CALL TO ORDER

The Public Session was called to order at 10:33 a.m. by President Roth. A quorum was present.

President Roth welcomed new Board member Thomas Wagner, BS, RRT, FAARC.

Mr. Wagner stated he was happy to be a member of the Board and provided a brief history of his background and experience which includes: possessing the RRT credential; serving as Director of most East Bay hospitals; serving as Past President of the California Society for Respiratory Care (CSRC); active member of the American Association for Respiratory Care's (House of Delegates); current instructor with Ohlone college; and Commissioner of Parks & Recreation in San Leandro.

PUBLIC COMMENT

President Roth explained that public comment would be allowed on agenda items, as those items are discussed by the Board during the meeting. He added that under the Bagley-Keene Open Meeting Act, the Board may not take 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.

Mr. Awet Kidane, Director of the Department of Consumer Affairs, congratulated Mr. Wagner on his appointment and thanked the Board and staff for the leadership and steadfastness it has shown through the recent and ongoing major information technology project implementation. Mr. Kidane offered the Department's assistance on any policy positions or technical advice the Board may need on future endeavors.

Michael Monasky alleged that a conversation between the Director and members, that took place before the meeting began, was a violation of the Brown Act (sic). He added it is critical the Board has transparency and operate as a democracy.

APPROVAL OF APRIL 4, 2014 MINUTES

Dr. Lewis moved to approve the April 4, 2014, Public Session Minutes as written.

M/Lewis /S/McKeever

In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero

Abstain: Wagner

MOTION PASSED

RCP WORKFORCE STUDY PRESENTATION

(Goldstein)

Mr. Goldstein stated this study proposal meets many of the objectives established in the current Strategic Plan. Mr. Goldstein then welcomed Joanne Spetz, PhD, Professor, Philip R. Lee Inst. for Health Policy Studies Associate Director of Research Strategy, Center for the Health Professions University of California, San Francisco, and asked her to review the workforce study proposal for the Board.

Dr. Spetz introduced her colleague, Tim Bates, Senior Research Analyst who completes project work for a variety of studies. Dr. Spetz indicated that the Center for Health Professions has been around for 22 years doing research on various health workforce issues across all of the professions with much of the work focused on California. Dr. Spetz stated that the center was asked about approaches it would take to address a set of questions that the Respiratory Care Board was facing regarding future strategic directions related to the workforce in California, to ensure the workforce could meet the needs of future healthcare delivery in the State.

The questions outlined were:

1. What was the feasibility and what would be the impact of establishing a requirement for baccalaureate level education for respiratory therapists?
2. What are the curricular needs and the implications of allowing respiratory care practitioners to exercise prescriptive authority under protocol?
3. Are current requirements concerning clinical supervision of students adequate and should there be modifications to these requirements?

4. How effective are the professional ethics of the law courses that RCP's currently have to take and should they continue to be mandated?
5. Should there be an increase in the number of CE hours expected or should there be changes in that requirement in some way?

Dr. Spetz reviewed the activities proposed to answer the identified questions:

1. Conduct and summarize interviews with 10 Respiratory Care/Pulmonary Services Directors at selected general acute care hospitals:

Dr. Spetz proposed a mixed method study be conducted by taking a variety of different approaches to get a broad holistic answer to these questions. The first activity proposed was that interviews be conducted and summarized with approximately 10 directors at selected hospitals to get a sense about what workforce challenges they are facing.

2. Conduct and analyze a survey of Directors of Respiratory Care/Pulmonary Services at general acute care hospitals in California:

Dr. Spetz plans to use those interviews to help build out a survey of respiratory care directors or pulmonary services directors at general acute care hospitals in California. Specialty hospitals could also be included in the survey.

3. Complete a comprehensive literature review of scholarly work that examines the relationship between the education level of respiratory care practitioners and patient outcomes:

Dr. Spetz explained this area of research is in its infancy and that only recently has there been evidence in the registered nursing field that suggests that it is becoming convincing that those with bachelor's degrees performing differently. It is expected that the literature field will be limited but illuminating about what some of the different factors are associated with differences in practice. Employer perspectives in combination with this information will tell the Center a lot about how employers on the ground in California perceive differences and what their preferences are and what the evidence is related to that.

4. Collect and analyze the curricula currently used to train RCPs and other health care professionals to identify content related to the potential for RCPs to have prescriptive authority:

Dr. Spetz added they will also look, to the extent possible, into international literature to determine if there is precedent for this kind of work in other countries.

5. Conduct and summarize 10 interviews with Respiratory Care Program Directors to get their sense about:

- What's happening in clinical education?
- Do they feel that their students are adequately supervised?
- What are some of the challenges that they might face in identifying people to supervise their students when they are receiving their clinical training?
- Do they think that there is additional training needed with respect to things like prescriptive authority and basically what does that training look like from their perspective and what do they see the needs as being?

6. Conduct and analyze 5 focus groups with RCPs at different locations in California:

The Center proposes to do five focus groups across the state. They would expect to obtain information on the following:

- Get a sense about the range of practice exists in the state.
- How RCPs perceive their own work.
- The kinds of continuing education RCPs feel they might need to be better at their practice.
- What role they see the professional ethics and law courses as having in their practice.

Dr. Spetz stated the proposed timeline for this study is about 18 months, which would be an expedited study.

President Roth asked, concerning the 10 directors, who would be interviewed and how the Center would divide the proportion of academic medical institutions versus community hospitals on the acute care side.

Dr. Spetz indicated that geography would play a factor and that the number would most likely be something resembling 3 on the academic medical institution side versus 7 on the community hospital acute care side. She also indicated that the number of directors was not set at 10 but could vary depending on the recommendation of the advisory board.

President Roth then inquired if there was room in the study for other types of stakeholders that are involved in the field of respiratory care, specifically COARC, NBRC, AARC or the CSRC. Would they be included in any of the focus groups?

Dr. Spetz indicated that the groups would consist of actual RCPs and not necessarily representatives of an organized group. She would not mix the two. She indicated that the organized groups would be useful as an advisory board and certainly people that they would want to communicate with throughout the study.

Dr. Lewis requested clarification about the term “prescriptive authority” used during the presentation when describing the curricular needs and implications that might allow RCPs to exercise prescriptive authority.

Dr. Spetz explained this as “prescriptive authority” under protocol which can be defined in different ways. One option would be independent prescribing authority which can open up the scope of practice and can be complex. She added, another however, would be minor changes to the code and the way practice functions may permit a broader scope within the current legal authority.

Dr. Lewis warned about possible issues and cautioned that care needs to be taken when opening up the Scope of Practice.

Dr. Lewis emphasized the importance of communicating the progress of the study during the process and inquired as to how the deliverables would be reported to the Board and staff during the 18 month study.

Dr. Spetz responded that a report would be delivered to the Board at the conclusion of each step through the stages. In this case, this should come out to be about 1 or 2 reports every 4 or 5 months.

Ms. McKeever inquired how many people would be included in the RCP focus groups and requested they include both dayshift and night shift therapists as their views can sometimes be different.

Dr. Spetz stated groups around 8 – 12 individuals allow for the best discussions and ideally, focus groups participants would be staggered to include various shifts from various communities.

Dr. Romero inquired how the interviews and focus groups would be conducted.

Dr. Spetz responded most of the interviews would be over the phone but they would take advantage of any opportunities to conduct face to face interviews whenever possible. The focus groups, however, would take place in person and would not be as effective over the telephone.

Mr. Goldstein stated there was no mention of home care delivery in this proposal and emphasized the need to include it in the study.

Public Comment: Mr. Monasky inquired if the Board had received the remarks he sent prior to the meeting. He mentioned the cost of private colleges versus the community college system, the lack of budget funding for community colleges and the employment rates for graduating RCPs . He covered the need for emphasis on public health, home health care, and the roles of RCPs in the future of Respiratory Care. Concerning the workforce study, Mr. Monasky voiced a preference for regional public meetings versus focus groups stating it would be, in his opinion, more inclusive.

FISCAL REVIEW

(Nunez)

Ms. Nunez stated the Board is in a stable fiscal condition with revenues close to expenditures each year. The Board is budgeted for 3.4 million but projects to spend around 2.9 million and can, therefore, absorb the cost of the proposed workforce study should the Board choose to move forward with it.

CONSIDERATION FOR APPROVAL OF RCP WORKFORCE STUDY

(Goldstein)

Mr. Goldstein moved to approve the RCP Workforce proposal with the modification that it include alternate care delivery systems within its scope.

Ms. Franzoia inquired whether other proposals were received.

Ms. Nunez responded yes, however, none were comparable. She added, because this would be considered an inter-agency agreement, multiple bids are not a requirement. Ms. Nunez did offer to obtain additional proposals, if requested.

Discussion ensued.

Public Comment:

Robbie Nijar requested the Board ensure there is no conflict of interest as the center represents nursing, physician assistants, and nurse practitioners as well.

Michael Monasky voiced concerns about the final report being intended only for internal review and not shared with the public. However, Ms. Dobbs indicated the Board would have the option to share the finding of the study as it chooses.

M/Lewis /S/McKeever

Unanimous: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner
MOTION PASSED

VOTE TO ADOPT/NON ADOPT FINAL REGULATORY PACKAGE INCLUDING NEW AND AMENDED SECTIONS OF THE CALIFORNIA CODE OF REGULATIONS CONCERNING CONTINUING EDUCATION, MILITARY AND O-O-S PRACTITIONER EXEMPTIONS, SPONSORED FREE HEALTH CARE EVENTS, AND FEE SCHEDULE

(Nunez)

Ms. Nunez reviewed the Order of Adoption for the final language of the regulatory package which was previously presented to Board at the April 4, 2014 meeting. Ms. Nunez stated a public hearing was held August 15, 2014, with no public attending. She added there were no public inquiries or comments received, and that one section was deleted after it was determined to be duplicative and unnecessary.

Dr. Lewis moved to adopt the final regulatory package as presented, and allow the Executive Officer to make any non-substantive changes as needed.

M/Lewis /S/Roth

Unanimous: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner
MOTION PASSED

RCB RESOLUTION APPROVAL: DELEGATION TO DEPARTMENT OF CONSUMER AFFAIRS FOR THE REVIEW AND REGISTRATION OF SPONSORING ENTITIES

(Nunez)

Ms. Nunez explained the Resolution before the Board is the formal process to delegate to the Department the authority to receive registration forms and register sponsoring entities, for sponsored health care events that utilize the services of respiratory care practitioners. Currently, the entity desiring to sponsor a health care event must register with the Board, as well as the licensee.

Ms. McKeever moved to approve the Resolution.

M/McKeever /S/Lewis

Unanimous: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner
MOTION PASSED

PULMONARY FUNCTION TESTING: REQUEST FOR ATTORNEY GENERAL LEGAL OPINION-STATUS/ACTION

(Nunez)

Ms. Nunez stated there were no updates. The AG's office is still working on the legal opinion which is currently in the review process.

LEGISLATIVE ACTION

2014 Legislation of Interest

(Molina)

Ms. Molina reviewed and provided updates regarding the 2014 Legislation of Interest:

- AB 186: Professions and Vocations: Military Spouses: Temporary Licenses
Status: Approved by the Governor (9/27/14)
- AB 259: Health and Care Facilities: CPR

- AB 809: Status: Bill has died
Healing Arts: Telehealth
Status: Approved by the Governor (9/18/14).
- AB 1827: State Bodies: Administrative and Civil Penalties
Status: Bill has died
- AB 1972: Respiratory Care Practitioners
Status: Approved by the Governor (7/23/14)
Board's Position: Support
- AB 2102: Licensees: Data Collection
Status: Approved by the Governor
- AB 2484: Healing arts: Telehealth
Status: Bill has died
- AB 2720: State Agencies: Meetings: Record of Action Taken
Status: Approved by Governor (9/21/14)
- AB 2396: Convictions: expungement: licenses
Status: Approved by Governor (9/28/14)
Board's Position: Oppose
- SB 850: Public postsecondary education: community college districts: baccalaureate degree pilot program
Status: Approved by the Governor (9/28/14)
Board's Position: Support

Ms. Molina commented that Skyline College is seeking participation in the baccalaureate degree pilot program. President Roth added Modesto Community College's President will be submitting an application to the chancellor's office for its respiratory program, as well.

Ms. Nunez stated Fresno City College has also mentioned interest in the pilot program.

Dr. Lewis inquired about the Board's approach on taking positions related to, or in support of other boards and their positions. He added he would have chosen to support Assembly Bill 809 (the Telehealth bill) even though it doesn't directly affect respiratory care.

2015 Board Legislative Proposals for Approval (Nunez)

Ms. Nunez reviewed the following legislative proposals for 2015:

#1 – Interim Suspension Order: The goals of this legislation are to provide a means to swiftly secure an Interim Suspension Order for licensed RCPs who are arrested or convicted for malicious and egregious crimes and provide authority for the Board to inform employers and the public of such an arrest.

Mr. Hardeman moved to move forward with this proposal. President Roth seconded the motion.

Public comment: Robby Nijar, Governor Affairs Chair for CSRC, stated the CSRC fully endorses and is in favor of Proposal #1 and feels it is within the appropriate scope and range of powers for the Respiratory Care Board.

M/Hardeman /S/Roth

In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner
Unanimous

MOTION PASSED

#2 – Probation Stipulations: This proposal would grant the Board the authority to directly issue “conditional probationary licenses” to applicants and aims to achieve significant cost savings and reduction in disciplinary processing times.

Mr. Wagner moved to move forward with this proposal. Ms. McKeever seconded the motion.

Public comment: Robby Nijar, CSRC, stated the CSRC endorses Legislative Proposal #2

M/Wagner /S/McKeever

In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner

Unanimous

MOTION PASSED

#3 – Sex Crimes/Unprofessional Conduct: This proposal would add all crimes identified in the Sex Offender Registration Act to section 3752.7 which requires an ALJ who makes a finding of fact that a respondent has committed one or more of those acts, to issue a decision that includes an order for revocation. This proposal would also amend section 3755 to include as unprofessional conduct any verbally or physically abusive behavior, sexual harassment, abusive infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or any other conduct which is inimical to health, morals, welfare, or safety of a person while in the health care setting.

Dr. Lewis moved to approve this proposal. Ms. McKeever seconded the motion.

Public comment: Robby Nijar, CSRC, stated the CSRC endorses Legislative Proposal #3 because it focuses primarily on safety.

M/Lewis /S/McKeever

In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner

Unanimous

MOTION PASSED

#4 – Endangering Vulnerable Population/Continuing Jurisdiction: This proposal will make the commission of an act of abuse or neglect against a child, dependent adult, or the elderly, by an RCP grounds for discipline. This proposal will also ensure the Board continues to maintain jurisdiction in all disciplinary matters that are finalized after a license has cancelled.

Dr. Lewis moved to move forward with this proposal. Mr. Goldstein seconded the motion.

Public comment: Robby Nijar, CSRC, stated the CSRC endorses Legislative Proposal #4

M/Lewis /S/Goldstein

In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner

Unanimous

MOTION PASSED

#5 – Scope of Practice: This proposal clarifies areas of the respiratory scope of practice that were not initially drafted to accommodate advancements in technology and changes in patient care for future interpretation. Those areas are: conscious/deep sedation, extracorporeal life support, cardiovascular system, respiratory care education, and overlapping functions.

Dr. Lewis questioned whether the Board should get more detailed information before moving forward with this proposal. Ms. Dobbs indicated that should the proposal become part of a bill, any interested parties would have the opportunity to express their support or opposition as part of the legislative process.

Ms. Franzoia inquired if this was clarification for language already in place.

Ms. Nunez responded this is clarification for the Scope of Practice as provided in Business and Professions Code section 3702.

Mr. Goldstein stated this clarifies key issues that have arisen over time and allow those who are already performing these tasks to continue.

President Roth added RCPs work under the direction of a medical director, and relative to these tasks would be under the guidance and direct supervision of a licensed physician.

Further discussion ensued.

Mr. Wagner moved to move forward with this proposal. Ms. McKeever seconded the motion.

Public comment:

Robby Nijar, CSRC, stated the CSRC endorses and would like to co-sponsor Legislative Proposal #5.

Mr. Bruce, a licensed RCP stated consideration needs to be taken into how this would be managed in clinical practice.

Discussion ensued.

M/Wagner /S/McKeever

In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner

Unanimous

MOTION PASSED

ENFORCEMENT STATISTICS

Ms. Nunez reviewed Enforcement Statistics data through June 30, 2014 highlighting the increase in collections retrieved by the collection agency.

Ms. Early suggested the data be represented as a percentage of the total number of active licensed RCPs.

ELECTION OF OFFICERS FOR 2015

a. Vice President

President Roth opened the floor for Nominations for Respiratory Care Board Vice President.

A movement to nominate Ms. McKeever was made by Mr. Wagner, seconded by Mr. Hardeman. Ms. Early requested that Ms. McKeever's nomination for Vice President be moved by acclamation.

M/Wagner /S/Hardeman

In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner

Unanimous

MOTION PASSED

b. President

Vice President Elect McKeever opened the floor for Nominations for Respiratory Care Board President.

A movement was made by Ms. McKeever, and Ms. Early seconded the motion for Mr. Roth's nomination for President and asked that it be moved by acclamation.

M/McKeever /S/Early

In favor: Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Roth, Romero, Wagner

Unanimous

MOTION PASSED

2015 MEETING DATES: CALENDAR

The following Public Meetings were scheduled for 2015:

February 6, 2015 (tentative) in Sacramento

May 15, 2015 in Loma Linda

November 6, 2015 in Southern California

CLOSED SESSION

The Board convened into Closed Session, as authorized by Government Code Section 11126c, subdivision (3) at 12:30 p.m. and reconvened into Public Session at 1:15 p.m.

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

No public comment was provided at this time.

FUTURE AGENDA ITEMS

No future items were identified.

ADJOURNMENT

The Public Session Meeting was adjourned by President Roth at 2:15 p.m.

ALAN ROTH, MS, MBA, RRT-NPS, FAARC
President

STEPHANIE A. NUNEZ
Executive Officer