



## **PUBLIC SESSION MINUTES**

**June 24, 2016**

### **TELEPHONE CONFERENCE LOCATIONS**

**Respiratory Care Board  
3750 Rosin Court, Suite 100, Sacramento, CA 95834**

**South San Francisco Main Library  
840 West Orange Avenue, South San Francisco, CA 94082**

**District Office of Assemblyman Chad Mayes  
41608 Indian Trail, Suite 1, Rancho Mirage, CA 92270**

**Ohlone College, Health Science & Env. Studies Dept.  
39399 Cherry Street, Room NC 2200, Newark, CA 94560**

**Evanston Public Library  
1703 Orrington Avenue, Evanston, IL 60201**

Members Present: Thomas Wagner, BS, RRT, FAARC, Vice President (**Newark**)  
Mary Ellen Early (**Evanston, IL**)  
Rebecca Franzoia (**Sacramento**)  
Mark Goldstein, MBA, RRT (**Sacramento**)  
Michael Hardeman (**San Francisco**)  
Ronald Lewis, M.D. (**Rancho Mirage**)  
Judy McKeever, RCP, RRT (**San Francisco**)

Staff Present: Kelsey Pruden, Legal Counsel (**Sacramento**)  
Jason Hurtado, Legal Counsel (**Sacramento**)  
Stephanie Nunez, Executive Officer (**Sacramento**)  
Christine Molina, Staff Services Manager (**Sacramento**)

### **CALL TO ORDER**

The Public Session was called to order at 10:00 a.m. by Vice President Wagner. Roll call was taken and a quorum was established. Mark Goldstein arrived at 10:22 a.m.

### **PUBLIC COMMENT**

Vice President Wagner 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.

**2. APPROVAL OF MARCH 11, 2016 MINUTES**  
*(this item was tabled and discussed after Item 4, and the arrival of Mark Goldstein, to ensure a quorum of voting members were present)*

Dr. Lewis motioned to approve the March 11, 2016 Public Session minutes as written. Mr. Hardeman seconded the motion.

**Request for Public Comment:**

No public comment

M/Lewis /S/Hardeman

Roll call vote. **Ayes:** Wagner, Early, Goldstein, Hardeman, Lewis

**Abstain:** Franzoia, McKeever

MOTION PASSED

**3. STATUS UPDATES**

*(Nunez)*

**a. Legislation AB 923 and SB 1334:**

Ms. Nunez gave a legislative update. She indicated AB 923 is currently in the Senate, and that due to recent amendments it would be going back to the Assembly Floor. She added that the bill is expected to be on consent with the Senate. She explained that SB 1334, which the Executive Committee elected to support after the last Board meeting, was amended and has since died. This bill dealt with human trafficking and expanded the requirements for a health practitioner to make a report to a law enforcement agency.

**b. Little Hoover Commission Review**

Ms. Nunez stated the Little Hoover Commission is reviewing occupational licensing. While the Little Hoover Commission is not trying to deregulate any of the professions, it is interested in getting barriers removed to create more opportunities and diversity. She added the Department would notify the Board should any concerns arise, so the Board may not need to continue to follow this item at future meetings.

**Request for Public Comment:**

No public comment.

#### **4. WORKFORCE STUDY: UPDATE AND REQUEST FOR EXTENSION**

*(Vice President Wagner)*

Vice President Wagner explained that UCSF is currently collating results for the Respiratory Care Workforce Study and is also in the process of doing personal interviews with Program Directors. UCSF has requested that the contract timeline be extended from August 31 to December 31, 2016.

Dr. Lewis motioned to extend the deadline of the Workforce Study contract to December 31, 2016. Ms. McKeever seconded the motion.

##### **Public Comment:**

Michael Monasky RCP, who also sent electronic comments to the Board concerning the extension of the UCSF Workforce Study, stated two additional provisions should be added to the workforce study before an extension should be granted. He stated there are significant and substantial differences between private for profit schools of respiratory care and public community colleges. Mr. Monasky believes the scope of the workforce study does not address these differences. He recommended that before the Board extends the contract, the board require the study provide breakout numbers comparing private schools to community colleges. Because sub-acute, home health and public health sectors appear to be growth areas for the profession of respiratory care, he further recommends the Board consider the application of this professional workforce study to cure an underserved, sub-acute, home health and public health environment and that these work sector elements be included in the workforce study as a condition of extending the contract.

Dr. Lewis amended the motion to include delegating the Executive Committee to research whether to include the recommendations from the public comment into the contract extension.

M/Lewis /S/McKeever

Roll call vote. **Ayes:** Wagner, Early, Franzoia, Hardeman, Lewis, McKeever

MOTION PASSED

#### **5. CONSIDERATION TO SUPPORT “POSITION STATEMENT PERTAINING TO CONCURRENT THERAPY” BY THE CALIFORNIA SOCIETY FOR RESPIRATORY CARE**

Vice President Wagner motioned that the Board recognize and support the California Society for Respiratory Care’s (CSRC) white paper entitled “Position Statement Pertaining to Concurrent Therapy” for the purpose of educating the public, the licensees and facilities that such practice is unsafe and potentially harmful to the public. Ms. McKeever seconded the motion.

##### **Public Comment:**

Ray Hernandez stated he spoke with the CSRC President Michael Madison who wanted him to reiterate the importance of this position paper and seek official support from the Respiratory Care Board. The CSRC is also seeking support from other organizations to help move this forward and support safe practice.

Michael Monasky read a statement agreeing with the CSRC’s position paper, stating concurrent treatment for unstable patients should never be stacked with treatments for other unstable patients and all patients requiring respiratory care are by definition unstable. Mr. Monasky further stated that unfortunately, concurrent treatment is common practice. He therefore believes it is incumbent upon this Board to exercise leadership and impose real and significant penalties for use of this practice.

Ms. McKeever stated she feels concurrent therapy is wrong and borders on illegal, as therapy is not just giving medication. She added that providing therapy involves one-on-one time with the patient and that a therapist cannot possibly do that if he/she is providing treatments to 3 or 4 patients at the same time. She added that hospitals are not hiring enough people and expecting staff to do as much as they can, as quickly as they can.

Dr. Lewis inquired if the RCB already has a position paper on this topic or would the Board consider developing its own position paper.

Ms. Nunez replied the Board does not. However, she indicated the Board published an article in its newsletter a few years ago pointing out the Medicare fraud issue.

Dr. Lewis stated he feels that guidelines and policies should come from within. The Board should welcome opinions from outside organizations, but should release a position statement of its own.

Ms. Pruden, Legal Counsel, stated this would be outside the Board's purview. The Legislature sets what the Board has authority to do. In this Board's Act, the standard of care is not set by the Board. The Board would have to prove that concurrent therapy is negligent and outside the standard of care through expert testimony in order to discipline for concurrent therapy. The Board does have the authority to educate for public protection.

Discussion ensued.

M/Wagner /S/McKeever

Roll call vote. **Ayes:** Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Wagner

MOTION PASSED

## **6. CONSIDERATION OF CALIFORNIA SOCIETY FOR RESPIRATORY CARE'S (CSRC's) REQUEST TO UPDATE THE LAW AND PROFESSIONAL ETHICS CONTINUING EDUCATION COURSE**

Vice president Wagner reviewed the proposed changes to the CSRC's Law and Professional Ethics course for RCPs. The changes included adding the "AARC 2015 and Beyond task force recommendations, CoARC regulations and minimum education requirements" to the "Introduction to Ethics of Professionalism" section as well as adding "Minimal Credential" and "Licensure requirements and CEU requirement" to Section IV covering Laws and Regulations Governing Respiratory Care, Respiratory Care Act.

Mr. Goldstein motioned to accept the proposed changes, with the course content being placed on the next meeting agenda for review and approval by the Board. Hardeman seconded the motion

### **Public Comment:**

Ray Hernandez, chair of the CSRC's Professional Advancement Committee, stated they wanted to get the content area presented to the Board for consideration. He added things have been changing in the profession in a positive manner from a professional and respiratory care aspect. The CSRC wants this course to always be relevant for respiratory care practitioners.

Ms. Nunez asked Mr. Hernandez about the process to get the actual course content to be reviewed and approved by the Board.

Mr. Hernandez suggested draft content could be developed to be given to the Board for consideration prior to the October 7 Board meeting with a possible launch in January, 2017.

M/Goldstein /S/McKeever  
Roll call vote. **Ayes:** Early, Franzoia, Goldstein, Hardeman, Lewis, McKeever, Wagner  
MOTION PASSED

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**CLOSED SESSION**

The Board convened into Closed Session, as authorized by Government Code Section 11126c, subdivision (3) at 10:52 a.m. and reconvened into Public Session at 11:49 p.m.

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**7. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

No public comment was provided at this time.

**8. FUTURE AGENDA ITEMS**

Mr. Wagner stated the next Board meeting will be October 7, 2016 in Sacramento. No additional future items were identified.

**ADJOURNMENT**

The Public Session Meeting was adjourned by Vice President Wagner at 11:51 p.m.

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THOMAS WAGNER  
Vice President

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STEPHANIE A. NUNEZ  
Executive Officer