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5 **PUBLIC SESSION MINUTES**

6
7 **Friday, October 23, 2020**
8 **PUBLIC TELECONFERENCE MEETING**
9

10
11 **Members Present:** Mary Ellen Early
12 Rebecca Franzoia
13 Mark Goldstein
14 Ricardo Guzman
15 Michael Hardeman
16 Raymond Hernandez
17 Sam Kbushyan
18 Ronald Lewis
19

20 **Staff Present:** Fred Chan-You, Legal Counsel
21 Stephanie Nunez, Executive Officer
22 Christine Molina, Staff Services Manager
23

24
25 **CALL TO ORDER**

26
27 The Public Session was called to order at 9:00 a.m. by President Guzman.
28

29 Ms. Molina called roll (present: Early, Franzoia, Goldstein, Guzman, Hardeman. Hernandez,
30 Kbushyan, Lewis), and a quorum was established.
31

32
33 **1. PRESIDENT’S OPENING REMARKS**

34
35 President Guzman stated the Board encourages public comment as the issues being discussed
36 directly affect the profession and the RCP’s in attendance. He explained that public comment would
37 be allowed on agenda items, as those items are discussed by the Board during the meeting. He
38 added that under the Bagley-Keene Open Meeting Act, the Board may not take action on items raised
39 by public comment that are not on the Agenda, other than to decide whether to schedule that item for
40 a future meeting.
41

42 President Guzman stated Sherleen Bose has resigned from the Board, moving to the East Coast to
43 explore future opportunities. He added the Board wishes her much success in her future endeavors.

1 President Guzman recognized all licensed Respiratory Care Practitioners who have been working in
2 hospitals during this pandemic. He added, the work they have been doing is heroic and the Board is
3 grateful and recognizes all their efforts.
4

5 Request for public comment: No public comment was received.
6
7

8 **2. APPROVAL OF NOVEMBER 1, 2019 MEETING MINUTES** 9

10 Dr. Lewis moved to approve the November 1, 2019 Public Session Minutes as written. The motion
11 was seconded by Mr. Kbushyan.
12

13 Member Comments: Ms. Early inquired if Dr. Lewis was present at the last meeting.
14

15 Dr. Lewis replied, no, but according to the Roberts rules of order, if you are not present, you can take
16 advisement from those who have been at the meeting which permits you to vote on the approval of
17 the meeting minutes.
18

19 Mr. Chan-You, Legal Counsel, agreed any members who were not present at the last meeting may
20 rely on those who were present.
21

22 Request for public comment: No public comment was received.
23

24 M/Lewis /S/Kbushyan

25 In favor: Early, Franzoia, Goldstein, Guzman, Hardeman, Kbushyan, Lewis

26 Abstain: Hernandez

27 MOTION PASSED
28
29

30 **3. EXECUTIVE OFFICER'S REPORT** 31

32 Ms. Nunez gave the Executive Officer's report as follows:
33

34 **3a. COVID Impact** 35

36 Ms. Nunez explained that the biggest hurdles were at the beginning of the State of Emergency in
37 March. One was being responsive to the numerous inquiries received and the other was setting up a
38 new dynamic for staff to work from home which began on or about March 12th. The Board began to
39 receive a flood of inquiries on March 8th. As soon as the State of Emergency was declared, the office
40 immediately began working with Legal Counsel to determine the Board's authority to allow various
41 "waivers" and allow students, retirees, and out-of-state licensees to fill gaps that were anticipated. At
42 the same time, the Administration wanted to have a unified response, so this did delay the Board's
43 response by about 10 days. Ultimately it did result in a cohesive and uniformed response. Even
44 while working from home, staff were all hands-on deck and information was disseminated to the public
45 via email and posted on the website within minutes of approval. Many thanks to Christine, Katie (staff
46 member) and Fred (Legal Counsel) for being available all hours of the day.
47

48 Ms. Nunez also acknowledge Jason Piccione, Chief of DCA's IT Division and Kim Kirchmeyer, DCA's
49 Director, stating the Board is incredibly lucky to have them. Jason immediately got all staff online with
50 the ability to access DCA's network from home. Given that he had to do this for the entire
51 Department, it was quite a feat and accomplishment. Ms. Kirchmeyer has demonstrated true
52 leadership throughout this process, being transparent and keeping our office well informed, with her
53 priority always being consumer safety.

1
2 Currently, there are two staff members that report to the Board office daily and they are answering
3 telephones and processing our mail. They are office heroes during this time maintaining continued
4 public service! Other staff have scattered schedules and report to the Board office 1-2 days a week
5 and they too have been amazing!

6
7 Ms. Nunez reviewed some of the requirements that have been waived or postponed:

8
9 CE Requirements: License holders with expiration dates from March 31, 2020 through December 31,
10 2020 will have the CE requirement postponed. All required CE must be completed by April 22, 2021.

11
12 Inactive Licensees: Inactive licensees were allowed to place their license in active status with a
13 written request and were given until September 30, to complete the required CE.

14
15 Delinquent Licenses: Persons holding a delinquent license were permitted to renew their license
16 without being subject to the delinquent fee. This was in place through June 30, 2020.

17
18 Retired Licenses: Persons holding a retired license for less than 5 years and who have no discipline
19 are permitted to apply through a newly developed and temporary Reinstatement Application Form
20 which if approved is valid through January 1, 2021. All fees and requirements are waived.

21
22 Cancelled Licenses: Persons who allowed their license to cancel and expired within the last 5 years,
23 who were free from discipline are also allowed to apply through the temporary Reinstatement
24 Application Form and if approved the license is valid through January 1, 2021.

25
26 Students: Business and Professions Code section 3741 provides that students enrolled in an
27 approved respiratory care training program may render respiratory care services when they are
28 incidental to his or her course of study. However, any such student partaking in activities covered by
29 Business Professions Code section 3741 must identify himself or herself as a student respiratory care
30 practitioner. The Board's law does not prohibit students from receiving financial compensation. The
31 approved accrediting agency normally prohibits financial compensation, but temporarily lifted this
32 standard during the COVID pandemic.

33
34 Out-of-State Practitioners: Respiratory therapists licensed in a state other than California, may apply
35 for temporary authorization to practice in California through the Emergency Medical Services
36 Authority- a California state agency. The department has coordinated lists of approved providers and
37 communicates these names to us in the event we receive any other inquiries or communications. As
38 of September 10th, there were 181 approved. However, it is surmised that less than 50 of these
39 individuals were actually placed at a facility. Many were placed at overflow facilities and temporary
40 staffing, while many others had no placement determined.

41
42 Ms. Nunez added, in looking for the silver lining of COVID 19, respiratory therapists did gain
43 recognition and were interviewed or cited by numerous journalists including on CNN, Fox News, and
44 were even mentioned by the President of the United States. Respiratory therapists are the people
45 who are saving the lives of those that are on the cusp of life and death. Those suffering from the
46 worst COVID complications are in the best hands when in the hands of a respiratory therapist. So it is
47 very comforting to see a profession that is so vital to our health care patients, get some much
48 deserved attention.

49 50 **3b. Sunset Report/Review**

51
52 As a result of COVID, The Senate Business, Professions, and Economic Development Committee
53 and the Assembly Business and Professions Committee have postponed sunset review oversight for

1 a number of programs that would have otherwise been scheduled for review in 2020-2021. SB 1474
2 extended operations for several boards including the Respiratory Care Board for one year, until
3 January 1, 2023. Therefore, our Sunset Review Report that was due this December, will now be due
4 next December in 2021 with hearings to be held in Spring 2022.

5
6 **3c: Americans with Disabilities Act (ADA) Web Accessibility**

7
8 AB 434 (statutes of 2017) requires all state agency documents posted in electronic form to be in
9 compliance with established accessibility standards. In simple terms, at least for the RCB, this means
10 that every document it has accessible on its website must have language that is recognized digitally
11 so that text may be read aloud for those who have vision disabilities. Board staff identified 2,380
12 documents that consisted of approximately 20,000 pages that needed to be modified and it came with
13 an estimated additional cost of \$100,000. The Department of Consumer Affairs requested completion
14 by December 31, 2020. Another silver lining resulting from COVID is that the Board was able to
15 dedicate two staff to this project and expects to meet the December 31, 2020 deadline without
16 incurring the additional \$100,000 price tag.

17
18 **3d: New BreEZe Feature: Electronic Transaction Attachment**

19
20 At President Guzman's direction, staff created a new BreEZe transaction that allows licensees to
21 attach their CE records to their online BreEZe license record throughout their renewal cycle or even in
22 response to a CE audit. Even more beneficial, it was determined this same functionality can be used
23 for applicants who have already applied and licensees with open enforcement cases, meaning they
24 will be able to upload other relevant documents to their record saving time and resources. This feature
25 went live on August 12, 2020.

26
27 **3e: LinkedIn Presence**

28
29 Ms. Nunez announced that the Board now has a presence on LinkedIn and asked that the public
30 please look for and connect with the Respiratory Care Board of California.

31
32 **3f: Year-End Newsletter**

33
34 Also, at President Guzman's direction, the Board is moving forward with reestablishing electronic
35 distribution of our newsletter, "Breathing Matters," on an annual end-of-year basis. This will afford the
36 Board an opportunity to provide interested parties with updates regarding the Board's activities for the
37 year. Information on future plans and new features will also be included, such as the electronic
38 transaction attachment referenced above. Staff is also currently working with the DCA's Office of
39 Publications, Design and Editing to create a fresh look for the relaunch. We hope to have this
40 published on line before the Holiday Season. Ms. Nunez added, many thanks to Christine for
41 overseeing this project.

42
43 Dr. Lewis inquired if Ms. Nunez planned to talk about the financial impact of the legislative roll out
44 concerning accessibility standards in her fiscal report.

45
46 Ms. Nunez replied that the \$100,000 dollars it was projected to cost ended up not costing anything
47 additional as RCB staff are doing the work to make the documents accessible. A couple of staff
48 members were able to supplement their work from home with this project.

49
50 Dr. Lewis inquired how far back staff is going with the documents. Ms. Nunez responded, back to
51 2008. Dr. Lewis praised the staff for stellar work as it is very difficult to convert all those documents.
52 Ms. Nunez stated she appreciated the compliment and added staff has been working very hard.

1 Mr. Hernandez thanked Ms. Nunez for the Executive Officer's report. He acknowledged that since the
2 COVID and shelter in place order, the Board and the office have done a very good job meeting the
3 needs and moving things forward. He inquired if the office has initiated conversation about the long
4 term upcoming anticipated surge.
5

6 Ms. Nunez replied, as has been done previously, the Governor is made aware of any surges that are
7 coming, adding some of the waivers that are already in place will most likely be extended.
8

9 President Guzman thanked Ms. Nunez and staff for the tremendous work that has been done.
10 Without a handbook of how to respond, staff stepped up and did amazing work and continue to do so.
11 The Board is extremely grateful.
12

13 Ms. Molina stated, while Ms. Nunez is always quick to acknowledge her staff's efforts, she, herself,
14 was also available 24-7. Having that leadership at the top and guiding staff through this was
15 instrumental in keeping workloads flowing and consumer protection the priority.
16

17 Request for Public Comment:
18

19 Carrie Holmes, Deputy Director for Board and Bureau Relations at the Department of Consumer
20 Affairs, thanked the Board for allowing her to introduce herself. Ms. Holmes stated she was appointed
21 by Governor Newsom in June, 2020. She is part of a new Executive Team with Kimberly Kirchmeyer
22 serving as DCA's Director, Jennifer Simoes as Deputy Director of Legislation, Megan Allred as
23 Assistant Deputy Director of Legislation and Christine Lally as the Chief Deputy Director of DCA. This
24 entire team is devoted to the protection of California's consumers and she is proud to be working with
25 them and the Board. Ms. Holmes stated that COVID 19 has altered the way the DCA does business
26 now and in the future. All DCA offices closed temporarily in March in response to the local stay at
27 home orders to stop the spread of COVID 19. Offices reopened in June with precautions in place to
28 protect staff and the public. She thanked the Board for their continued service and staff that is doing
29 such amazing work. The Board's input and guidance is especially essential right now. She ended
30 stating if the Board has any questions or needs any help, please don't hesitate to reach out to her.
31 Board and Bureau Relations is here to help.
32

33 **4. FISCAL REPORT** 34 35

36 Ms. Molina reviewed the Board's revenues and expenditures with actual figures from FY
37 2018/19, projected amounts for FY 2019/20 that are based on "actuals" reported through month 12 (or
38 June 2020) and projected amounts for FY 2020/21. As previously reported, DCA, along with other
39 state agencies, changed accounting platforms in July 2017. With the new platform "Fi\$Cal," account
40 reconciliation must be completed prior to final FY 2019/20 reports being available. For that reason,
41 they must be reported as projected.
42

43 Ms. Molina highlighted the following items from the Fiscal Report:
44

- 45 • As of July 1, 2020, all steps in renewal fee increases were completed. Projections indicate
46 the Board is currently solvent and will meet the preferred six month reserve by FY 2022/23.
47 She added, this shows the Board is seeing the benefits of the renewal increase steps
48 implemented over the last few years.
49
- 50 • As reflected, a significant portion of the Board's budget is expended on Attorney General
51 services. The previous hourly rates, which had been in place since July 1, 2009, increased in
52 September 2019 increasing the hourly rate for attorney services from \$170 to \$220, and the
53 paralegal services from \$120 to \$205. At the time of the increase, the Board opted to not

1 increase its AG budget line item (as noticed in the past when doing this, full budget amounts
2 are often taken), and instead staff have monitored costs closely. The Board's total budgeted
3 amount for FY 19/20 was \$462,214 (July 2019-June 2020). The Board still came under
4 budget with actual expenses expected to be \$427,251. Staff will continue to closely monitor
5 AG costs.
6

7 • Some salary savings are expected:

- 8
- 9 ○ Kathy Klumpe, one of the Board's three investigators, is retiring effective March 1,
10 2021. At this point, the Board hopes to not fill her position in a permanent capacity,
11 but rather bring her back as a retired annuitant, with considerable savings for the
12 Board.
 - 13 ○ Estimated Salary Savings through reduced staff salaries over the next few fiscal
14 years. The latest bargaining agreement called for a 9.23% salary reduction and
15 elimination of the 2.5% raise increase that was scheduled to take effect July 1, 2020,
16 with the State instead, giving staff two additional leave days per month.
 - 17 ○ ProRata (which includes DCA and Statewide) accounts for roughly 25% of the RCB'
18 budget expenses. The Board expects a slight decrease to prorata also due to salary
19 savings associated with the bargaining agreement and the 9.23% reduction.
20
21
22

23 Dr. Lewis stated if Board Members could visually see how AG expenses have increased and in what
24 categories, they would be amazed. He inquired how is the Board is monitoring AG costs?
25

26 Ms. Molina replied, staff monitors very closely the budget detail from the monthly reports, line by line,
27 down to the quarter hour of what is being billed. If anything stands out that appears to be more
28 expensive than another similar types of cases, staff will ask for input from the Supervising Deputy
29 Attorney General. If there is a case that has been overcharged, the Board asks for credit and has
30 been successful in many cases getting a credit back. Ms. Molina added they also look at the
31 complexity of the cases such as whether or not it's something practice related that involved an expert
32 witness.
33

34 Dr. Lewis inquired if the Board has thought about being less reliant on the AG and doing things within
35 the Board that can close these cases and not have to send them for further investigation.
36

37 Ms. Molina responded there are limitations because the Board is legally required to utilize the AG's
38 office for legal proceedings. Several years ago, the Board sought a budget change proposal looking
39 to perform some of the legal work in house but was told it not have legal authority. She added that
40 existing staff is phenomenal and are very detailed in the transmittals that go over to the AG's office.
41 She further stated Board staff would be open to expand what can be done internally if there were ever
42 an opportunity.
43

44 Ms. Nunez added the Board has taken a second look at this because of the cost increases, re-
45 evaluating some of the enforcement cases that may be on the fence and whether consumer safety is
46 an issue.
47

48 Request for member comment: No member comment was received.

49 Request for public comment: No public comment was received.
50
51
52

1 **5. LICENSING AND ENFORCEMENT ACTIVITY ANNUAL REPORT**

2
3 Ms. Nunez reviewed the Board’s 2019-20 Annual Report statistics highlighting its licensing and
4 enforcement activities. She pointed out that the Board took an average of 401 days to complete the
5 enforcement cases from the date of complaint to the date discipline was imposed which is well under
6 the target of 540 days.

7
8 Staff has also been tracking monthly license counts for several years. Ms. Nunez noted there has
9 been an increase in the number of licensees even with the expected elevated retired licenses as
10 projected in the Board’s Workforce Study. The Board is monitoring these counts because it could
11 have an impact on revenue, budgets and the workforce.

12
13 Ms. Nunez continued reviewing more figures from Annual Report slides: current fees, number of
14 applications received, number of licenses eligible to renew (23,588), the exam passage rate and the
15 number of enforcement cases. The amount of cost recovery versus what has been ordered is a
16 relatively high ratio. She further reviewed: the average number of days from the start of an
17 investigation to closure (69) and the average number of days to close an informal investigation (241).

18
19 Dr. Lewis stated several years ago, the Board looked at disciplinary cases, categorized them and
20 published them. Do the RT programs reinforce these issues?

21
22 Ms. Nunez responded she believes they do, based on the dramatic decline in the number of
23 applicants with discipline. She added, maybe some of the educators can better speak to that, but very
24 few applicants are actually denied a license (maybe 1 to 5 per year)

25
26 President Guzman agreed with Ms. Nunez stating he is a Program Director and his program
27 emphasizes to the students in the beginning to be mindful of any issues they have in their past before
28 they embark on a two year program.

29
30 Request for public comment: No public comment was received.

31
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33 **6. LEGISLATION AND REGULATION**

34
35 **6a LEGISLATION**

36
37 Ms. Molina stated, due to COVID-19, Board staff were advised early in the legislative cycle and
38 leadership in the Assembly and Senate requested that members voluntarily reduce their legislative
39 package to allow only the most critical and pressing bills to move forward. A significant number of
40 bills were dropped by members and many policy committees took a pro-active role in limiting what
41 was set for hearing. Accordingly, as reflected on the Legislative Report, only 4 of the many bills the
42 Board monitored this year were signed by the Governor. Ms. Molina provided an overview of those 4
43 bills:

44
45 AB 2113 (Low) Refugees, asylees, and special immigrant visa holders: professional licensing: initial
46 licensure process.

47 This bill requires programs within the Department of Consumer Affairs to assist and expedite the initial
48 licensure process for an applicant who supplies satisfactory evidence that they are a refugee, have
49 been granted asylum, or have a special immigrant visa, as specified. The bill specifies that it will not
50 change existing licensure requirements and that a person applying for expedited licensure will be
51 required to meet all applicable statutory and regulatory licensure requirements.

1 SB 275 (Pan) Health Care and Essential Workers: personal protective equipment.

2 This bill requires specified health care employers to maintain a stockpile of unexpired personal
3 protective equipment for use in the event of a state of emergency declaration by the Governor, or
4 other similar health emergency. The unexpired stockpile must be sufficient for 45 days of surge
5 consumption, as determined by regulations that would be established by the Department of Industrial
6 Relations, and would become effective January 1, 2023, or one year after the adoption of the
7 regulations, whichever is later. Health care employers are required to provide personal protective
8 equipment to their health care workers upon request.
9

10 SB 878 (Jones) Department of Consumer Affairs: license: application: processing timeframes.

11 Beginning July 1, 2021, this bill will require each board and bureau within the Department of
12 Consumer Affairs, that issues licenses, to prominently display on their websites, and update on a
13 quarterly basis, either (1) the current average timeframe for processing initial and renewal license
14 applications, or (2) the combined current average timeframe for processing both initial and renewal
15 license applications. This bill also requires boards/bureaus to post on their websites on a quarterly
16 basis, either (1) the current average processing timeframe for each license type or (2) the combined
17 current average timeframe for processing all licensing types administered by the program.
18

19 Staff will be working with the Department's Office of Information Services to coordinate the collection
20 and reporting of the average timeframes data as required.
21

22 SB 1474 (Business, Professions and Economic Development Committee) Business and professions.

23 Provides a one-year sunset extension for several DCA boards that were undergoing the sunset review
24 process prior to COVID-19 and extends the operations for several other DCA programs (including the
25 RCB) until January 1, 2023.
26

27 Ms. Nunez commented on SB 878 concerning the applicant processing timeframe, stating the
28 California Society for Respiratory Care was involved in getting that billed passed. She thanked them
29 for their efforts and thanked them for reaching out to the Board as well. She added she felt this was a
30 good bill and showed some accountability by different boards and for the public on how long to expect
31 to get licensed.
32

33 Request for member comment: No member comment was received.

34 Request for public comment: No public comment was received.
35
36

37 **6b. REGULATIONS (AB 2138)**
38

39 Ms. Molina welcomed new DCA Regulatory Attorney, Alex Millington, who joined the meeting and was
40 prepared to answer questions regarding the current status of the Board's regulatory proposal.
41

42 Ms. Molina provided an overview of the items related to the AB 2138 regulations:
43

44 **6b1 [Written Comments Received]**
45

46 In June 2019, the Board approved regulatory language to implement AB 2138 related to substantial
47 relationship and rehabilitation criteria. The regulatory proposal was noticed on May 29, 2020, and
48 gave the public forty-five (45) days to provide public comment ending on July 14, 2020. No public
49 hearing was requested or conducted. However, on July 14, 2020 public comment was received via
50 email from Faride Perez-Aucar of Root and Rebound Reentry Advocates and Vinuta Naik, of
51 Community Legal Services of East Palo Alto, commenting on the Board's implementation of Assembly
52 Bill 2138. Ms. Molina explained the agenda materials included a memo from Karen Halbo, DCA

1 Regulatory Counsel, summarizing the issues and recommending proposed responses to the
2 comments received.

3 Dr. Lewis stated he is not comfortable accepting the comments and doesn't see the benefit to the
4 Respiratory Care Board or other boards. He added he is in favor of rejecting the comments as stated
5 in Option 1.

6

7 Ms. Molina added because these are regulations the every board has had to move forward with, the
8 DCA Regulatory Unit is very familiar with the language.

9

10 Mr. Hernandez stated there is a proposed response and a clear process for how to respond to the
11 comments that were submitted. The Board has a reliable body that has already looked at these
12 comments and has responded to them. Each one has cited code or regulation that is already there
13 and answers the question.

14

15 Ms. Molina explained if the Board approved Option 1, staff would make this a part of the official record
16 in the Final Statement of Reasons.

17

18 Dr. Lewis moved to direct staff to reject the proposed comments, provide the responses to the
19 comments as indicated in the meeting materials and complete the regulatory process as authorized
20 by the motion at the Board's June 7, 2019 meeting. The motion was seconded by Vice President
21 Goldstein.

22

23 Request for public comment: No public comment was received.

24

25 M/Lewis /S/Goldstein
26 In favor: Early, Franzoia, Goldstein, Guzman, Hardeman, Hernandez, Kbushyan, Lewis
27 MOTION PASSED

28

29 **6b2 [Proposed Modified Text]**

30

31 Ms. Molina stated the Board noticed the AB 2138 regulation proposal on May 29, 2020. Since then,
32 based on feedback from the Office of Administrative Law, the Department of Consumer Affairs Legal
33 Office has recommended the Board consider the Modified Text being presented to you as described
34 within the memo also prepared by Karen Halbo, prior DCA Regulatory Counsel. She added without
35 these modifications to the current text, the Board will likely encounter issues when the package is filed
36 and submitted to OAL for approval.

37

38 Ms. Molina directed virtual participants to the Board's website to see the proposed regulatory
39 language for review.

40

41 Dr. Lewis motioned to adopt the modification to sections 1399.370 and 1399.372 and instruct staff to
42 send the modified text out for a 15-day public comment period, and if no comments are received, to
43 take such steps necessary to promulgate the regulation in modified form and authorize the Executive
44 Officer to make non-substantive changes to the proposed regulation and adopt the proposed
45 regulation as described in the modified text noted.

46

47 Request for member comment: No member comment was received.

48 Request for public Comment: No public comment was received.

49

50 M/Lewis /S/Goldstein
51 In favor: Early, Franzoia, Goldstein, Guzman, Hardeman, Hernandez, Kbushyan, Lewis
52 MOTION PASSED

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3 **7. ELECTION OF OFFICERS FOR 2021**

4 **Vice President**

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

6
7 A motion to nominate Mr. Goldstein for Vice President was made by President Guzman, and
8 seconded by Dr. Lewis. Mr. Goldstein accepted the nomination.

9
10 Mr. Guzman asked if there were any other nominations for Vice President.

11
12 Request for member comment: No member comment was received.

13 Request for public comment: No public comment was received.

14
15 M/Guzman /S/Lewis

16 In favor: Early, Franzoia, Goldstein, Guzman, Hardeman, Hernandez, Kbushyan, Lewis

17 MOTION PASSED

18
19
20 **President**

21
22 President Guzman opened the floor for nominations for Respiratory Care Board President.

23
24 A motion to nominate Mr. Guzman for President was made by Vice President Goldstein and seconded
25 by Mr. Kbushyan.

26
27 President Guzman asked if there were any other nominations for President.

28
29 Request for member comment: No member comment was received.

30 Request for public comment: No public comment was received.

31
32 M/Guzman /S/Kbushyan

33 In favor: Early, Franzoia, Goldstein, Guzman, Hardeman, Hernandez, Kbushyan, Lewis

34 MOTION PASSED

35
36
37 **8. CALENDAR 2021 MEETING DATES**

38
39 President Guzman stated at this time, the Board expects to hold its 2021 meeting virtually. If the
40 Governors Executive Order is repealed, the meetings will be held in the areas listed below. The
41 following public meetings were scheduled for 2021:

42
43 March 3, 2021 (WebEx Teleconference or Southern CA)

44 June 30, 2021 (WebEx Teleconference)

45 October 20, 2021 (WebEx Teleconference or Northern CA)

46
47 Request for member comment: No member comment was received.

48 Request for public comment: No public comment was received.

1
2
3 **9. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

4 Brian Cooper commented on California CAP regulations regarding laboratory testing, and blood gas
5 analyzers. He stated, under California regulation, only technical consultants are allowed to do the
6 competencies for the testing personnel. Under the regular CAP regulations, a respiratory therapist
7 would qualify for that. According to Mr. Cooper, recently the California rules changed so that
8 competencies now have to be done by someone with high complexity testing, which would be
9 laboratory or medical personnel, He added this threw off a lot of RTs that deal with blood gas labs.
10 He asked if the Board knew why the regulations changed in California and if it possible to get it
11 changed back or added to the agenda.

12 Ms. Nunez responded this is a CDPH regulation. When the RCB first received inquiries regarding this
13 issue, we reached out to CDPH for its interpretation. At that time, we were advised it is not that
14 legislation changed, but that the regulation had been previously misinterpreted. Ms. Nunez added
15 she is not sure what the Board can do since it is not this Board's regulation and not up for this Board's
16 interpretation.

17
18 Mr. Cooper responded he understood and the appropriate way to handle this would be talking with
19 California Society for Respiratory Care (CSRC) about possibly lobbying for a change in the legislation.
20

21 Request for public comment: No further public comment was received.
22
23
24

25 **10. FUTURE AGENDA ITEMS**

26
27 Vice President Goldstein voiced his concerns that CDPH can reinterpret, lock out and mess with the
28 blood gases. He said in a lot of operations, particularly in the NICU, respiratory therapist definitely run
29 the blood gas machines all the time and it's needed for rapid response. He asked if the Board could
30 look at this and put it on the agenda.
31

32 Ms. Molina clarified that this is about who can be the technical director or laboratory manager and
33 doesn't take away the ability for the respiratory therapist to run the blood gases.
34

35 Ms. Nunez added she can add the CDPH's response in the next agenda and possibly Mr. Cooper can
36 join the Board at the next meeting to see if he has reached out to CSRC and share the status.
37

38 Mr. Cooper agreed it is regulatory adding it's difficult to get therapists trained and through
39 competencies in a timely manner doing competencies with the Medical Director or the clinical lab.
40

41 Vice President Goldstein responded it has been a long battle to keep blood gases in particular,
42 independent of the clinical lab. He suggested Mr. Cooper contact, not only CSRC, but the California
43 Thoracic Society as well. They also run a cap program dealing with clinical lab under CDPH.
44

45 Mr. Chan-You stated the agenda item is to decide whether to put the item on a future meeting.
46

47 Dr. Lewis stated there should be no back and forth with the Board and suggested Mr. Cooper reach
48 out to the other groups and connect with staff. If he gathers information, the Board can add him to the
49 agenda and he can speak at a future meeting.
50

51 Mr. Hernandez requested adding a future agenda item with an update on the status of the proposed
52 language the LVN Board was expected to provide.
53

1 Ms. Nunez stated nothing has changed at this time (COVID may have put that on a back burner).
2 She wondered if the new reimbursement that took place last year resolved some the issues as it allow
3 for RCPs to get reimbursed in the sub acute care. She will check before the next Board meeting and
4 if there is something she will talk to the President and Vice President and see if it can be added to the
5 next agenda.

6 Request for Public Comment: No further public comment was received.

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9 =====

10 **CLOSED SESSION**

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12 The Board convened into Closed Session, as authorized by Government Code Section 11126c,
13 subdivision (3) at 10:50 a.m. and reconvened into Public Session at 11:10 a.m.

14 =====
15
16

17 The Board reconvened into Public Session at 11:10 a.m.

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19
20 **ADJOURNMENT**

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22 The Public Session Meeting was adjourned by President Guzman at 11:10 a.m.

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35 _____
36 RICARDO GUZMAN
37 President

35 _____
36 STEPHANIE A. NUNEZ
37 Executive Officer

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