



PUBLIC SESSION MINUTES

**Thursday, March 24 2022
PUBLIC WEBEX MEETING**

Members Present: Mary Ellen Early
Mark Goldstein
Ricardo Guzman
Raymond Hernandez
Sam Kbushyan
Ronald Lewis
Michael Terry
Cheryl Williams

Staff Present: Fred Chan-You, Legal Counsel
Stephanie Nunez, Executive Officer
Christine Molina, Staff Services Manager

CALL TO ORDER

The Public Session was called to order at 9:32 a.m. by President Guzman.

Ms. Molina called roll (present: Early, Goldstein, Guzman, Hernandez, Kbushyan, Lewis, Williams), and a quorum was established.

Ms. Early was present but was having technical difficulties with her audio. Mr. Terry joined the meeting at 9:50.

1. PRESIDENT'S OPENING REMARKS

President Guzman asked the Board and staff to please turn their cell phones to silent. He added Board members may be accessing their laptops, phones or other devices during the meeting solely to access the Board meeting materials that are in electronic format. Individuals may be joining either online through WebEx or by telephone. Public comment would be allowed on each agenda items, as those items are discussed by the Board during the meeting. 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. If providing comment, it would be appreciated, but not required, to provide your name and organization represented, 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.

The moderator explained the WebEx question and answer feature will be used to facilitate public comment when the Board president reaches that point on the agenda, where public comment is appropriate. To make a public comment, click the Q & A icon at the bottom right corner of the screen. Type, "I would like to make a comment," in the Ask field on the lower right of the screen.

Request for public comment: No public comment was received.

2. APPROVAL OF OCTOBER 20, 2021 AND NOVEMBER 23, 2021 MEETING MINUTES

President Guzman asked if there were any additions or corrections to the October 20, 2021 minutes.

Dr. Lewis moved to approve the October 20, 2021, Public Session Minutes as written. The motion was seconded by Vice President Goldstein.

Request for public comment: No public comment was received.

M/Lewis /S/Goldstein

In favor: Goldstein, Guzman, Hernandez, Kbushyan, Lewis, Williams

Technical difficulties: Early

MOTION PASSED

President Guzman asked if there were any additions or corrections to the November 23, 2021 minutes.

Dr. Lewis moved to approve the November 23, 2021, Public Session Minutes as written. The motion was seconded by Vice President Goldstein.

Request for public comment: No public comment was received.

M/Lewis /S/Goldstein

In favor: Goldstein, Guzman, Hernandez, Kbushyan, Lewis, Williams

Technical difficulties: Early

MOTION PASSED

3. 2021-2022 SUNSET UPDATE

President Guzman stated the final Sunset Report was submitted to the legislative committees overseeing the sunset review for boards and bureaus on December 21, 2021. He explained, as is customary, on March 1st, Board staff received the Senate Committee on Business, Professions, and Economic Development and the Assembly Committee on Business and Professions' Background Paper. The Background Paper is meant to highlight areas of importance to the Committees. Given that the Legislature is one of the key stakeholders, and one with legislative oversight, this process is incredibly helpful in shaping Board policy moving forward. The Board had ten issues highlighted as noted in the Background Paper members should have received last week and as posted on the website.

Those issues were:

- 1) Timeframes to process regulations under a new process implemented by DCA.

- 2) ProRata expenses.
- 3) The Board's review to incorporate a baccalaureate degree into its Practice Act.
- 4) The Board's 2017 Workforce Study and its implementation strategy of incorporating the bachelor's degree and establishing standards for student clinical education.
- 5) The unauthorized practice of respiratory care by Licensed Vocational Nurses.
- 6) Expanding mandatory reporting for serious violations to not only include facilities but also registries.
- 7) Technical non-substantive changes to the Act.
- 8) The mental and emotional challenges for frontline healthcare providers.
- 9) Executive orders that waived certain requirements throughout the pandemic.
- 10) Continued regulation of the Board.

President Guzman stated, on Monday, March 7, Ms. Nunez, Ms. Molina, and himself testified before both Legislative Committees through video conference. The single issue that raised many questions and concerns was the Board's exploration of incorporating a bachelor's degree into its Practice Act. The members of the committees expressed concerns that will need to be addressed, including the impact on the existing workforce, unnecessary barriers to enter the practice, availability of clinical training slots, and hiring practices.

The Committees raised no issues with the unauthorized practice of respiratory care by LVNs at the hearing. However, one public comment was made by Jennifer Tannehill of Aaron Read and Associates, representing the California Society for Respiratory Care. After Ms. Tannehill stated the CSRC supports a five-year extension for the Board, she noted that the issue of LVNs practicing respiratory care has been an area of confusion for many years. She commended the Board for its efforts to work with Board of Vocational Nursing and Psychiatric Technicians and noted that CSRC was disappointed that the solution the boards agreed upon was removed from the BVNPT's website and that the agreement was abandoned by the BVNPT. She stated that the CSRC requests the Committees to facilitate a solution to this issue once and for all.

President Guzman passed along the appreciation expressed by many of the Committees' members for the respiratory profession, especially during the pandemic stating there were several heartfelt comments from the Committee members.

President Guzman stated the Board has until April 7, 2022, to submit its written responses to the issues raised in the Background Paper. The attachment Board Members received last week includes the draft responses.

He asked if the Board had anything they would like to add or edit in those responses?

Ms. Nunez stated, it was notable there were some references to the Medical Board that were not changed on purpose. Since this agenda packet went out, she got a chance to speak with Dr. Lewis and then a consultant at Senate B&P, who said to go ahead and change those references to the RCB which was intended. So those references to MBC will be changed to RCB.

Mr. Hernandez stated he had a chance to look at the issue that came up with the bachelor's degree. Based on many of the comments from the legislators and other responses, they are continuing to explore that, coming in with an open mind, trying to present everything objectively so the Board can have an open discussion and then come up with recommendations.

Public comment: No public comment was received.

4. DISCUSSION AND POSSIBLE ACTION REGARDING ADOPTION OF PROPOSED AMENDMENTS TO CALIFORNIA CODE OF REGULATIONS, TITLE 16, SECTION 1399.326 RELATING TO DRIVING RECORD, AND SECTION 1399.329 RELATING TO HANDLING OF MILITARY AND SPOUSE APPLICATIONS, SECTION 1399.374 RELATING TO DISCIPLINARY GUIDELINES, AND THE DISCIPLINARY GUIDELINES INCORPORATED BY REFERENCE TO SECTION 1399.374

President Guzman asked Ms. Molina to guide the Board through this item.

Ms. Molina reviewed the proposed modified text for the Board's consideration, relating to the driving record, handling of military applications, and disciplinary guidelines rulemaking file. She stated, as indicated on the attached agenda item cover sheet, upon filing the final package with the Office of Administrative Law, staff was made aware of a few concerns resulting in the need for the modified text. Specifically, OAL expressed concerns with:

Section 1399.326: Driving Record

As proposed, section 1399.326 was being amended to read: "The Board may (instead of shall) review the driving history for each applicant as part of its investigation prior to licensure."

The concern expressed was that with adopting text that says "may" there is no way for a directly affected person reading the text to know whether the Board will review or consider their DMV record. To address this concern, there were two alternatives considered:

1st Alternative: The Board would need to identify specific criteria triggering the review, such as:

- 1) A specific number of offenses, or
- 2) Specific types of offenses, or
- 3) Some other criteria.

She explained this could prove challenging to identify only specific scenarios when the DMV history may be required without the potential for negatively affecting the Board's ability to conduct applicant background investigations. Since removing the DMV driving history requirement from the application process in October 2017, staff has requested 8 DMV reports for applicants with extensive histories of alcohol or substance abuse. She added, while not a regularly used enforcement "tool," there are scenarios where it is required when making a determination in support of consumer protection.

2nd Alternative: The text could be deleted altogether. However, this may call into question the Board's authority to request these histories when deemed necessary as part of an applicant investigation.

Ms. Molina explained, operating within the existing time constraints, it was determined that at this time the best course of action was to revert the text back to its original form and reevaluate to determine the best means to address the section at a later time. In the interim, staff will continue operating as it has since the requirement was removed in 2017.

Proposed section 1399.329(c): Handling of Military Applications

Ms. Molina stated the proposal included a description of acceptable evidence of military service as follows:

"Evidence of discharge from active duty or from the military may include an order issued by the U.S. Armed Forces on a DD Form 214 or the National Guard on form NGB-22."

The concern expressed by OAL is that the proposed text states, “may include,” which implies that there are other things the Board will accept as evidence. To address this concern, the text was modified to reflect only the two identified documents can be used to show evidence of military service.

Lastly, she stated text was also modified to correct non-substantive items identified by OAL (i.e. capitalizing board and updating reference sections).

Dr. Lewis moved to adopt the modified text to section 1399.326, and to take such steps necessary to promulgate the regulation in modified form.

Public Comments: No comments received.

M/Lewis /S/Early

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

MOTION PASSED

Dr. Lewis moved to adopt the modified text to section 1399.329, and to take such steps necessary to promulgate the regulation in modified form.

Public Comments: No comments received.

M/Lewis /S/Hernandez

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

MOTION PASSED

Dr. Lewis moved to adopt the modified text to section 1399.374, and to take such steps necessary to promulgate the regulation in modified form.

Public Comments: No comments received.

M/Lewis /S/Vice President Goldstein

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

MOTION PASSED

Dr. Lewis moved to adopt the language proposed in the disciplinary guidelines incorporated by reference, and to take such steps necessary to promulgate the regulation in modified form.

Public Comments: No comments received.

M/Lewis /S/Early

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

MOTION PASSED

5. PRESENTATION: INCORPORATION OF A BACCALAUREATE DEGREE REQUIREMENTS IN RESPIRATORY CARE PRACTICE ACT (PROFESSIONAL QUALIFICATIONS COMMITTEE, RAYMOND HERNANDEZ AND MICHAEL TERRY (POSSIBLE ACTION))

President Guzman turned the meeting over to Mr. Hernandez and Mr. Terry for a presentation regarding the Incorporation of a Baccalaureate Degree Requirement into the Respiratory Care Practice Act.

Mr. Hernandez reminded the Board and audience this presentation is the second part to the study session and will follow the same format as the initial presentation. Mr. Hernandez and Mr. Terry, as the Professional Qualifications Committee (Committee), have been doing background work and meeting regularly to gain information and provide a balanced perspective of all the objective information out there in the landscape. Moving forward, they will be referring to some of the things talked about in the last session, and updates that have come up from that. Mr. Hernandez summarized the June 2021 session to make sure all Board Members and audience had the same perspective of the beginnings of the profession to where it is currently. They discussed regulatory and professional organizations that work together for this profession and for this Board to protect and serve the public. The Committee also reviewed the last Strategic Plan and at some things that were in the landscape looking at increased education requirements. They ended part 1 of the study session with a case study and provided an opportunity for the public to weigh-in and for the Board to then to have discussion. Mr. Hernandez stated that worked very well and the Committee would be following the same format during today's agenda item.

Mr. Hernandez indicated that today we will be looking at case study number 2 and at physical therapy, digging deep into academic requirements. It is confusing for anybody going through an academic pathway. We do know, just for the general public, that academic requirements for any level of degree are very complex. When we look at the State of California and Title 5, they become very complex. There are volumes written around that, so we are going to dive into that so the Board can be informed as we have the conversations and provide discussion and start to formulate recommendations around this. We will look at the respiratory care Workforce Study that was done in 2017. It is now 5 years old, and things have happened since then. Michael Terry will be giving us a deep dive into that section. We also have some standards updates from CoARC from our last session that we want to bring to light, and it is its own separate Board agenda item as well. Then we will end the presentation with what the Board requested at the last session, to hear the employer's perspective. We brainstormed to get a variety of employers that represent both large employers and small community employers as well as a couple of employers who look at specialty areas that are standard across the State so they can give us that lens. Then we will wrap today's study session up by summarizing our next steps. At each juncture of these bullet points, we will pause for the public to give its perspective and for the Board to engage in dialogue.

Mr. Hernandez provided an in-depth overview of the physical therapy licensure model in California in terms of academic, credentialing completion, where they can work in terms of skills and abilities, and what requirements surround that. He also provided information regarding practice settings, levels of practice and the vision for the physical therapy profession. He provided details related to the different "tiers" of licensure and the education required for each level.

Mr. Hernandez shared insight into types of associate level degrees, and differing unit and degree requirements. He also discussed CoARC, including its decision to revert to accreditation of new associate degree programs.

Finally, he reminded the Board of the input received by the Legislature and the need to take these issues into account when determining future recommendations.

Mr. Terry highlighted several areas addressed in the 2017 California Respiratory Care Workforce Study that was conducted at the direction of the Respiratory Care Board in 2015 by the Philip R. Lee Institute for Health Policy Studies at the University of California San Francisco.

Study Conduct

The objective of the workforce study was to discover the perceptions and the opinions of the key stakeholders in California on a range of critical respiratory care workforce issues. It was conducted between July 2015 and December 2016.

Objectives

While the study had many objectives, we are going to concentrate on the ones highlighted in red. They wanted to understand how people felt about the preparedness of new graduates entering the workforce and to look at the minimum degree requirements for entry into professional practice. These are what the people, in practice, currently thought about what was occurring at that time. They wanted to describe the curricular differences between the baccalaureate and associate level. I'm going to skip that because I think Ray has touched on that. I want to emphasize that the idea is that perhaps going to a bachelor's degree might enhance the clinical experience of our graduates as well. They also wanted to conduct a search on the academic literature to see what's been published about the relationship between the type of degree and patient outcomes.

Preparedness of New Graduate Respiratory Therapist

What the study found is the directors of respiratory therapy education programs identify critical thinking as the most important competency area that needs more help, more emphasis. Many of the education directors notice that employers consistently provided feedback that student diagnostic skills are not quite where they should be. If you ask the respiratory therapists that were in practice, as they did, what they found is that the clinical reasoning and skills of the Respiratory Therapy students are slightly underdeveloped. The Respiratory Therapy students had all the knowledge, all the information that they needed, but they really couldn't put it all together. They thought that the Respiratory Therapy students needed a little bit more time to be able to connect the dots. The respiratory care directors of hospitals, 42% of them believe that the new graduates are not prepared to incorporate evidence-based medicine as their clinical reasoning. The education directors reported that there was a lot of variation between the clinical sites that their students were going to on how they were exposed to evidence-based practice. The practicing respiratory therapist cited the importance of students having the opportunity to go to places that had a highly engaged respiratory care department. So, one clinical site is not necessarily as good as another clinical site for education.

Minimum Degree Requirements for Entry into Professional Practice

The respiratory hospital directors felt that the baccalaureate level would raise the field's professional standing and help create more career opportunities within the healthcare system. The education program directors expressed the belief that going to a bachelor's degree would allow more in-depth coverage of topics and get away from this highly compressed curriculum that we have now and would also enhance the student's exposure to different clinical procedures. One of the deficits that I always felt was bad in my background, was that I had very little exposure to children and taking care of asthmatic children or taking care of neonatal patients. In my school when I went to my A.S program, we got only two weeks to look at pediatrics completely. The RTs in the group felt that additional didactic and clinical training would produce therapists who are clinicians rather than technicians. This has been a sore spot for many years in our profession that there exists a group of people that just want to 'change the knobs' and there's another group of people that want to be able to assess and figure out what's best for the patient. There was a widespread support for moving respiratory therapy to a baccalaureate degree level. Though there are many concerns expressed about how we would get there.

Patient Outcomes

The workforce study looked throughout the literature trying to find any other studies that looked at the relationship between education level and patient outcomes and found nothing in respiratory care. When you look at the tremendous number of confounding factors between the care that we provide and the patient outcome, I'm not surprised that is the result. It would take a very, very well-designed, and controlled study that would likely take many years to produce results that could be relied upon.

Hierarchy of Evidence

On a hierarchy of evidence, in terms of making a decision about something like this, I wanted to go back and say we don't have any randomized controlled trials or even case control studies to look at. However, what we did get from this workforce study was the expert opinion of the people of California who were in practice at that time. We have expert opinions from the American Association of Respiratory Care and from the California Society for Respiratory Care that also support increasing the basic education to the baccalaureate level.

Current RCPs by Education

Looking at our current work force, this is data from license renewal between July of 2019 and June of 2021. 63% of our workforce has an associate degree. 27% are higher level, baccalaureate, masters, and doctorate level. There is still 10% of our workforce that do not have any degree at all. These are the people that have been grandfathered in. I think Cheryl's comments about how we adjust for this disparity in levels of education in our current practice is an important question. What can we do as a Board to try and even that field if we are going to change things?

Mr. Hernandez stated that at the request of the Board, the Committee was asked to provide some perspective from employers. The Committee wanted to get a perspective from large employers, small employers, community employers, specialty employers, and even regional employers. In response we have some folks from Northern California and Southern California. We have people from community hospitals. We have people from the Kaiser and UC systems and, of course, specialty areas with children's hospitals as well just to really give us that perspective.

Specifically, employer perspectives were provided by:

- Hector Garcia, Kaiser/BSB/MG, RCP, RRT, Director Pulmonary Medicine and Respiratory Care SVCS
- Marco Soto MBA, RCP, RRT, Director Respiratory Care Services, Loma Lina University Community Hospital - Redlands
- Samantha J. Scott-Marquina MS, RCP, RRT, Interim Director, Department of Respiratory Care, UCSF Medical Center/Parnassus/ Mt. Zion/Mission Bay – San Francisco
- Heather Esparza BSRT, RCP, RRT, NPS, Respiratory Management Coordinator and Student Liaison, UCSF Benihoff Children's Hospital - Oakland

Throughout the presentation there were several questions and discussion points raised by Members of the Board regarding current entry-level standards and the impact increased education would have on current and future practitioners, as well as respiratory employers. The public was also given the opportunity to provide public comment and to weigh in on the presentation.

President Guzman expressed his appreciation for the work that Mr. Hernandez and Mr. Terry are investing in this review. He stated these presentations are very enlightening and demonstrate the Board is leading down the correct path to examine where the dire need for additional education is most warranted.

6. COARC: PROPOSED CHANGE TO ACCREDITATION STANDARD 1.01, REVERSING ASSOCIATE DEGREE PROHIBITION UPDATE (POSSIBLE ACTION)

President Guzman stated the CoARC held a hearing in December regarding its proposal to amend its Accreditation Standard 1.01 reversing the provision that required all new respiratory care education programs to be at the baccalaureate degree level. CoARC recently proposed to return to the old standard that would allow new programs to offer an Associate Degree. Mr. Hernandez and Mr. Terry

attended a hearing for public comment in December via teleconference wherein the Board's opposition to the proposal was expressed. President Guzman asked Mr. Hernandez to provide a summary.

Mr. Hernandez stated that on or about 2017, CoARC updated its standards to state they would no longer be accrediting new associate degree programs though any existing accredited associate degree programs would maintain their accreditation standard. At the end of last year, CoARC had an open comment session wherein they sought feedback in terms of the changing the standard of practice to have them reestablish accreditation of new associate degree programs. Many people attended their online forum and gave feedback, including Mr. Hernandez and Mr. Terry as previously stated. However, CoARC has stated it is going to reinstate accrediting new associate degree programs into practice. CoARC has further indicated it would be putting this back on to the professional organizations and the boards in the various states to have conversations about entry level education. Fortunately, this is something we as a Board are already doing.

Request for public comment: No public comments were received.

7. LEGISLATION OF INTEREST (ACTION ITEM)

Ms. Molina provided a summary of each bill, including a staff recommended position before a vote was taken on each bill:

AB 646 (Low) DCA: boards: expunged convictions: Board position: Watch

This bill would require a board within the department that has posted on its internet website that a person's license was revoked because the person was convicted of a crime, within 90 days of receiving an expungement order for the underlying offense from the person, if the person reapplies for licensure or is relicensed, to post notification of the expungement order and the date thereof on the board's internet website. The bill would require the board, on receiving an expungement order, if the person is not currently licensed and does not reapply for licensure, to remove within the same period the initial posting on its internet website that the person's license was revoked, and information previously posted regarding arrests, charges, and convictions. The bill would require a person in either case to pay a \$50 fee to the board unless another amount is determined by the board to be necessary to cover the cost of administering the bill's provisions. Board position on this bill of Watch was voted on during a previous meeting since this is the 2nd year for this bill. No vote was needed at this meeting.

AB 1604 (Holden) The Upward Mobility Act of 2022: boards and commissions: civil service: examinations: classifications / SRP: Board position: Watch

This bill would require, on or after January 1, 2023, all state boards and commissions consisting of one or more volunteer members or commissioners, to have at least one volunteer board member or commissioner from an underrepresented community, as defined. This bill would further clarify that new board or commission members should be replaced, under these parameters, as vacancies occur.

Dr. Lewis moved to approve the staff recommended position of Watch for AB 1604. The motion was seconded by Vice President Goldstein.

Request for public comment: No public comment was received.

M/Lewis /S/Goldstein

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

MOTION PASSED

AB 1662 (Gipson) Licensing boards: disqualification from licensure: criminal conviction. / SRP: Board position: Watch

This bill would authorize a prospective applicant that has been convicted of a crime to submit to a board a request for a preapplication determination that includes information provided by the prospective applicant regarding their criminal conviction. The bill would require a board that receives that request to determine if the prospective applicant would be disqualified from licensure by the board based on the information submitted with the request and deliver that determination to the prospective applicant.

Dr. Lewis moved to approve the staff recommended position of Watch for AB 1662. The motion was seconded by Vice President Goldstein.

Request for public comment: No public comment was received.

M/Lewis /S/Goldstein

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

MOTION PASSED

AB 1733 (Quirk) State bodies: open meetings. / SRP: Board position: Support

This urgency bill would specify that a "meeting" held under the Bagley-Keene Open Meeting Act includes a meeting held entirely by teleconference, as defined, so long as the state body adheres to certain specified requirements such as: ensuring the public has the means to hear, observe, and address the state body during the meeting; providing the public with at least one physical location where they can participate; posting the meeting agendas online and at the physical meeting location with information indicating how the meeting can be accessed; and ensuring that if a means of remote participation fails, the meeting must adjourn.

As proposed, AB 1733 would result in an ongoing cost savings for the RCB. Travel expenses for members and staff for each board meeting (at least 3 meetings per year) costs at least \$5k - \$6k per meeting. Even with requiring one physical location, which would likely be the RCB's office or a shared no-cost other location, the bill would save the RCB at least \$15k-\$18k per year.

Dr. Lewis moved to approve the staff recommended position of Support for AB 1733. The motion was seconded by Mr. Kbushyan.

Dr. Lewis inquired if the bill was being opposed by any other boards. Ms. Molina replied from the information they received, most of the boards will be in support of it for the convenience and cost savings due to the reduction in travel. Dr. Lewis agreed, it obviously needs to be supported but he hopes the RCB can meet at least once a year. It is so important that boards interact with each other. Ms. Molina added, this bill allows the option of using the WebEx/teleconference format. It doesn't preclude the boards from holding in-person meetings. President Guzman agreed with Dr. Lewis about the importance of occasional in-person meetings.

Request for public comment: No public comment was received.

M/Lewis /S/Kbushyan

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

MOTION PASSED

AB 1914 (Davies) Resource family approval: training. / SRP: Board position: Watch

This bill would exempt a resource family member that has an active and unrestricted license issued by the Medical Board of California, the Osteopathic Medical Board of California, the Podiatric Medical

Board of California, the Physician Assistant Board, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the Respiratory Care Board of California, or the Emergency Medical Services Authority from any requirement to complete, or show proof of completing, CPR or first aid training.

Dr. Lewis moved to approve the staff recommended position of Watch for AB 1914. The motion was seconded by Ms. Early.

Request for public comment: No public comment was received.

M/Lewis /S/Early

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

MOTION PASSED

AB 2104 (Flora) Professions and vocations. / SRP: Board position: Oppose

This bill would authorize the Department of Consumer Affairs and each board in the Department to charge a fee not to exceed \$2 for the certification of a copy of any record, document, or paper in its custody. The bill would also require the delinquency, penalty, or late fee for any licensee within the department to be 50% of the renewal fee for that license, but not to exceed \$150.

Ms. Molina stated she reviewed AB 2104 and has determined that as proposed, the bill would result in a negative fiscal impact of \$40k per fiscal year. The RCB's current delinquent fee is \$330, and the number of projected delinquent renewals for FY 22/23 was estimated at 225. Based on these figures, a \$180 reduction to the existing delinquent fee (the bill proposes a maximum delinquent fee of \$150), would be significant.

Dr. Lewis moved to approve the staff recommended position of Oppose for AB 2104. The motion was seconded by Vice President Goldstein.

Request for public comment: No public comment was received.

M/Lewis /S/Goldstein

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

MOTION PASSED

AB 2948 (Cooper) Consumer protection: DCA: complaints / SRP: Board position: Watch

This bill would require the Director of the Department of Consumer Affairs to notify a consumer of any action taken on a complaint submitted by that consumer, and any other means which may be available to the consumer to secure relief, unless doing so would be injurious to the public health, safety or welfare. Current law requires the Director to make these notifications "if appropriate," whereas this bill would require the notifications in most cases.

Dr. Lewis moved to approve the staff recommended position of Watch for AB 2948. The motion was seconded by Vice President Goldstein.

Request for public comment: No public comment was received.

M/Lewis /S/Goldstein

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

MOTION PASSED

SB 962 (Jones) Healing arts: clinical lab technology: moderate-complexity laboratories/ SRP: Board position: Support

For purposes of a moderate-complexity laboratory, this bill would expand the definition of a “laboratory director” to include an individual who meets specified requirements and guidelines. The bill would authorize a laboratory director to operate as a technical consultant in a moderate-complexity laboratory if certain conditions are met and ensures respiratory care practitioners who meet the College of American Pathologists standards may work as laboratory directors and technical consultants in moderate complexity laboratories. This bill is sponsored by the California Society for Respiratory Care.

Dr. Lewis moved to approve the staff recommended position of Support for SB 962. The motion was seconded by Ms. Early

Request for public comment: No public comment was received.

M/Lewis /S/Early

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

MOTION PASSED

SB 1031 (Ochoa Bogh) Healing arts boards: inactive license fees. / SRP: Board position: Oppose

This bill would require the renewal fee for an inactive license to be 1/2 of the amount of the fee for a renewal of an active license, unless the board establishes a lower fee. Ms. Molina reviewed SB 1031 and determined that based on the current number of inactive licenses at the Respiratory Care Board the bill would result in an estimated loss of revenue of \$65k per fiscal year. Moreover, she believes there is potential for an additional loss of revenue from licensees who currently maintain an active license, to choose an inactive status due to the lower fee. Using an estimate of 5% of licensees who renew per year, this has potential to reduce revenues by an additional \$78k for a total potential impact of -\$143k, posing a significant fiscal impact for the RCB.

Dr. Lewis moved to approve the staff recommended position of Oppose for SB 1031. The motion was seconded by Ms. Early.

Request for public comment: No public comment was received.

M/Lewis /S/Early

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

MOTION PASSED

SB 1237 (Newman) Licenses: military service. / SRP: Board position: Oppose

This bill would require the boards to waive the renewal fee of any licensee or registrant who is called to active duty as a member of the United States Armed Forces or the California National Guard if the licensee or registrant is stationed outside of California.

Ms. Molina stated historically, the Board has always supported legislation aimed at benefiting members of the military. However, during recent discussions and fiscal analysis concerning SB 1237, the staff recommended position has changed from “watch” to “oppose” due to the potential loss of revenue. Ms. Molina reviewed SB 1237 and believes this bill has potential to impact the RCB. The RCB renews approximately 9500 licenses per year. Since the Board does not capture data regarding how many active licenses are currently serving in the military, it makes it difficult to determine what fiscal impact this may have. If 1% of those individuals are current members of the military and are called to active duty, this would result in a loss of revenue totaling \$31,150 which is fairly minor and absorbable. However, if it were 10%, we have the potential to lose \$313,500 which is significant. Recognizing the licensees must be called to active duty and stationed out-of-state, the lower figure is probably a better approximation. She explained she still wanted to share the other scenario since it really is just an estimation.

Dr. Lewis moved to approve the staff recommended position of Oppose for SB 1237. The motion was seconded by Ms. Early.

Request for public comment: No public comment was received.

M/Lewis /S/Early

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

MOTION PASSED

SB 1365 (Jones) Licensing boards: procedures / SRP: Board position: Watch

This bill would require each board within the department to publicly post on its internet website a list of criteria used to evaluate applicants with criminal convictions so that potential applicants for licensure may be better informed about their possibilities of gaining licensure before investing time and resources into education, training, and application fees. The bill would require the department to establish a process to assist each board in developing its internet website, as specified.

The bill would also require the department to develop a process for each board to use in verifying applicant information and performing background checks of applicants and would require that process to require applicants with convictions to provide certified court documents instead of listing convictions on application documents. The bill would further require the board to develop a procedure to provide for an informal appeal process that would occur between an initial license denial and an administrative law hearing.

Dr. Lewis moved to approve the staff recommended position of Watch for SB 1365. The motion was seconded by Vice President Goldstein.

Request for public comment: No public comment was received.

M/Lewis /S/Goldstein

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

MOTION PASSED

SB 1436 (Roth) RTs: suspension or termination for cause: reporting / SRP: Board position: Support. Title: Respiratory therapists: suspension or termination for cause: reporting.

This is the sunset bill for the Respiratory Care Board. In its current form, this bill would expand the definition of suspension or termination for cause to include administrative leave, employee leave, or resignation from employment for specified reasons that would additionally include suspected acts, such as suspected or actual gross incompetence or negligence, suspected or actual falsification of medical records, and the suspected or actual use of controlled substances or alcohol to such an extent that it impairs the ability to safely practice respiratory care.

Dr. Lewis moved to approve the staff recommended position of Watch for SB 1436. The motion was seconded by Vice President Goldstein.

Request for public comment: No public comment was received.

M/Lewis /S/Goldstein

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

MOTION PASSED

8. 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 is not on the agenda.

Public comment: No comments were received.

9. FUTURE AGENDA ITEMS

President Guzman stated the Board's next meeting is scheduled to be an in-person meeting on June 9, 2022, in Southern California. He asked if Members had any specific items they would like to see on that agenda.

Mr. Hernandez stated the Board would be working on study session #3, which would also include a discussion on summary points from the last two sessions and the direction of the follow up work force study.

Public comment: No public comments were received.

ADJOURNMENT

The Public Session Meeting was adjourned by President Guzman at 2:19 p.m.

RICARDO GUZMAN
President

STEPHANIE A. NUNEZ
Executive Officer