



PUBLIC SESSION MINUTES

**Thursday, March 28, 2024
PUBLIC MEETING**

Members Present: Mary Ellen Early
Mark Goldstein
Ricardo Guzman
Raymond Hernandez
Preeti Mehta
Michael Terry

Members Absent: Sam Kbushyan
Cheryl Williams

Staff Present: Reza Pejuhesh, Legal Counsel
Stephanie Nunez, Executive Officer
Christine Molina, Staff Services Manager
Kathryn Pitt, Associate Governmental Program Analyst

CALL TO ORDER

The Public Session was called to order at 11:09 a.m. by Vice President Hernandez.

Ms. Pitt called roll (present: Early, Goldstein, Hernandez, Terry), and a quorum was established. President Guzman joined the meeting at 11:45.

PRESIDENT'S OPENING REMARKS

Vice President Hernandez asked everyone to turn their cell phones to silent adding this is an official business meeting of the Respiratory Care Board. Board members may be accessing their laptops, phones, or other devices during the meeting. He explained, they are using the devices solely to access the Board meeting materials that are in electronic format. Public comment will be allowed on each agenda item, as each item is taken up by the Board, during the meeting. Under the Open Meetings Act, the Board may not take any 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 comments, it would be appreciated, though not required, if you would provide your name and the organization you represent if applicable, prior to speaking. To allow the Board sufficient time to conduct its scheduled business, public comments 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.

Vice President Hernandez recognized two Board members attending their last meeting after over a decade.

Mary Ellen Early was presented with a certificate for her selfless service as a public member who has always demonstrated an earnest commitment to the Board's mandate of consumer protection. Ms. Early was appointed to the Board in April 2013 by Governor Brown, was reappointed by him in 2015 and reappointed again in 2019 by Governor Newsom. She has served a total of 11 years. Throughout this time, Mary Ellen has been an exemplary member always giving critical thought to every proposal and every disciplinary matter and always raising thoughtful questions or perspectives from a consumer vantage. Her commitment to consumer protection has been unyielding and California consumers have been well represented. Vice President Hernandez thanked Ms. Early for her service on behalf of the Board and some 39 million California residents.

Mr. Goldstein was also presented with a certificate of appreciation. He has served as a professional member who has always demonstrated his commitment to the profession and consumers, by pursuing high standards and at the same time accessibility to health care for all consumers. Mr. Goldstein was appointed to the Board in June 2012 by Governor Brown and was also reappointed two additional times thereafter. At the end of his term in May, he will have served just a week shy of 12 years. Vice President Hernandez stated many people don't know this, but Mr. Goldstein is the reason respiratory care professionals have licensure today. In the early 1980s, he cared for a newborn and saved its life. That newborn was the son of a newly established lobbyist. Mark developed a relationship with him and was able to educate him about the profession, which in turn, the lobbyist insisted that this wonderful life-saving profession surely deserves and needs professional licensure. In 1982 the Board was established, and the rest is history. California consumers have been better served by his dedication and advocacy for higher standards in education, scope of practice and professionalism throughout the respiratory care industry. Additionally, there are about 47,000 people who are or were licensed as a Respiratory Care Practitioner. Vice President Hernandez thanked Mr. Goldstein for his service and contributions to establishing licensure and supporting its growth.

Ms. Nunez introduced Deputy Director of Legal Affairs, Grace Arupo Rodriguez, and welcomed Dao Choi, the Board's new regulation attorney. She also introduced Deputy Director Melissa Gear representing the Department's Executive Office.

Request for public comment:

Naomi, from UC Davis Medical Center, asked if there was a way to sign into this meeting via Webex. Reza Pejuhesh, Legal Counsel, stated this meeting is not being held through Webex but is rather being webcasted which allows it to be observed but doesn't allow for remote participation.

OCTOBER 24, 2023, MEETING MINUTES APPROVAL

Vice President Hernandez asked if there were any additions or corrections to the October 24, 2023, minutes.

Mr. Terry stated a correction is needed on page 11, line 32. It reads "it needs to be a physician," and should read "it would need to come from a physician" to be a complete sentence.

Ms. Early moved to approve the October 24, 2023, Public Session Minutes as corrected. The motion was seconded by Dr. Mehta.

Request for public comment: No public comments were received.

M/Early//S/Mehta

In favor: Early, Goldstein, Hernandez, Mehta, Terry

MOTION PASSED

LEGISLATION OF INTEREST

a. Two-Year Bills

Ms. Molina gave updates regarding 2024 legislation of interest highlighting four bills for which the Board has previously adopted positions. Three bills have been identified as potentially becoming 2-year bills.

AB 477 (Waldron) Legislative review of state boards.

This was a two-year spot bill the Board voted to WATCH related to the publication of sunset reports. No action was taken on the bill this year, so it is now officially dead.

AB 996 (Low) Department of Consumer Affairs: continuing education: conflict-of-interest policy.

This bill would require entities within the Department of Consumer Affairs, who are responsible for approving continuing education providers or courses, to develop and maintain a conflict-of-interest policy that discourages the use of any continuing education course, if the provider of that course has an economic interest in a commercial product or enterprise promoted in that course and requires conflicts to be disclosed at the beginning of each continuing education course. The Board took a Watch position on this bill but requested that a letter be sent to the author providing feedback expressing concerns. Specifically, members felt the bill sends an unfair message that a provider with a financial interest in a particular product is somehow less ethical. The bill was ordered to the Senate Inactive File on 8/17/2023, and no additional action has been taken as of 3/19/24. While no recent action has been taken, staff will continue to monitor the bill in the event it begins to move forward again this year.

AB 1028 (McKinnor) Reporting of crimes: mandated reporters.

This bill would eliminate the requirement that a health practitioner make a report to law enforcement when they suspect a patient has suffered physical injury caused by assaultive or abusive conduct. The Board took an Oppose position on this bill as it felt the bill would diminish the protection currently afforded some of California's most vulnerable patients. The bill was held under submission in the Senate on 9/1/2023, and no additional action has been taken since 2/6/24.

SB 802 (Roth) Licensing boards: disqualification from licensure: criminal conviction.

This bill, which the Board took a Watch position on would require a board to notify the applicant, in writing within 30 days, if they decide to deny their application for licensure based on the applicant's conviction history. While the bill made it out of the Senate and to the Assembly last spring, no additional action has been taken since the author requested that the bill be removed from the calendar in July 2023. Staff will continue to monitor the bill for any activity this year.

Ms. Molina will continue to monitor AB 996, AB 1028, and SB 802 since these bills still have potential to become active this year.

Public comments: No comments received.

b. Newly Identified Legislation

Ms. Molina provided summaries and staff recommended positions for legislation introduced this calendar year:

AB 1891 (Weber) Community colleges: allied health programs

Staff recommended position: WATCH

This bill expands the use of the multicriteria screening process and subsequent reporting requirements on the effectiveness of the process to impacted allied health programs offered by California Community Colleges until 1/1/30.

Mr. Goldstein moved to accept the staff recommended position. This was seconded by Mr. Terry.

Vice President Hernandez added the legislation was intended to be inclusive instead of exclusive. By having these metrics, it will now have that balance of getting qualified, competent applicants.

Public comment: No comments were received.

M/Goldstein/S/Terry

In favor: Early, Goldstein, Hernandez, Mehta, Terry

MOTION PASSED

AB 2269 (Flora) Board membership qualifications: public members

Staff recommended position: WATCH

This bill would prohibit a public member or a lay member of any board from having a specified relationship with a licensee of that board, for services provided pursuant to that license, within 3 years of the public member's or lay member's appointment. The bill would provide that these requirements apply to a public member or a lay member of a board upon appointment or reappointment on or after January 1, 2025.

Mr. Terry moved to accept the staff recommended position. This was seconded by Mr. Goldstein.

Public comment: No comments were received.

M/Terry/S/Goldstein

In favor: Early, Goldstein, Hernandez, Mehta, Terry

MOTION PASSED

AB 2862 (Gipson) Licenses: African American applicants

Staff recommended position: OPPOSE UNLESS AMENDED

This bill would require, notwithstanding any other law, that a board within the Department prioritize African American applicants seeking licensure, especially applicants who are descended from a person enslaved in the United States. Staff has recommended an Oppose Unless Amended position on this bill due to the anticipated fiscal impact it will impose (estimated at just under \$250k). As written, the bill does not include information regarding plans for implementation so staff's fiscal analysis is based on assumptions as to how the RCB will authenticate applicants to whom the provisions apply. Conducting this type of research will very likely be time consuming and will require significant resources. At a minimum, the RCB would require the establishment of two analyst level positions dedicated to conducting this research. Moreover, there would have to be process changes put in place for impacted applicants to pre-apply well in advance of graduation to avoid the lengthy delays which are anticipated as part of the research time – a direct conflict with what the bill is attempting to achieve. If the Board agrees with the recommended position, staff can craft a letter expressing the Board's concerns and offering some potential alternatives for confirming an applicant meets the specified criteria.

Mr. Goldstein moved to accept the staff recommended position. This was seconded by Dr. Mehta.

Public comment: No public comment was received.

M/Goldstein/S/Mehta

In favor: Early, Goldstein, Hernandez, Mehta, Terry

MOTION PASSED

AB 3127 (McKinnor) Reporting of crimes: mandated reporters (this bill mirrors AB 1028 from last year which the Board opposed)

Staff recommended position: OPPOSE.

This bill would remove the requirement that a healthcare practitioner make a report to law enforcement when they suspect a patient has suffered physical injury caused by assaultive or abusive conduct, except in specified circumstances. Health practitioners in such cases would instead be required to provide brief counseling and a referral to local and national domestic violence or sexual violence advocacy services, as specified.

Mr. Terry moved to accept the staff recommended position. This was seconded by Mr. Goldstein.

Board discussion: Dr. Mehta stated there are so many expectations of health care professionals who are held to a higher moral standing. This can weigh on their profession, especially that it states it is punishable as a misdemeanor. She supports an oppose position.

Public comment: No public comment was received.

M/Terry/S/Goldstein

In favor: Early, Goldstein, Hernandez, Mehta, Terry

MOTION PASSED

SB 1067 (Smallwood-Cuevas) Healing arts: expedited licensure process: medically underserved area or population

Staff recommended position: WATCH

This bill would require each healing arts board to develop a process to expedite the licensure process by giving priority review status to the application of an applicant for a license who demonstrates that they intend to practice in a medically underserved area or serve a medically underserved population. The difference between this bill and AB 2862 is that the documentation to support the expedited licensure is the responsibility of the applicant and does not require staff resources to confirm eligibility for the special handling.

Mr. Goldstein moved to accept the staff recommended position. This was seconded by Ms. Early.

Public comment: No public comment was received.

M/Goldstein/S/Early

In favor: Early, Goldstein, Hernandez, Mehta, Terry

MOTION PASSED

SB 1451 (Ashby) Professions and vocations

Staff recommended position: SUPPORT

This is the Board sponsored legislation to carve out the additional exemption authorizing LVNs, with specified training, to perform tasks beyond basic respiratory tasks in the home and community-based settings. The bill also extends the 1/1/2025 employer training provision for LVNs currently employed by a health agency to 1/1/2028 while the RCB works to promulgate official training guidelines. The RCB is hopeful this legislation puts into place the final piece of this decades long issue.

Mr. Terry moved to accept the staff recommended position. This was seconded by Mr. Goldstein.

Public comment: No public comment was received.

M/Terry/S/Goldstein

In favor: Early, Goldstein, Hernandez, Mehta, Terry

MOTION PASSED

DISCUSSION AND POSSIBLE ACTION RELATED TO PROPOSED REGULATIONS, TITLE 16, CALIFORNIA CODE OF REGULATIONS, SECTION 1399.365, BASIC RESPIRATORY TASKS AND SERVICES

Strategic Plan Licensing Goal 2.2: Develop and promulgate regulations identifying basic respiratory tasks and services and disseminate information to pertinent state agencies and licensed facilities in response to the implementation of SB 1436

Ms. Nunez presented the proposed regulatory language to identify basic respiratory care tasks for the Board's approval and the proposed motion to proceed with the rulemaking process. This language was previously approved, and the rulemaking process was initiated in 2022, but due to unrelated opposition the Board withdrew the regulations last June as an act of good faith. She added, she believes at this time it is incumbent upon the Board to move forward the with implementation of SB 1436 by providing clarity on what constitutes a basic respiratory task.

Mr. Terry moved for the Board to approve the proposed regulatory text for section 1399.365 as presented, direct staff to submit the text to the Director of the Department of Consumer Affairs and to the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing. If no adverse comments are received during the 45-day comment period or during the public hearing if requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at section 1399.365 of Title 16, California Code of Regulations as noticed. The motion was seconded by Mr. Goldstein.

Public comment: No public comment was received.

M/Terry/S/Goldstein

In favor: Early, Goldstein, Hernandez, Mehta, Terry

MOTION PASSED

**PROFESSIONAL QUALIFICATIONS COMMITTEE UPDATE & DISCUSSION
(Raymond Hernandez, Chair, Michael Terry, Member)**

a. Draft 2024 Workforce Survey for Review, Discussion and Possible Action

Strategic Plan Goal 2.3: Evaluate current respiratory care educational requirements and revise, as necessary, to support practice standards and patient safety.

Vice President Hernandez reviewed the actions of the Professional Qualification Committee (PQC) stating this has been a two-year project with the strategic goal to evaluate education requirements and modify them, if necessary. Over the last two years, the committee has presented a series of study sessions, looking at a historical perspective of this profession as well as the current landscape, recommendations, and practice. The PQC has also looked at case studies, specifically nursing and physical therapy, and conducted focus group sessions used to provide recommendations as follows:

1. Identify and conduct follow-up strategies for receiving more perspectives.
2. Explore and review possible models for addressing this strategic plan item.

3. Identify a bachelor's degree education structure that prepares respiratory care graduates to provide competent, safe care.
4. Explore sponsorship for study focused on RCP training and patient safety.
5. Promote increased number of California bachelor's degree programs. Last year, the executive office, on behalf of President Guzman sent out a letter to all CoARC accredited entry level programs, supporting movement to more access to bachelor's degrees in the State of California.
6. Identify a reasonable, comprehensive plan and timeline (which is on the back burner until the completion of the information gathering for any more recommendations).

Mr. Terry stated the committee is extending the fact-finding mission out into the community beyond the focus groups by posting a survey through the RCB's website to solicit public and professional input. He then asked the Board Members for their feedback on the draft survey.

Dr. Mehta inquired how this information would be used, who will gather the information and the timeline to act on the information.

Mr. Terry stated the hope is the survey will remain open for a period of a few months. After it is closed, the committee will then analyze the data and come back to the Board with findings at the October meeting.

Dr. Mehta added, she did not see in this survey a recommendation for better compensation for respiratory therapists after meeting this requirement for additional education. Is that a consideration?

Mr. Terry responded the Board does not make a recommendation on compensation for respiratory therapists so that is not included as part of the scope on this project.

Dr. Mehta stated she feels strongly that if the Board is supporting more education and training, it should also advocate for a higher compensation as well as consumer safety, so the profession attracts the best and keeps them within the profession to serve this community.

Vice President Hernandez added that is a valid consideration, however, the information the PQC has been garnering has not included compensation and that is beyond the Board's influence.

Reza Pejuhesh, Legal Counsel, responded that as far as the information that can be solicited with a survey, there may be some room to include compensation related questions, but as far as the scope of this Board, it is limited with regards to compensation for licensees. It is an important topic and could conceivably tie into public protection, but public protection is the paramount priority of the Board. While it is not entirely outside of this Board's concern or jurisdiction, it would have to be expressed in terms of how it would affect public safety. Compensation would have to get to a severe level for this Board to insert itself into that set of factors. The professional associations are in a better position to advocate on compensation.

Mr. Terry added that a question could be included with each of the scenarios in the survey asking if the person would expect a change in compensation.

Vice President Hernandez stated he believes the Board already knows the answer, but presenting the question in a more neutral way might be a good idea.

Dr. Mehta added, when answering this survey as honestly as possible, it must be in the back of their minds what the advantage would be after spending the extra time getting a higher degree. The high cost of living in some areas is not attracting professionals into the medical field. She wanted to ensure licensees know the Board is thinking about them while setting these high standards for consumer protection.

Vice President Hernandez added, from a state level the legislature has already seen that the cost of a baccalaureate degree is taken into consideration by making it more accessible at the community college level and in the public systems.

Mr. Terry asked the Board Members if they had any other scenarios they would like added to the survey. He added one of the working groups at his university who helped develop the survey, came up with a 3-tiered scenario with one tier being respiratory care assistants, the second respiratory care practitioners, and the third tier would be the advanced practice respiratory therapist (APRT).

Dr. Mehta stated that seems appropriate and is similar to what MDs have in many clinical scenarios, and she would support that.

Public comment: No public comments received.

Mr. Goldstein moved that the Professional Qualifications Committee work with the Executive Office to make modifications as necessary and publish the survey. The motion was seconded by Dr. Mehta.

Public comment: No public comment was received.

M/Goldstein/S/Mehta

In favor: Early, Goldstein, Guzman, Hernandez, Mehta, Terry

MOTION PASSED

b. AB 927 (Statutes of 2021) Community Colleges Statewide Baccalaureate Degree Program: Process and Impact on Respiratory Care Education Programs

Strategic Plan Goal 2.4: Collaborate with professional organizations and schools to perform a needs assessment for the advanced respiratory practitioner role in California to address the projected shortage of physicians and the evolving role of being a physician extender.

Vice President Hernandez stated he went to CoARC's website and took an inventory of all accredited programs in California. There are currently 38 entry into practice respiratory care programs sanctioned by CoARC. Of the existing programs, 19 are associate degree programs situated in the community college system (which are public programs). The legislation for baccalaureate degrees directly affects those 19 out of the 38 programs which means, half are subject to utilizing this pathway. The other 19 programs are private schools including Loma Linda, which has the only baccalaureate entry into practice program in the State of California. The private schools have two types of associate degrees; 12 have an associate of science (much like the community colleges) and have an expanded general education pattern involving more units and are more likely to address communication and critical thinking, which is important when looking at the quality of therapist providing safe and effective care for citizens of California. However, six of those programs are an associate of occupational study which have less general education connected with them. He added, this is important to understand when the Board starts having more discussions about what a realized further education would look like. The community colleges can now leverage legislation which allows them to advocate for a baccalaureate degree. Currently, baccalaureate degrees are a "plus two," meaning they finish their associate degree and then move on to the second two-year bachelor's degree. However, the two-year associate degree is more like three years, making it more of a five-year pathway. An entry into practice bachelor's would streamline that process. While is it more education, it may end up taking less time. He added when he looked at the State Community Colleges Chancellor's website regarding baccalaureate approval at the community college level, it currently offers two application periods in February and August. About four approval cycles have occurred so far. Of the 19 community colleges that could apply, nine have been approved to offer a baccalaureate degree. Mr. Hernandez added, he is happy to see the results to provide education to California practitioners since the Board has taken a position to reach out and advocate for this. When a community college in a service area applies for a baccalaureate degree, they need to regionally contact any other program that it might

impact. Five of the nine approved baccalaureate programs are in Southern California and four are in Northern California. Because of competition for those students opting to get a bachelor's degree, enrollment is being impacted. The more programs that are being approved create a growing tension in the community college system. Should educational requirements change, the work the Board is doing becomes even more important and helpful.

Ms. Molina added she saw on the local news that Antelope Valley in Lancaster, and Victor Valley in Victorville have also been approved to offer respiratory care bachelor's programs at their programs.

Vice President Hernandez listed the colleges approved for baccalaureate degree programs:

Southern California:

Antelope Valley, Crafton Hills College, East Los Angeles Valley College, Victor Valley.

Northern California:

Modesto Junior College, Skyline College, Foothill College, Hartnell College, El Camino College.

Dr. Mehta inquired if those colleges are tied in with job placement ensuring the graduates are securing employment.

Vice President Hernandez responded that the pathway is inherent in the entry into practice. The baccalaureate is not an entry into practice, so these people have already gone through an associate entry into practice program and are currently employed in the profession and are now furthering their education. Many now are finishing their entry into practice associate degree and going straight into the baccalaureate degree program. One of the hesitations for practitioners is the pathway is longer than it should be because it is a "2 plus 2" model.

Public comment: No public comments received.

PROPOSED MEETING DATE: WEDNESDAY MARCH 12, 2025, TEMECULA, CA
(Concurrent with the California Society for Respiratory Care's (CSRC's) Annual Meeting)

Vice President Hernandez stated the California Society for Respiratory Care has moved their annual conferences from May/June each year to March. Normally, the Board schedules all meetings at the last meeting of the year but found that last year, many members had already booked dates in their calendars for the early part of the following year. RCB meetings held concurrently with the CSRC's annual event, yield the most attendance. It is one of the best ways to reach stakeholders. At the last strategic planning session, there was a running theme throughout many of the goals that included connecting with stakeholders to obtain feedback. Vice President Hernandez asked if members would be in favor of scheduling the first Board meeting of 2025 in Temecula, CA to match the timing of CSRC's annual event, barring any budget restrictions.

Ms. Nunez added, staff will attempt to gain an exemption, and should have an answer before the October meeting.

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Vice President Hernandez asked if there was anyone who wanted to make a public comment on anything that was not on the agenda. He added that the Board is unable to act 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.

No public comments were received.

FUTURE AGENDA ITEMS

Vice President Hernandez asked if Board members had any specific items they would like to see on the next agenda.

Mr. Terry stated the PQC preliminary results from the survey need to be included on the agenda.

Mr. Goldstein stated he would like a discussion on the ability of licensed professionals to prescribe, adding this is a timely matter that needs to be looked at closer and addressed to fulfill the role as a physician extender. This would be outside the APRT discussion. Ms. Nunez commented she understands this is an issue but that it might be better served in a strategic planning session. Vice President Hernandez added, the Professional Qualification Committee could discuss that while looking at pathways and, in that discussion, bring up an agenda item based on the strategic plan and all the discussions taking place.

Public comment: No public comments received.

CLOSED SESSION

No Closed Session items were discussed.

ADJOURNMENT

The Public Session Meeting was adjourned by Vice President Hernandez at 12:20 p.m.

Original Signature on File
RICARDO GUZMAN
President

Original Signature on File
STEPHANIE A. NUNEZ
Executive Officer