PUBLIC SESSION MINUTES

Thursday, October 14, 2024
PUBLIC MEETING

Members Present:	Ricardo Guzman, RCP Raymond Hernandez, RCP Preeti Mehta, MD Abbie Rosenberg, RCP Michael Terry, RCP Cheryl Williams
Member Absent:	Sam Kbushyan
Staff Present:	Shelley Ganaway, 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 12:01 p.m. by President Guzman.

Ms. Pitt called roll (Present: Mehta, Rosenberg, Terry, Williams, Hernandez, and Guzman) and a quorum was established.

PRESIDENT'S OPENING REMARKS

President Guzman requested everyone to place their cell phones on silent, adding this is an official business meeting of the Respiratory Care Board (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 comment, 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 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. If for some reason public comment is not requested on an agenda item and you wish to speak on that item, please let the moderator know and you will be recognized.

Also, if you are an RCP and would like to earn CE credit for your attendance at our meeting today, please be sure that you have signed in and sign out before leaving. If you have any questions, one of our staff members can offer assistance.

President Guzman then introduced the newest member, Abbie Rosenberg, who was appointed to the Board as a professional member in June. Ms. Rosenberg introduced herself, stating she has been a respiratory therapist for over 40 years and served previously as the Executive Director of the California Society for Respiratory Care. She added that she is happy to join the Board, it has been an exciting time for the past few months, and she is eager to be here. President Guzman thanked Ms. Rosenberg and welcomed her, adding that the Board is glad to have her.

President Guzman also wanted to recognize that this will be the last meeting for the Board's Executive Officer, Stephanie Nunez. Ms. Nunez has made the bittersweet decision to retire this December, after 30 years with the Board, and as Executive Officer since 2001. As a practitioner that started before the Board required licensure, President Guzman stated he is confident he speaks for all California practitioners when he says that we owe immeasurable gratitude for the work she has done to protect patients, and to support the work we do. Ms. Nunez's leadership has been solid, courageous, and innovative. Thank you, Stephanie, for everything and for leaving us with a strong Board and in capable hands of the staff. Ms. Nunez thanked President Guzman.

President Guzman entertained any comments or questions from the members. None were received.

President Guzman then asked if there was anyone in the audience that would like to make a public comment. No public comment was received.

MARCH 28, 2024, MEETING MINUTES APPROVAL

President Guzman asked if there were any additions or corrections to the March 28, 2024, minutes. None were received and a motion to approve as written was requested.

Dr. Mehta moved to approve the March 28, 2024, as written.

The motion was seconded by Vice-President Hernandez.

Request for public comment. No public comments were received.

M/Mehta/S/Hernandez
In Favor: Mehta, Rosenberg, Terry, Williams, Hernandez, Guzman
MOTION PASSED

ANNUAL FISCAL ANALYSIS/REVIEW

Ms. Molina explained that from a revenue perspective, the number of applications received decreased during FY 23/24 from 1695 to 1487. The same can be seen for endorsements, which is a fee charged to verify a license when a licensee seeks licensure in another state. That figure has dropped from 927 to 727. The fiscal years covering the COVID period included a lot of "movement" within the profession with both out-of-state licensees coming to California, and California licensees traveling out of state to assist where needed. Ms. Molina stated that staff anticipates things have now leveled out so future projections should remain more steady.

With regard to expenditures, she pointed out there is a glaring increase in the Office of the Attorney General (OAG) costs during FY 23/24. While staff continuously monitors monthly bills, Enforcement Program Manager, Liane Freels, has been working diligently with Gloria Castro, Senior Assistant Attorney General, and head of the Health Quality Enforcement Section, on several proposals to reduce costs. The most significant changes include:

- Drafting of stipulated settlements and default decisions by Board staff.
- Use of Paralegals vs. Deputy Attorney Generals (DAGs) where possible.

Ms. Molina added it was also agreed upon for the elimination of unnecessary tasks previously performed by the DAGs and staff is optimistic these changes will result in cost savings. Ms. Molina is also working with the Department of Consumer Affairs (DCA) accounting and budget managers to determine if the Board has any leverage with respect to "capping" monthly bills to keep monthly bills consistent and within the OAG budget line item.

In response to the California budget deficit, State agencies have been required to undergo several budget drills aimed at eliminating vacant positions and reducing operating expenses. Ms. Molina has responded to these drills as required but adds that we remain committed to maintaining customer service, and to continue to operate efficiently despite the required cuts. She also wanted to point out that the DCA has pushed back on behalf of the boards and bureaus under its organizational umbrella since they are "special fund" agencies, and these reductions will not achieve savings for the general fund – it is yet to be determined how this will play out.

As previously reported, our enforcement and application processes are almost exclusively paperless. In line with this trend are the number of online transactions occurring by applicants and licensees via the BreEZe licensing system. Recent data showed that during the 23/24 fiscal year, 81% of the initial applications received were filed online, and nearly 97% of renewals were processed online. Based on this movement, Ms. Molina began working to determine what business processes could be changed to achieve cost and/or resource savings. One example she proposed is replacing the existing multi-page renewal notice with a "renewal postcard" to save printing and postage costs. Licensees would receive a postcard reminder that it is time to renew their license and direct them to our website. Licensees who choose not to renew online, would be able to request a hard copy of the renewal application to mail in. We anticipate this change would result in an ongoing annual $10,000 - $12,000 savings to the Board.

Ms. Molina asked the Board their thoughts on implementing this process change.

Vice-President Hernandez agreed with the recommendations presented by Ms. Molina, adding this has worked well for other organizations. The other members in attendance were also in agreement.

Dr. Mehta thanked Ms. Molina for her summary of the fiscal analysis, especially pertaining to cost savings.

All members were in support of Ms. Molina's recommendation to replace the multi-page renewal notice with a renewal postcard.
Request for public comment. No public comments were received.

LICENSING AND ENFORCEMENT ACTIVITY ANNUAL REPORT

Ms. Molina advised members were provided the licensing and enforcement statistics for the last 3 fiscal years. Some observations include:

The pass rate for the Therapist Multiple-Choice Examination (TMC) exam increased significantly (slightly more than 10%) from 69.1% to 80.6%. She is not sure the catalyst behind the increase other than this version of the exam has been in use for a while now and perhaps students are better prepared. Ms. Molina entertained input and any insight from the RCP members.

President Guzman stated that his school's most recent summer graduates scored 15 points higher on average than the previous year, their highest scores in many years.

Vice-President Hernandez added that due to the impact of COVID, and the loss of course and clinical instruction, students are back to gaining the experience they need to be successful.

Regarding enforcement statistics, the Attorney General/Disciplinary Actions – Cases Closed increased from 18 to 31 last FY. Ms. Molina pointed out that several of these closures stemmed from cases we transmitted in the prior FY. Although these stats indicate the OAG did more work justifying the increase in costs, with case crossover between fiscal years, the OAG only averaged 4 more cases than the prior fiscal with a $219k increase in expenditures.

Ms. Molina added that in regard to cost recovery ordered, there was an increase from $162,500 to $343,308, which is attributed to the increase in OAG closures and costs.

Ms. Molina also mentioned the statistics were derived using existing methodology. However, as previously reported, DCA has worked with the boards and bureaus to reach consensus on reporting definitions. As such, what is ultimately reported for FY 23/24 may differ slightly once our global reports are updated to reflect the changes.

Vice-President Hernandez stated, in regard to the summary of licensing activity, Ms. Molina already mentioned the applications received have dropped, but wants to acknowledge that licenses issued have been on the rise, and is also the case for renewals.

Request for public comment. None was received.

LEGISLATION OF INTEREST

Ms. Molina provided updates on bills for which the Board previously adopted positions. She pointed out that only 3 of the bills ultimately reached the Governor for consideration, with 2 being approved and 1 being vetoed.

SB 1451 (Ashby) Professions and Vocations
This bill was approved by the Governor, and was sponsored by the Board, 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 words to promulgate official training guidelines.

AB 1891 (Weber) Community Colleges: Allied Health Programs
This bill was approved by the Governor, which authorizes California Community College (CCC) allied health programs to use a selection process known as "multicriteria screening" for admitting applicants into impacted allied health programs when the number of applicants to that program exceeds its capacity.

SB 1067 (Smallwood-Cuevas) Healing Arts: Expedited Licensure Process: Medically Underserved Area or Population
This bill was vetoed by the Governor and aimed to require specific healing arts boards to expedite the licensure process for those applicants who intended to practice in a medically underserved area or serve a medically underserved population.

Ms. Molina entertained questions from the members.

Vice-President Hernandez commented on AB1891, stating that for almost two decades, nursing programs have been able to use these criteria, but other allied health programs have not. He added there is a fine line, especially within the community college system, where access becomes an issue for certain groups, so this does negate some of that. He hopes as programs begin to institute this, they'll look at equity in their review and acceptance practices.

Request for public comment. No public comments were received.

CONSIDERATION AND POSSIBLE ACTION TO ADOPT TITLE 16, CALIFORNIA CODE OF REGULATIONS, SECTION 1399.365, BASIC RESPIRATORY TASKS AND SERVICES, INCLUDING REVIEW OF ANY COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD AND REGULATION HEARING, AND CONSIDERATION OF POTENTIAL MODIFICATIONS TO PROPOSED TEXT

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

President Guzman reported that staff are presenting the original proposed regulatory language, comments received during the 45-day public comment period and at the August 7, 2024, hearing with recommended responses and proposed modified text for the Board's consideration. As detailed on the cover of the attached materials in your agenda packets, we are seeking to divide this item into to two distinct motions as follows:

1) To edit and/or approve the recommended responses to comments and the proposed modified text as outlined in Attachment 2 and
2) To edit and/or approve the proposed modified text as provided in Attachment 4

Regarding the first topic, the Recommended Responses to Comments, the original regulation text that was presented and approved at the Board's March 2024 meeting was published on June 21, 2024, with a closing written comment period of August 6, 2024, and a hearing was held for oral testimony on August 7, 2024. The Board received comments from five (5) commenters during the 45-day comment period for consideration. Those comments and the Staff Recommended Responses are found in Attachment 2 of the materials presented for Agenda Item 6.

President Guzman requested a motion and a second for the first topic to open the floor for discussion and comments. The motion is to:

"Move to accept the proposed comments and direct Board staff to provide

the responses to the comments as indicated in attachment 2 of this agenda item."

Vice-President Hernandez moved to accept the proposed comments and direct Board staff to provide the responses to the comments as indicated in attachment 2 of this agenda item. The motion was seconded by Mr. Terry.

M/Hernandez/S/Terry

President Guzman requested comments from members. None were received.

President Guzman opened the floor for public comments and advised for this motion, he is directing staff to allot 3 minutes to each individual providing comments. Each commenter will receive a 30 second warning before the end of their 3-minute comment period. It was asked that speakers not repeat comments, but in the interest of time and efficiency, state something like "my comment echoes that of speaker X, or my comments are the same as speaker Y." Is there anyone who would like to provide public comment on this motion?

Mary Adorno, Legislative Specialist, California Association for Health Services at Home (CAHSAH): Represents licensed, and Medicare certified home health agencies, hospices, and licensed home care aid organizations. Ms. Adorno added that she also speaks for thousands of families who have loved ones that receive respiratory care from LVNs. Those families were not able to join us virtually today or travel to Sacramento. CAHSAH is very grateful to the home health agencies that have sent nurses here today to testify on the consequences of the limiting respiratory tasks performed by LVNs. They are urging the Board to consider all of the amendments presented and ensure that together we protect the scope of practice of LVNs who provide respiratory care. CAHSAH's comment letter goes into detail about the amendments that are critically needed. We must trust the Board of Vocational Nursing and Psychiatric Technicians to carry out their role of ensuring quality nursing care as they have done for over 40 years. LVNs have been trained, nationally tested, and licensed to provide respiratory care since 1976. The Board of Vocational Nursing has submitted to the Board the curriculum and testing materials used to ensure that LVNs are qualified to provide that care. CAHSAH does not stand alone in our commitment to maintaining the current LVN scope of practice. The School Nurses Association have commented to the Board showing that the Education Code has codified the specific respiratory tasks performed by LVNs. That law became effective back in 1976. Reversing the scope of practice after 40 years will create not just a financial impact for the State but will force families to place their loved ones in costly facilities. The Medi-Cal program in our State is not prepared for the impact these suggested regulations will have. There are not enough RTs or facility beds for the thousands of patients who critically need this care. Facilities already have difficulty with maintaining the nurse staffing ratios in current facilities. Five years ago, the Board heard from some of those families who shared their stories of the emotional bond and trust that develops over the years the LVNs provided care to their loved ones. Those voices all echoed the cries for help to ensure they will not lose their nurses. CAHSAH will not forget their fight. Let us work together to ensure RTs are placed where their expertise is needed the most where they can make their best impact. They urged the Board to accept their amendments.

President Guzman asked if there were any other comments.

Roxanne Barrington, Registered Nurse and Clinical Manager, Maxim Healthcare Services – Roseville: Ms. Barrington stated that as a manager she hopes to ensure that patients can receive care in the comfort of their home, ensure that bedside nurses are properly educated and trained to provide safe patient care, and ensures her supervisors are well equipped to provide oversight and assistance when needed in care coordination. Maxim Healthcare is a national provider of home healthcare and provides many other in-home services. In California alone, they serve 21,000 patients, out of our 21 offices, and staff approximately 18,000 caregivers, most of those who are LVNs. They join with other

groups, including CAHSAH, in strongly opposing the California Respiratory Board's proposal for limiting the scope of practice for LVNs. Just within Roseville alone they have 48 patients right now and 18 of those have tracheostomies, most of which are staffed up to 24/7 with mostly LVNs. Because there are fewer RNs in homecare, and no RTs in homecare, and very limited agencies to offer RT shift nursing, or shift work, deviation from the scope of practice for LVNs would dramatically worsen the health workforce crisis in the State. As it is, they do not have enough LVNs or RNs to cover the needs of existing DM patients. If an LVNs scope of work loses the ability to provide respiratory care in taking care of patients at home, most of those patients would need to be staffed by both an LVN and respiratory therapist which would increase cost, and complicate delivery and coordination of care. For example, respiratory nursing tasks during their shift, especially suctioning, could be 6 to 8 times in an hour, or more or less, multiple times and multiple hours per shift. The other care that needs to be done during an LVN shift could be feeding meds through an intro tube, providing urinary catheter care, and other skilled nursing tasks. Ms. Barrington stated they work collaboratively with RTs in homecare, but they are not there in the home for 8-hour shifts like our LVNs are. The proposed regulations would have a significant financial consequence including increased costs of recruiting and training new staff, potential displacement of LVNs, and it can lead to increased use of institutional care where RTs would most likely be, and higher costs for the State and families. They strongly urge the Respiratory Care Board to reject the proposed changes to the LVNs scope of practice.

President Guzman asked if there were any other comments.

Legal Counsel Shelley Ganaway stated that before additional comments are received, currently the Board is only considering approving the proposed responses to comments received during the 45-day comment period. So, if there are additional comments related to the proposed text, those can be expressed in the next motion and not this one. If there are comments about approving or rejecting the responses to the comments then please come forward, but if not, we will move on. Ms. Ganaway advised that the comments received from Roxanne Barrington and Mary Adorno would be associated with the next topic, the proposed modified text.

President Guzman requested comments. None were received.

M/Hernandez/S/Terry
In Favor: Mehta, Rosenberg, Terry, Williams, Hernandez, Guzman
MOTION PASSED

Moving on to the second topic of this item is the proposed modified text included as Attachment 4 of the materials provided for Agenda Item 6. Based upon further reflection in developing clearer recommendations, the Board is being presented with Modified Text for consideration. If the Board approves the modified text, it will be published and open for a new 15-day comment period and the Board can continue with the regulatory process.

President Guzman requested a motion and a second to open the floor for discussion and comments. The motion is:

> **"to direct Board staff to take all steps necessary to complete the rulemaking process, including preparing modified text for an additional 15-day comment period, which includes any amendments approved at this meeting. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt Section 1399.365 of the proposed regulations with the modified text."**

Vice-President Hernandez moved to accept the modified text. The motion was seconded by Mr. Terry.

President Guzman requested comments and/or questions from members. None were received.

Now to public comments. For this motion, President Guzman stated that he is directing staff to allot 3 minutes to each individual providing comments. Each commenter will receive a 30 second warning before the end of their 3 minutes, and President Guzman requested the public be mindful of the time allotted. Given the number of individuals who would like to provide public comment, President Guzman asked that an individual not repeat comments, but in the interest of time and efficiency, state something to the effect of, "my comment echoes that of speaker X, or my comments are the same as speaker Y." President Guzman then asked if there was anyone who would like to provide comment on this motion.

Elaine Yamaguchi, Executive Officer, Board of Vocational Nursing and Psychiatric Technicians (BVNPT): Ms. Yamaguchi stated they've enjoyed the work and conversation over the past years. The Board of Vocational Nursing and Psychiatric Technicians submitted comments on the proposed regulatory language before, as you know, and have prepared a letter, which RCB staff has been good enough to place on your desk, so she is not going to read the entire letter. Chiefly, they would like to urge the Board to include pre-oxygenation or nasal suctioning, tracheal suctioning, cuff deflation and inflation, use or removal of external speaking valve, removal or replacement of the tracheostomy tube for inner cannula, and adjusting O2 levels as directed, in the list of basic respiratory tasks and services. These are common and essential tasks performed by LVNs and are specifically included in their licensure training. In addition, they urge the Respiratory Care Board to include expressed safe harbor language for license vocational nursing in both regulatory language so the regulated community has a clear understanding of the basic tasks and services that they can perform without it being considered a violation of the Respiratory Care Practice Act. This language would suggest that basic respiratory tasks and services shall not be considered a practice of respiratory care by the Board when performed by a licensed vocational nurse, meeting the criteria section of Business & Professions Code section 2860. Without this language, they have concerns that it may be unclear to the regulated population what can be practiced lawfully in accordance with the respected practice acts. Ms. Yamaguchi said that it is incredible for her to know at this time that LVNs are not independent practitioners, they must work under the direction of a licensed physician or surgeon, or registered nurse. As such, they do not just make diagnostic or treatment decisions, unless the patient's life is in danger. Ms. Yamaguchi mentioned that other states, including Texas, New York, South Carolina, Illinois, Washington, Kentucky, Oklahoma, New Mexico, Nevada, and Ohio do specifically cite the tasks in their LVN and LPN scopes, including tracheostomy and suctioning. Ms. Yamaguchi thanked the Board.

Dr. Carel Mountain, LVN/Educator Member, President, Board of Vocational Nursing and Psychiatric Technicians: Dr. Mountain stated she supports everything Ms. Yamaguchi said and has a few comments of her own. At this time there are about 124,000 practicing LVNs in the State of California with an estimated 75,000 of those employed full-time. According to the Health Workforce Center at UCSF, 40% of those LVNs work in residential care, support services, or social assistance, places of employment or where one would expect to provide care for patients in need of respiratory support. About 3,000 children live in the community and are ventilator dependent and need assistance with care. Many ventilator-dependent adults also rely on LVNs for care and would prefer to continue living in their community instead of being placed in institutions. LVNs are essential in providing this type of respiratory support and care. These LVNs have been educated in the classroom, checked off in the clinical skills lab, proctored in a clinical setting, and vetted by their places of employment. Without them many of these patients would no longer be able to live with their families, attend school, or live productive lives. The BVNPT have proposed additional certifications for LVNs to continue with this type of care. That certification, similar to the IV Therapy certification, would ensure the training for respiratory care is current and up to date. For this reason, she supports the continued collaboration

between the Respiratory Care Board and BVNPT to support LVNs in providing respiratory care to these patients and strongly encourages the RCB to include suctioning and other tasks that the BVNPT recommended in their final proposed documents. Dr. Mountain thanked the Board.

Ms. Barr, Regional, College for Learning (institution name not clear): Ms. Barr thanked the Board for the opportunity to address this very important issue. She explained that their program trains vocational nurses extensively to ensure they are fully equipped to provide safe and competent care in real world settings. Each student completes over 900 hours of hands-on training which includes intensive respiratory care instruction. The foundational skills that they taught include tracheostomy care, suctioning, stoma maintenance, and respiratory care assessment, all of which are critical in ensuring patient safety. Students in their program demonstrate their proficiency in tracheostomy care and respiratory prevention. This includes learning to manage respiratory emergencies, manage airways, provide suctioning, administer oxygen, and respond to various crises such as acute breathing issues, assuring students are not only technically proficient but also capable of critical decision making in high pressure situations. The core argument against allowing vocational nurses to perform this type of care often centers around the need for respiratory assessment, but with their training, vocational nurses are able to conduct those assessments safely without supervision and following the physician's orders. Moreover, if vocational nurses are restricted from performing these tasks, there will be consequences in the healthcare setting, particularly in long-term care and home health environments, as they are first responders and close to the patients. They provide critical care intervention when other healthcare providers may not be available, and removing this scope can increase the workload which is already overburdened, potentially compromising patient safety. In conclusion, she urges the Board to consider the extensive hands-on training their nurses are receiving and with the right supervision and protocols in place, vocational nurses can and should continue to perform their tasks. Ms. Barr thanked the Board for their consideration.

Katie Savage, President Elect, California School Nurses Organization: On behalf of the California School Nurses Organization, she is here to share their concerns regarding the proposed regulation that would preclude LVNs from performing patient suctioning. School nurses, as supervisors of health, provide health services to California's 5.8 million children in over 1,000 school districts statewide. It has been our experience that 10-12% of California's students have special care needs; of those 1-3% have suctioning needs. In the educational setting, it is not uncommon to interface with students on ventilators, with tracheostomies or with oxygen needs. These students need suctioning support to ensure the maintenance of patent airways.

Under the California Education Code 49423.5, school districts statewide depend on licensed vocational nurses and trained, designated school personnel, supervised by the registered, credentialed school nurse, to provide suctioning support for students. Further, LVN's provide additional nursing support within the educational setting. These nursing support services include G-tube feedings, dressing changes, positioning, and medication administration. Unlike years past, students with special educational needs are mainstreamed with general education students and are not necessarily segregated to special education sites.

Unlike other specialized healthcare that is performed on a schedule, the procedure of suctioning is typically done on an "as needed" basis, which would require the RT to remain with a student all day just in case suctioning is required. Expecting nearly 1,000 school districts to hire multiple respiratory therapists to provide exclusive 'suctioning services' on a standby basis, when an LVN or trained unlicensed assistive personnel can provide these and other services would be unrealistic, cost prohibitive, and unnecessary.

Name inaudible (representative of an LVN program/academy): LVNs are the backbone of home care and patient safety is most important. She requested the Board vote wisely and allow the LVNs and RNs to continue with their current scopes of practice.

Kim Tasker, Clinical Director, Prime Home Health: Ms. Tasker stated Ms. Yamaguchi spoke eloquently about the needs of the LVNs and what they've been doing long term. As far as an industry, the home healthcare world is 100% based on LVN care, adding the LVNs are not routinely used in other aspects of home health nursing as they are in home health. The care they provide the families they take care of, are in remote settings. The LVNs are given scarce resources, but they use the techniques they teach them in school, and teach them in homes, and teach them in their office, they are brought in for competencies, with evidence-based theory, they are under state licensure and are part of a family that cannot do without them. So, to consider excluding the tasks they have proven time and time again, would be devastating for the families. If we think about the fact that there is no staff available, like they would be in a higher acute setting, an emergency might occur at home, and the need to call 911, without the LVN to be able to suction that patient or perform a respiratory emergent need, how fast will 911 get there? If they take longer than 4 minutes, the brain cells begin to die. If the 911 emergency team doesn't arrive in 5 minutes, we're talking permanent brain damage. That cannot happen as these families are in remote settings and unable to get to a respiratory therapist. It is not to say that nurses are trying to replace respiratory therapists, they're not. They want to be collaborative. They just want to be able to keep the patient alive and to keep them at home which is what we are supposed to be doing if they've made the request to be at home. Concluded that if the Board considers limiting the scope, to please be part of solution to support the LVNs through training recommendations and guidelines.

Krystal Craddock, RRT, UC Davis Health COPD Case Manager, CSRC President, Skyline College Bachelor's Program for Respiratory Care: Ms. Craddock stated she disagrees with the proposed modified language in Attachment 4. She explained that when speaking about tasks, these aren't just tasks that respiratory care practitioners learn in school, they are functions related to critical skills. It takes 2 complete years to finish the respiratory care program, in addition to continued education. Time is spent focusing on cardiopulmonary care -- it's not just following a doctor's order. Licensed RCPs assess and make critical recommendations for respiratory patients. She feels they should continue with the scope of the respiratory care practitioner. Spending 2 years learning the skills is something not to be dismissed, and it is crucial and important to understand that it does really take that in order to take care of the patients in making recommendations and changes. She added that LVNs are very necessary as part of other in-home care. Ms. Craddock thanked the Board for their time and collaboration.

Amanda Wright, RN, Regional Vice-President of Clinical Operations, Aveanna Healthcare: Ms. Wright explained they are a home health agency that provides one to one nurse's care to approximately 900 patients within California. Of those 900 patients, more than 360 patients require respiratory care treatments. They employ over 2,100 nurses, and over 97% of those are LVNs, which are highly trained by Aveanna. They work with on-staff respiratory care practitioners who provide tracheostomy and ventilator training to their internal and external nurses. Competency assessments are completed by their supervising registered nurses, and those are in skilled labs competencies as well as at in-home competencies. The registered nurses also complete very frequent supervisions of the LVNs in the homes every month, for the first 3 months, and every 2 months thereafter. They're assessing their skills, various scenarios, following up with plans of care, and their overall performance. Ms. Wright added that their LVNs follow very detailed physician orders. Those physician orders will basically dictate all routines and interventions that are required. The orders basically entail suctioning, oxygen administration, hygiene care, coloscopy changes, etc. They work in collaboration with the respiratory care practitioners in the field. A lot of the time, they are working through durable medical companies, their responsibility is to go out and provide education and training to the families in the home. Sometimes they work with them to provide training to our staff, for a majority of the time they are just there to set up the equipment. They have access to RCPs through our LVNs as they are very short staffed in the field and don't have access to go and take care of the high need type of intervention such as suctioning, oxygen as required at the time. Ms. Wright stated they want to work collaboratively with the Board.

Kevin McBride, Regional Vice-President of Business Development, Aveanna Healthcare: Mr. McBride wanted to reiterate and support the comments spoken before him. He wants to take a look from the family's perspective, and as Ms. Wright stated, Aveanna alone has over 360 families that have trach and ventilator care needs. All of those families would love to have been here to provide their own comment, but unfortunately due to circumstances of the care that's required, they're unable to be here today to speak for themselves. He added that he understands the intent of the change to provide the highest quality of care to those who receive trach and ventilator dependent care in the home, but it is focused on facilities in acute settings, which makes perfect sense. However, this change would be devastating to our patient population and their families who depend on the care in the home, and that is why the same proposal was not adopted for the home setting in 2019 and is asking for the same consideration this time around. The risk of having care taken away will place undue stress on families and ultimately there are not enough settings here in the State of California in order for those patients to receive the care they are currently receiving. If this care is taken away from LVNs, meaning being able to provide it, there are not enough RNs or respiratory therapists in this state to provide the care in the homes and there aren't enough facilities to accept all of these patients and provide that care which basically takes away the ability for these families to provide for themselves, and they're going to have to provide that care directly. They are requesting the same consideration as in 2019 and asked that the home health setting be exempt from any future conversation around this.

Dr. Tiffany Jorgenson, Director of Nursing, Smith Chason College: Thanked the Board for the opportunity to speak today. Dr. Jorgenson stated she has a background as an ICU nurse and has worked hand in hand with amazing RTs throughout the whole duration of her nursing career, as well as throughout the height of the recent pandemic, and has a profound respect for the respiratory therapy community. She's also a director of nursing at Smith Chason College and oversees the vocational nursing programs at the Ontario and Los Angeles campuses. In everything that she's read and heard, there was one common theme that was heard over and over again – that there is a general concern for patient safety overall. And for those that are in favor of this proposed change, it stems from a general concern of patient safety, so as a healthcare professional, this is very reassuring since safety is at the core of everything we do. In an attempt to remain objective as best as she can, her main concern is that 10,000 people in this country turned 65 today, and 10,000 people turned 65 yesterday, and 10,000 more will turn 65 tomorrow, and every single day for the next 20 years an average of 10,000 people will turn 65 years old and retiring. If the LVNs scope of practice were to be limited in this area, at the same time we are having the largest age group in our history retiring every single day, what would this mean for our shared goal of patient safety? We have shortages across almost every license category in healthcare and it's going to continue to be exasperated for the next 2 decades. So instead of proposing limitations of the LVNs scope of practice she instead urged the RCB and BVNPT as our healthcare leaders; to instead work together to strengthen our partnerships and collaborate to provide stronger education so we can achieve our shared goal of patient safety for the years to come. Dr. Jorgenson added that she supports and echoes the comments of Ms. Yamaguchi, Dr. Mountain, and the others that spoke today and strongly urges the Board to vote against this proposed change at this time and instead to work in collaboration with BVNPT toward our shared goal of patient safety for the years to come.

Anne Terry, LVN Program, Gurnick Academy: She is here today to support her LVNs. One of the things they teach the LVNs throughout their 12/13-month program, assessment and safety. After hearing what the speakers said this afternoon, Ms. Terry is in favor of what was said in that we need to support the LVNs in letting them continue with their scope of practice, and do not take that role away from them; that they continue in their capacity as nurses, helping patients, families as they support their kids at home, at work, and at school. Ms. Terry thanked the Board.

Speaker not Identified: Wants to add one more comment regarding the Medi-Cal Program and hopes the Board will work in collaboration with not only the Board of Vocational Nursing, but with the Chiefs of the Medi-Cal Program. Huge changes would need to happen at that level. Thousands and

thousands of more vulnerable patients are coming into the Medi-Cal roles and are increasing with undocumented persons. The Medi-Cal Program has been a staple for these folks to receive respiratory care. There are many settings in which respiratory care is provided through the Medi-Cal Program. It was urged that the Board contact the Chief at the Medi-Cal Department to ask him what is needed, what is the plan, how can we use respiratory therapists to the best of their expertise for the biggest impact because they know that they don't have enough yet. They don't have enough of all of their clinicians. Expertise is needed, as well as a collaboration with all of the State programs that are involved in providing this care and hopes this Board reaches out to the Medi-Cal Program and finds out how that program works, what are the codes, what are the policies, how can we ensure that we are not disrupting care to people that have extreme social confinement. This is an important area for the State of California and the Governor has expressed his need for ensuring that vulnerable patients, and those that are not yet legal citizens, have the right to this care, and not hamper the Medi-Cal Program, work together with the Board of Vocational Nursing and the Respiratory Care Board to ensure the expertise is divided in the best place, to provide the best impact we can. She thanked the nurses and respiratory care therapists who spoke out today.

President Guzman entertained any last comments for this item. None were received and he thanked all those who spoke.

Prior to a vote being taken, President Guzman requested clarification from Legal Counsel Ganaway of the next steps, so the public is aware.

Legal Counsel Shelley Ganaway referred the response to Dao Choi, Board Regulation Counsel, who explained that if the Board approves the text as proposed then it would go out for another 15-days, and during that 15-day period, the public will be able to comment. If the Board chooses to not approve the language as proposed, they can make a motion to have the Executive Officer and staff work on the additional language and bring it back for the next board meeting.

Ms. Ganaway further explained that if the motion passed and the public wishes to make comments during the 15-day comment period, to submit those comments in writing as the Board will have to respond in writing to each comment.

M/Hernandez/S/Terry
In Favor: Mehta, Rosenberg, Terry, Williams, Hernandez, Guzman
MOTION PASSED

President Guzman thanked everyone who spoke.

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

a. 2024 Workforce Survey Results Presentation, 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 thanked President Guzman for the opportunity to present the survey put out this year. Vice-President Hernandez explained the Professional Qualifications Committee (PQC) is a sub-committee of the Respiratory Care Board that is chaired by himself and member Michael Terry, with some of the Board's executive staff assisting.

When this venture began, the 2017-2021 strategic goal was to ensure initial and continuous competency for all licensed respiratory care practitioners and to develop an action plan to incorporate the baccalaureate degree provision into the Respiratory Care Act to ensure education requirements

meet the demand for the respiratory care field. Vice-President Hernandez stated that was the strategic plan when they began. Since then, a new strategic plan came about, and those particular plans were revised and the PQC is now working under the strategic plan of 2023-2027 to evaluate current respiratory care educational requirements and revise as necessary to support the practice standards in education.

Over the last two years, the committee has presented a series of study sessions held in 2023, 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 to provide recommendations as follows:

1. Identify and conduct follow-up strategies for receiving more perspectives with applicable stakeholders.
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 respiratory bachelor's degree programs. Previously, 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 for implementation.

Mr. Terry explained a survey was posted to the Board's website earlier this year to solicit public and professional input and provided the following preliminary results:

1. 1,893 participants began the survey.
2. Approximately 958 participants completed the survey.
3. 64 were duplicate surveys (determined by RCP number and the internet provider registration).
4. 894 surveys in the primary analysis were fairly equal between male and female.
5. Predominant age range was between 35-50 years, but quite a lot are still in the 60-year range.
6. Education level upon becoming an RCP was the associate degree.
7. Highest educational level achieved was identified as high school and associate degree; quite a few bachelor's and master's degrees; more doctorate degrees than anticipated.
8. Practice Locations
    - academic and acute care hospitals lead the way.
    - specialty practices with a higher level of care such as hyperbaric oxygen, research, case management, conscious sedation, etc.
9. Professional Organization Membership
    - more than 1/2 have an AARC membership.
    - approximately 1/3 are CSRC members.
10. Attendance at RCB Meetings by survey respondents was 14%.
11. California Workforce Study Findings
    - 27% disagreed there is a deficiency with the beginner respiratory care practitioners.
    - approximately 70% partially or fully agreed there is a deficiency with the beginner respiratory care practitioners.

10. Bachelor's Degree as a Minimum Requirement for Respiratory Care
    - 55% replied "No"
    - 45% replied "Yes"

11. Any Aspect of Respiratory Care that Would Require a Bachelor's Degree
    - 62% replied "No"
    - 37% replied "Yes"

12. Responses to Scenarios Presented

- ***Scenario 1*** requires new respiratory care practitioners to have a bachelor's degree in respiratory care or health science by 2023. This scenario was favored by most and deemed most practical and feasible.
- ***Scenario 2*** requires new respiratory care practitioners to prove within 4 years that a bachelor's degree was earned. This scenario was favored in allowing a grace period of two (2) renewal cycles before a bachelor's degree is required.
- ***Scenario 3*** limited the practice of respiratory care to only direct supervision if new respiratory care practitioners haven't earned a bachelor's degree after 2030. This scenario was determined to be unworkable.
- ***Scenario 4*** involved a 3-tier system that include respiratory care assistants who graduate after 2030 with an associate degree, current respiratory care practitioners and any new respiratory care practitioners who earned a bachelor's degree after 2030, and an advanced respiratory license probably developed separately. This scenario was deemed the least favored and would be complex to manage.
- ***Scenario 5*** limited the locations where a new respiratory care practitioner could work should they graduate with an associate degree after 2030. This scenario was favored to be unworkable.

Vice-President Hernandez explained the scenarios are a result of the research brought to the Board up to this point. In addition, as the focus groups were conducted, probing questions were asked regarding various levels of licensure requirements. One of the PQC recommendations was to begin thinking of what a recommendation would look like and Mr. Terry took the opportunity to finite dates and clear structure to them. As a result, it was revealing how people responded to them.

Mr. Terry provided the following suitability and feasibility results to the 5 scenarios:

- ***Scenario 1*** was favored by most and deemed most practical and feasible.
- ***Scenario 2*** was favored in allowing grace period of two (2) renewal cycles before a bachelor's degree is required.
- ***Scenario 3*** was determined to be unworkable.
- ***Scenario 4*** was deemed the least favored and would be complex to manage.
- ***Scenario 5*** was favored to be unworkable.

In addition, the survey included a section on how the participants thought the Board could ensure new respiratory care graduates are prepared to practice at the onset of their licensure**.** Approximately 894 comments were provided, and the following reflects the top comments:

- Residency as a requirement
- Better/More clinical instruction
- BS degree as a minimum
- Need for better schools (some feel schools are not preparing their students)
- Need to eliminate for profit schools
- Need for better orientation

Vice-President Hernandez explained the focus groups involved individuals across the state who were not only stakeholders but decision makers in the profession. Most supported the bachelor's degree as the minimum standard for licensed respiratory care practitioners in California. They concluded the additional education would provide more clinical training, enhance critical thinking skills, and ultimately patient safety.

Vice-President Hernandez stated he's employed at a community college, worked as an administrator for almost 20 years, and they certainly want the students to be trained adequately and into the workforce as soon as possible. He added that the highest level of healthcare programs offered in a

community college are respiratory care, nursing, radiology, technology, and paramedic (although they also moved to a bachelor's degree). Although the associate degree is the entry point, to really practice and ensure stability in jobs, the bachelor's degree is what employers look at. As we look at respiratory care, not to the same degree, magnet status that hospitals see, but more so the bachelor's degree in the higher-level functioning critical thinking positions, they're looking at the bachelor's, so in choosing one or the other, the bachelor's degree is being chosen.

Ms. Williams advised that she had 2 children that were born with respiratory problems and the hospital taught her how to care for them. She feels not every aspect of medical care needs to have a bachelor's degree, adding the states and country is moving towards non-degrees because of the costs involved to obtain the degrees. She wonders what this is going to do for the profession.

Vice-President Hernandez explained that he's asking the Board to consider all the information being provided before reaching a conclusion and understands Ms. Williams' concerns. He gave the example that nursing licenses outnumber respiratory care licenses in California by 10 to 1. So, in looking at that and providing care across the continuum and the complexity in an acute care institution where most practitioners practice, and looking at who's responding to the survey, he would want to see the responses from decision makers because they are looking at staffing and they need diversity in that cursor. Regarding the associate degree, in the previous study session, he reviewed the types of associate degrees including an Associate of Science, an Associate of Applied Science, and an Associate of Occupational Studies. The Associate of Applied Science and Associate of Occupational Studies were grouped together because one has more general education and requirements to that degree that pertains to critical thinking. Studies that have been done and the information given provide that an individual who has the direct Associate of Science with the added communication is something that employers constantly say is needed from the respiratory care practitioners. Associate of Science degree courses include philosophy and critical thinking which are not seen in the applied science or occupational studies where the general education is removed. Currently, associate degree students are completing 100 to 110 units, with the bachelor's degree requiring 120 units.

In referencing Agenda Item 7, Vice-President Hernandez explained that in the State of California, looking at CoARC accredited programs at the associate level, almost every single one is an Associate of Science compared to other states. There is a variation between the Associate of Science and that of an Associate of Applied Science and Associate of Occupational Studies, the total number of units in that of the Associate of Science with respiratory care, looking at prerequisites, core major coursework, clinical experience, and general coursework, varies from college to college because accreditation does not require a baseline of hours.

Vice President Hernandez stated that the Legislature has been working to standardize general education across the state's community colleges. He added at Skyline College they currently require 18 units, but just last week their minimum number of units was increased by 3 to 6 more.

He reminded everyone that the Strategic Plan does not call to directly incorporate the bachelor's degree but to reassess the needs to ensure optimal patient care. Based on the results we have, there appears to be a gap and a question as to whether the survey captured the role some individuals have, who did not take part in the survey. Vice-President Hernandez requested comments from the members.

Ms. Williams asked, based on Mr. Terry's chart reflecting the highest educational level, if any calculations were done pertaining to how many people actually stayed in the respiratory field once they obtained their associate degree, and how many individuals who obtained their bachelor's degree stayed in the respiratory field?

Mr. Terry advised that the survey did include a section which captured that 90% were in the respiratory care field and may include a program director for a respiratory program, etc.

In response to Ms. Williams' concerns regarding the training respiratory care practitioners receive, President Guzman advised that he completed an 11-month program and was not prepared when he entered the respiratory field. Over time the requirements changed to where an associate degree was required. Now as an educator for many years in both the private and public colleges, he has seen a vast difference in the ability to properly train students. He stated that he periodically works as a respiratory care practitioner on weekends and was challenged with the complexity of care he must provide. In addition, every year his school, as part of the accrediting process, sends a survey to those employers who hire their graduates requesting feedback on their respiratory care practitioner's performance. The constant feedback is very positive, but if asked for constructive criticism, it is stated that by the first year there are certain tasks the respiratory care practitioner should be expected to do.

Dr. Mehta asked if we push for students to obtain the bachelor's degree, are we going to lose the highly trained respiratory care practitioners to become educators or leave the clinical positions. She added that if the Board were to push for advancement, we may lose the clinical workforce to education, etc.; and the added costs for the "2 plus 2." She feels residency would be something to look into further as a possible option.

Discussion ensued.

Vice-President Hernandez explained the Strategic Plan calls to evaluate current requirements, and there currently are no answers as data is still being gathered. There are results from a survey, and he and Mr. Terry would like to finish the discussion and determine what, if anything, should be done next.

President Guzman opened the floor to public comments.

In addition to the information already provided on Board's website, it was asked if there was additional data regarding the issue and if so, asked that it also be made available on the Board's website.

Vice-President Hernandez thanked everyone for their comments and explained it would be helpful to receive some feedback from the managers. He and Mr. Terry will continue to move forward as this is a continually evolving process.

ELECTION OF OFFICERS FOR 2025

President Guzman made a motion to nominate Vice-President Hernandez to continue as Vice-President.

The nomination was accepted by Vice-President Hernandez.

President Guzman asked if there were any other nominations for vice president. None were presented.
M/Guzman/S/Terry
In Favor: Mehta, Rosenberg, Terry, Williams, Hernandez, Guzman
MOTION PASSED
Vice-President Hernandez moved to nominate President Guzman to continue serving as the Board's President.

The nomination was accepted by President Guzman.

No other nominations were presented.

M/Hernandez/S/Terry

In Favor: Mehta, Rosenberg, Terry, Williams, Hernandez, Guzman
MOTION PASSED

Request for public comment. No public comments were received.

SCHEDULE 2025 BOARD MEETING DATES AND LOGISTICS

Thursday, March 13, 2025, in Temecula. Meeting will run concurrent with the CSRC Annual Conference. Time has yet to be determined.

Friday, June 6, 2025, in Sacramento. Location and time to be determined.

Friday, October 10, 2025, in Sacramento. Location and time to be determined.

Vice-President Hernandez asked if virtual meetings were an option. It was explained that it is possible but would require public notice for each location where each member is located. This was available during the pandemic and is something DCA is considering again due to the cost savings and opportunity for public participation, but at this time has not confirmed one way or the other.

Ms. Molina stated she will advise the members should this change.

Legal Counsel Shelley Ganaway advised that committee meetings are currently allowed to be virtual.

Dr. Mehta requested, for the Sacramento meetings, a lunch hour allowing the members to socialize and get acquainted with each other. Ms. Molina indicated she will ensure a period for lunch is carved out in future meetings.

President Guzman asked if it would be possible to allot time for lunch at the March 13th meeting in Temecula. Ms. Molina stated it is possible and staff will look into scheduling something for those members able to attend.

Request for public comment. None was received.

The 2025 meeting dates will be added to the Board's website.

Meeting recessed for a 15-minute break. Upon return, roll was recalled, and all members previously accounted for were present.

EXECUTIVE OFFICER (EO) RECRUITMENT AND SELECTION PROCESS

Discuss and Possible Appointment of an EO Search Committee

Ms. Nunez provided the Board with an overview of the EO selection process. She suggested the Board President select two members who will have sufficient time and interest to commit to actively participating in the selection process. She reminded the Board that when a committee consists of more than two members, it is considered a public meeting and must be noticed, as required by law. Therefore, the Search Committee should be limited to no more than two members.

Mr. Terry moved to establish a Search Committee consisting of President Guzman and Vice-President Hernandez.

The motion as seconded by Dr. Mehta.

Request for public comment. No public comment was received.

M/Terry/S/Mehta
In Favor: Mehta, Rosenberg, Terry, Williams, Hernandez, Guzman
MOTION PASSED

Review and Possible Action on Revised EO Duty Statement and Recruitment Announcement

Ms. Nunez presented an updated and current EO duty statement that clearly and accurately describes the functions and responsibilities of the position to be reviewed by the Board. She reiterated that the duty statement provides the foundation upon which recruitment is based.

She also relayed that recruitment and appointments of EOs must be made in accordance with the provisions of civil service laws to ensure consistency and transparency throughout the Department. Initial recruitment efforts will include advertising on the California Department of Human Resources' website (www.calcareers.ca.gov) and in the Capitol Morning Report. She stated other platforms can also be utilized to post the recruitment announcement if any members wish to suggest another site.

Discuss and Possible Action on Release Date of Recruitment Announcement

Finally, Ms. Nunez indicated that the release date for the Recruitment Announcement would be coordinated for when the position will become vacant, and it is typically advertised for 30 days. The timing for the release of the recruitment announcement should allow time for the Search Committee to conduct initial interviews, and then final interviews in front of the entire board at a scheduled board meeting.

The Search Committee will work directly with the Department of Consumer Affairs Office of Human Resources to finalize the duty statement, recruitment announcement, recruitment period, and for review of applications and the scheduling of candidate interviews.

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CLOSED SESSION

The Board convened into Closed Session, as authorized by Government Code Section 11126c, subdivision (3) at 3:15 p.m. and reconvened into Public Session at 3:20 p.m.

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REPORT ON ACTION TAKEN IN CLOSED SESSION ON APPOINTMENT OF AN INTERIM EXECUTIVE OFFICER

The Board met in closed session and has voted to appoint Christine Molina as Interim Executive Officer effective December 30, 2024, upon satisfaction of the oath of office and verification her fingerprint background clearance is up to date.

Ms. Molina thanked the Board for the opportunity and their confidence in her ability to lead during the recruitment process.

Request for public comment. None was received.

PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

President Guzman asked if there was anyone who wanted to make a public comment on anything that was not on the agenda.

No public comments were received.

FUTURE AGENDA ITEMS

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

Vice-President Hernandez requested an update from the Professional Qualifications Committee be included on the next agenda.

Vice-President Hernandez wanted to again recognize Stephanie Nunez, thank her for her years of dedication to the Board, and to let her know she was the reason he wanted to serve on the Board.

Executive Officer Nunez again thanked the members for always being so respectful of each other's opinions and trying to find solutions through the process. She also shared that she appreciated learning from each of them and seeing things through their different perspectives.

Ms. Rosenberg added that it has been great to have been able to work with Executive Officer Nunez prior to her becoming a Board member and is excited for her to begin her next journey.

Executive Officer Nunez requested the next agenda include the progress of the homecare regulations.

Mr. Terry asked that CSRC present their progress on the Advanced Practice Respiratory Therapist (APRT).

No public comment received.

ADJOURNMENT

The Public Session Meeting was adjourned by President Guzman at 3:31 p.m.

RICARDO GUZMAN
President

CHRISTINE MOLINA
Executive Officer