



<b>DATE</b>	November 7, 2023
<b>TO</b>	Board Members
<b>FROM</b>	Elaine Yamaguchi Executive Officer
<b>SUBJECT</b>	Executive Officer’s Report: November 2023

Greetings, Board Members.

**Budget and Finance**

We have attached the Board’s most current Fund Condition report and have invited our colleagues from the DCA Budget Office to provide updates and answer questions, as well as report on the Governor’s Budget.

**Statewide Leadership Accountability Act**

The Executive Management team is working to provide our biennial assessment for the State Leadership Accountability Act (SLAA), which was enacted to reduce the waste of resources and strengthen internal control. SLAA requires each state agency to maintain effective systems of internal control, to evaluate and monitor the effectiveness of these controls on an ongoing basis, and to biennially report on the adequacy of the agency’s systems of internal control. The reports will be posted by December 31. [State Leadership Accountability Act \(SLAA\) | Department of Finance \(ca.gov\)](http://State Leadership Accountability Act (SLAA) | Department of Finance (ca.gov))

**Final Legislative Report for 2023**

The Legislature has recessed until January, and the Governor’s sign/veto deadline has passed. BVNPT was actively following several measures:

- **AB 1722 (Dahle): School Nurses**  
**Status:** Signed by the Governor. Chaptered by the Secretary of State – Chapter 853, Statutes of 2023. The final approved version of this bill authorizes a local education agency to hire a vocational nurse, under the supervision of a credentialed school nurse, if no suitable credentialed school nurses are available for the position and specifies that at no time would LVNs work out of scope.
- **SB 143 (Committee on Budget): State Government.**  
**Status:** Signed by the Governor. Chaptered by the Secretary of State – Chapter 196, Statutes of 2023. This bill authorized, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and suspended certain requirements of the act, including the requirements referenced above until December 31, 2023.
- **SB 544 (Laird): Open Meeting Act**

**Status:** Signed by the Governor. Chaptered by the Secretary of State – Chapter 216, Statutes of 2023. This bill revises and repeals, until January 1, 2026, certain teleconference requirements under the Bagley-Keene Open Meeting Act. Specifically, it requires members of the state body to visibly appear on camera during the open portion of the meeting, requires at least one member of the state body to be physically present at each teleconference location, and authorize a member’s remote participation if the member has a need related to a disability and notifies the state body.

- **SB 816 (Roth) Professions and vocations.**

**Status:** Signed by the Governor. Chaptered by the Secretary of State - Chapter 723, Statutes of 2023. This bill provided a technical code correction in the codes to allow the Board to correctly implement the fee reduction authorized by SB 1536 (Roth, 2021).

## **Regulations**

The staff continues to work with Counsel to complete the current AB 1536 package to submit to the Office of Administrative Law.

As is typical of this time of year, the Board will also review and possibly act upon the Rulemaking Calendar for 2024. The proposed 2024 Rulemaking Calendar is Agenda Item 8.B.V. in the meeting packet.

## **Respiratory Care Board**

At their October 24, 2023 meeting, the Respiratory Care Board authorized their staff to seek an author for legislation. The Board briefly discussed the concepts driving this language last year, which would seek to implement the Legislature’s directions from SB 1436 (Chapter 624, Statutes of 2022).

SB 1436 allowed the Board to identify the basic respiratory tasks and services that could be safely delivered by licensed vocational nurses (LVNs). Although the bill carved out specific home health care services, other licensed “home and community based” facilities and patients would not have been covered, placing individuals at risk of being re-institutionalized and/or losing access to daily living services. This new proposed legislation seeks to expand upon this.

While this proposal makes good progress in BVNPT’s perspective, there are still concerns that we hope to be able to resolve before staff will present an analysis and recommendation for a position.

Issue #1: The LVN scope of practice has always been the same in any setting. All licensees currently have the same opportunity for training and

Continuing Education courses acknowledged by the BVNPT. We absolutely support the need for consistent training in this very important patient care area, but we are against specifying particular healthcare settings they can practice in after training.

Issue #2: BVNPT does not agree with the RCB definition of basic respiratory care services. For example, basic respiratory assessment, tracheal suctioning, removal, cleaning, and replacement of inner cannula, and chest auscultation are all learned in the VN program. To remove these areas within the LVN curriculum is to reduce the California LVN scope of practice. This could result in fewer professionals to perform these tasks at the facilities that are not in the proposed language. The RCB had proposed rulemaking last year to set this definition, with which the BVNPT expressed concerns. We hoped to present these concerns at a public hearing, but one has not yet been scheduled. RCB must still promulgate regulations, and this will most likely happen next year.

Issue #3: We appear to have differences in the definition of basic assessment. An LVN's basic assessment is gathering and reporting data, not developing a plan of care based on the collected data and certainly not initiating action.

Staff hopes to work with RCB as they proceed with this bill, and looks forward to working with RCB and stakeholders to develop training policies and resources going forward. It is possible that staff will need to address this with the Board before the regularly-scheduled meeting in February.

### **Naturopathic Doctors Board**

The Board of Naturopathic Medicine (CBNM) contacted BVNPT to discuss implementation of SB 994 (Chapter 713 of the Statutes of 2022), which allowed licensed Naturopathic Doctors to direct and supervise LVNs. Information for a Frequently Asked Questions document was discussed, in addition to the number of LVNs who were now working for Naturopathic Doctors, the supervision protocols, IV/Blood Withdrawal Certification, and other aspects of implementing the legislation. Staff will continue to provide updates to the Board.

### **2024 and 2025 Board Meeting Planning**

In January, the effective date of SB 544, the Board will be able to resume the ability to meet via teleconference and/or a hybridized format, with some changes to the format authorized by the Governor's Executive Order during the pandemic.

Some of the key factors:

- Remote location – the location where a member of a state body participates, that is different from the teleconference location. Remote locations need not be disclosed to the public.
- The portion of meetings required to be open must be visible and audible to the public at each teleconference location.
- At least one member of the state body, not just staff, must be present at each teleconference location.
- A majority of the members of the state body must be present at the **same** teleconference location. Additional members, more than the majority, may attend and participate from a remote location. For example, with a full 11-member board, 6 members must be present at the teleconference location. The remaining five members may attend and participate from a remote location.
- A member attending from a remote location may count towards the majority if **both** of the following conditions are met:
  - Member has a need related to a physical or mental disability as defined in Government Codes 12926 and 12926.1
  - Member notifies the state body as soon as possible of the need to participate remotely.
- The board must approve the exception and request a general description of the circumstances for each meeting the member participates in remotely. It cannot be a generalized approval for remote participation without an end date. Exceptions must be granted on a meeting-by-meeting basis.
- If the teleconference option fails and cannot be restored, the state body shall end and reschedule the meeting with appropriate notice.
- Members participating remotely must disclose whether any other individuals over 18 are present in the same room and their general relationship with those individuals.
- Members must appear visible on camera during the open portion of the meeting. If unable to appear due to connectivity issues, members must announce the reason.

**Staff recommends that the Board discuss and possibly take action on plans for meetings in 2024 and approve a tentative calendar for 2025.**

### **Strategic Planning**

The Board's current Strategic Plan was approved in 2019 and set goals for 2020-2025. While initial progress had been promising, the COVID-19 pandemic halted progress in some areas, and fundamentally changed the environment of our work in other areas. Some of the divisions evaluated their progress in completing the goals, but the Board has not had the bandwidth to conduct a complete review and assessment.

Our friends at SOLID reached out recently to inquire whether we were interested in renewing it sooner, and especially to include Diversity, Equity and Inclusion (DEI) Supplemental environmental scans and planning sessions to amend/update current strategic plans that did not participate in the updated planning process (after Governor Newsom's Executive Order) which includes DEI related questions.

Although the priority for the next months will be the Sunset review, this seems like a valuable opportunity to accelerate our review and develop a new Strategic Plan. We would like to discuss this with the Board to determine whether we can start work right away.

### **Closing**

Please don't hesitate to call or email with any questions or suggestions, or if you need help with anything.

Thanks, everyone. We're looking forward to the meeting.