



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR
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LEGISLATIVE AND REGULATIONS COMMITTEE MEETING MINUTES

August 4, 2022

2535 Capitol Oaks Drive
Sacramento, CA 95833
Via WebEx Webinar

2:00 p.m. – 4:00 p.m. (or the completion of business)

Board Members Present:

Ms. Aleta Carpenter, Board Member, Chair
Ms. Adrienne Luce, Board Member

Staff Present:

Ms. Elaine Yamaguchi, Executive Officer
Ms. Antoinette Wood, Enforcement Division Chief
Ms. Doris Pires, Legislative and Regulations Specialist
Ms. Cheryl DeCristofaro, Personnel Liaison
Ms. Rebecca Ball, Board Administration Analyst

DCA Staff Present:

Mr. Kenneth Swenson, Board General Counsel
Ms. Kristy Schieldge, Board Regulations Counsel

1. Call to Order and Roll Call.

Ms. Carpenter called the meeting to order at 2:04 pm.

Ms. Carpenter introduced herself and Ms. Luce and confirmed all members present.

2. Staff Introductions – Ms. Yamaguchi.

Ms. Yamaguchi introduced herself and confirmed all staff and counsel present.

3. Legislative Update – Ms. Yamaguchi.

- a. Proposed Legislation to Amend Business and Professions Code (BPC) sections 2881.2, subdivision (d) and 4531.1, subdivision (d) to Address Concerns Raised by the Office of Administrative Law (OAL).

Ms. Yamaguchi reported that during its review of the Program Approval Process emergency regulations, the OAL recommended that the Board obtain legislation to correct the language, so that the regulations text may also be corrected in the course of regular rulemaking.

Ms. Schieldge stated that she and Dr. Mountain had discussed this, and the enrollment and funding relationship as expressed in statute is not factually correct. She added that she provided OAL's reviewing attorney with information from the US Department of Education to help explain how the funding works on a statewide basis. She stated that an omnibus or technical clean-up bill is being sought because this amendment is not controversial, but clarifying, and will help educate new applicants and existing providers what the actual fee reduction opportunity involves.

Ms. Yamaguchi advised that the Committee needs to approve this prior to Board authorization to update the current statute. The memo outlines the exact language staff would like to pursue, which has also been shared with legislative staff.

Ms. Luce motioned to recommend to the full Board that the Board authorize the statutory amendments to BPC sections 2881.2, subdivision (d) and 4531.1, subdivision (d) and approve the proposed language as provided in the memorandum.

Ms. Carpenter asked whether this would be added to an urgency bill. Ms. Yamaguchi responded that it was unlikely.

- b. Proposed Amendments to SB 994 (Jones) Vocational nursing: direction of naturopathic doctor.

Ms. Yamaguchi reported that the amendments shared with the Legislative and Regulations Committee have been sent to the Naturopathic Medicine Committee (NMC). Key points included the definition of "supervision" in the context of the working relationship with the Naturopathic Doctor (ND) and the Licensed Vocational Nurse (LVN). Other highlights include statutory language expressing that the LVN will not be offsite, the sharing of enforcement complaints between BVNPT and NMC, and the codification of the Board's Precedential Decision No. 2020-01. Ms. Yamaguchi concluded that counsel has been working closely with staff to support safe implementation of this bill. To date, many previous concerns have been accommodated.

Mr. Swenson added that staff has added implementable safety measures through the negotiation process, but with additional work to be done.

Ms. Schieldge clarified that the Board is still in negotiations and the author's office has not agreed to the amendments yet.

- c. SB 1436 (Roth) Respiratory therapy.

Ms. Yamaguchi reported that Senate Bill 1436 (Roth) is moving through the committee process. In addition to authorizing manual, technical skills, and data collection by an LVN to support respiratory care, the bill requires both

boards to share all complaints and information related to investigations involving respiratory care services with the other board.

4. **2022 Rulemaking Update – Ms. Pires.**

a. Fee Schedule

Ms. Carpenter asked with the last fee increase occurred. Ms. Yamaguchi responded that the last fee increase was implemented January 1, 2019.

Ms. Pires confirmed that Ms. Carpenter's question of the timeframe between fee increases also appeared in the public comments received. She added that the Fee Schedule rulemaking package was submitted to the Office of Administrative Law on July 28, 2022, and that the Office has a 30 working-day review for this type of package.

b. AB 1536 (Committee on Business and Professions, Chapter 632, Statutes of 2021) Program Approval Process (Emergency Regulations).

Ms. Pires reported that the Program Approval Process emergency regulations package was approved by the Office of Administrative Law on June 27, 2022.

Ms. Schiedge discussed the idea of potential stakeholder meetings to address any issues before moving forward with the regular rulemaking package. She recommended that staff move forward with stakeholder outreach due to the volume of changes made pursuant to the emergency regulations. She advised that stakeholder meetings will help educate and bring the affected population up to speed on the extensive changes that have been made to the processes.

Ms. Yamaguchi reported that the Education Division is hosting a forum for program directors and that staff can receive stakeholder feedback during that session. She recommended that this be discussed at the November Board meeting.

Ms. Schiedge advised that the Board not wait too long to start stakeholder conversations and that one appropriate Townhall meeting may be adequate, depending on the outcome.

Ms. Pires recommended that outreach, specifically, a comprehensive roadmap for milestones and goals, be passed to the Education and Practice Committee for implementation since that Committee oversees the Board's Education Division. Ms. Yamaguchi agreed with this recommendation.

Elaine recognized the Board and staff for completing the Fee Schedule and Program Approval Process packages this year.

5. Suggestions for Future Agenda Items.

Ms. Yamaguchi suggested adding the Legislative and Regulations Strategic Plan to the agenda so that staff may review the current plan and propose updates to the Committee for review and discussion.

She suggested that staff create a list of legislative concepts similar to the rulemaking calendar, enabling the Committee and Board to be more proactive in future sessions. Specifically, she asked that by the next committee meeting, a list of concepts with proposed priority and timeframes be prepared.

Ms. Carpenter asked if the Committee is permitted to issue a blanket authorization for staff to move on legislative concepts to allow for flexibility and timely authorization, if needed. Ms. Yamaguchi responded that this authorization would allow staff to act on the top priority concepts, if an opportunity arises to move forward. Ms. Luce agreed that this would be ideal.

6. Schedule next Legislative and Regulations Committee Meeting.

The Committee Members requested that staff propose a date and time for October, 2022 via email.

7. Adjournment.

Ms. Carpenter adjourned the meeting at 2:54 p.m.