



**Board of Vocational Nursing  
and Psychiatric Technicians  
Department of Consumer Affairs  
Public Board Meeting Minutes**

**DATE:** Monday, February 3, 2020

**LOCATION:** Department of Consumer Affairs  
1625 North Market Street, Hearing Room 102  
Sacramento, CA 95834

**BOARD MEMBERS**

**PRESENT:**

Ms. Endozo, Board President (San Diego)  
Dr. Bass de Martinez, Board Vice President (Sacramento)  
Dr. Mountain, Education Member (Sacramento)  
Ms. Carpenter, Public Member (Redding)  
Mr. Dierking, Public Member (South El Monte)  
Ms. Norton, Licensed Vocational Nurse Member  
(Sacramento)  
Ms. Rubalcava, Psychiatric Technician Member (Fresno)  
Ms. Turner, Public Member (South El Monte)

**BOARD MEMBERS**

**NOT PRESENT:**

Ms. Amezola de Herrera, Public Member  
Mr. Maxey, Public Member  
Mr. Sellers, Psychiatric Technician Member

**STAFF PRESENT:**

Ms. Yamaguchi, Executive Officer  
Ms. Raney, Enforcement Chief  
Ms. Cordeiro, Supervising Nursing Education Consultant  
Mr. Matsumoto, Retired Annuitant  
Ms. Saavedra, Associate Governmental Program Analyst  
Ms. Boatwright, Retired Annuitant

**DCA STAFF PRESENT:**

Mr. Swenson, Board General Counsel  
Mr. Jackson, Board Regulatory Counsel

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**Agenda Item 1**

**Call to Order, Roll Call and Establishment of Quorum**

Board Vice President Dr. Bass de Martinez called the meeting to order at 1:12 p.m., Monday, February 3, 2020 at the Department of Consumer Affairs, 1625 North Market Boulevard, Hearing Room 102, Sacramento CA 95834.

**Agenda Item 2                      Pledge of Allegiance**

Ms. Norton led the Pledge of Allegiance.

**Agenda Item 3                      Introduction of Board Members and Staff**

Board Members and Department of Consumer Affairs (DCA) Legal Staff introduced themselves. Executive Officer, Ms. Yamaguchi introduced herself and the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) Staff.

A Recess was called by Dr. Bass de Martinez at 1:17 p.m. as Ms. Endozo was delayed in calling in.

Ms. Endozo called the meeting back to order at 1:42 p.m., and took roll a second time to establish quorum

**Agenda Item 4                      Board President Remarks**

Ms. Endozo apologized for the delay.

**Agenda Item 5                      Review and Possible Action on Regulations to Implement AB 2138 (Chiu)**

Ms. Yamaguchi reviewed that the Board had approved draft language which was sent for review. However, the Office of Administrative Law, upon reviewing submissions from other Boards, sent the drafts back to the Department with recommendations for redrafting the language. The DCA Boards and Bureaus are working with their Counsels to revise their language to conform to the OAL specifications.

**Board Discussion:**

Mr. Dierking explained that this language will implement AB 2138, a bill that was chaptered in September 2018 and is an attempt to reduce barriers to employment for licensed vocational nurses (LVNs) and psychiatric technicians (PTs) convicted of certain crimes.

Mr. Dierking shared that the Leg/Reg's Committee met Friday, January 24, 2020 and found that the language employed was suitable to move forward for a full Board vote without any modifications because the language included verbiage recommended by DCA legal staff.

Ms. Turner asked if BVNPT staff are currently using language from AB 2138 or had addressed convictions in the past. Ms. Yamaguchi replied no as the law does not go into effect until July 1, 2020.

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Ms. Norton asked about discussions in the past on convictions which are expunged and if this language contains the same information.

Mr. Jackson referred to the California Code of Regulations § 2579 (b)(11) which covers Expungements.

Ms. Norton asked if the underlined text delineated the new text from the old text. Mr. Swenson replied yes.

**Public Comment:**

None

Motion: Accept the Leg/Reg Committee's recommendation to move this language forward, and direct staff to incorporate any further necessary technical and non-substantive changes.

Moved/Seconded: Motion carried.

<b>Member Name</b>	<b>Vote</b>
Ms. Endozo	Yes
Dr. Bass de Martinez	Yes
Ms. Amezola De Herrera	Absent
Ms. Carpenter	Yes
Mr. Dierking	Yes
Mr. Maxey	Absent
Dr. Mountain	Yes
Ms. Norton	Yes
Ms. Rubalcava	Yes
Mr. Sellers	Absent
Ms. Turner	Yes

**Agenda Item 6**

**Review and Possible Action on Draft Language for Mechanical Ventilator Care Legislation**

Ms. Yamaguchi stated there are currently thousands of patients in California who are on mechanical ventilator care (MVC). The BVNPT is working with stakeholders and interested parties in creating a Post Licensure Certification program, which will require both statutory authority and then regulatory language. Staff is requesting the Board's permission to seek an author for the spot bill. The Board has a responsibility to ensure our licensees are trained, certified and regulated to provide the best care to California consumers. Currently, the MVC process is being taught to LVNs and PTs by their employers and is not consistent throughout the State.

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**Board Discussion:**

Ms. Norton asked for confirmation on her understanding of the subject. The Board needs to move in a more definitive way to identify the education that the licensees need to provide care for patients on mechanical ventilators. The educational requirement would be similar to the IV/Blood Withdrawal certification. Currently, on the job training is provided to the licensees by their employer, and this training is inconsistent with different employers. We want the Board to move towards setting the competencies for obtaining the certificate. Ms. Yamaguchi confirmed her understanding and that the Board will work with the Department of Public Health because they regulate the facilities.

Ms. Turner asked for the history with the Respiratory Care Board (RCB). Ms. Yamaguchi replied that the BVNPT and the RCB issued a joint statement, but it was too broad. We need to address specific criteria and duties that an LVN/PT can perform with the certification. This is a work in progress and will take several years to fully implement.

Dr. Mountain mentioned that part of the issue is the standardization of education for the people providing the care and there should be some regulations over the type of training.

Ms. Turner asked if the BVNPT had the ability to approve a ventilator care program for respiratory care when it should be covered under the Respiratory Care Board. Dr. Mountain clarified the intent is to develop a standardized education so that LVNs who take care of patients with a breathing apparatus can provide care and not take the place of the Respiratory Care Therapist.

Ms. Norton asked if the dates included in the proposed language were hard dates or projected dates. Ms. Yamaguchi responded that all dates in the language are proposed and will likely change as the bill evolves.

Dr. Mountain asked which Committee would “own” this bill. Ms. Yamaguchi responded the Business and Professions Committee would be central, although the Health Committees would likely be interested in hearing it. It would also have a fiscal impact and be heard in Appropriations.

Ms. Rubalcava would like it noted that there are quite a few developmentally challenged patients on MVC in her community that are generally treated by PT's.

Dr. Mountain reiterated she would like Standardized Education language between the Respiratory Care Board and BVNPT for this process.

Mr. Dierking shared that suggestions from the public were heard at the Leg/Reg Committee.

Mr. Swenson recommend that both the LVN and PT portions of the draft language be motioned separately as the most recent versions may have changed.

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Ms. Norton stated she was not aware of the curriculum differences between the PT and VN. It is hard to ascertain if they are equivalent or what the challenges might be.

**Public Comment:**

Ms. Johnson, Aviana Healthcare, asked if the language would be specific to each License Type i.e., LVN and PT. Mr. McBride, Aviana Healthcare, asked who would provide the training. Ms. Yamaguchi replied the employers would be responsible for ensuring that certificates were maintained and current. There is no decision on who conducts the training; this is still a point of discussion.

Mr. Saldana, Oxford Healthcare, suggested the draft language is about 60 percent complete. Ms. Yamaguchi stated the current language is certainly a work in progress, but the current draft is quite strong.

Ms. Harris, Aviana Healthcare, thanked the Board for the thought and thoroughness that has gone into this process. She agrees that LVNs don't manage the ventilator but take care of the patient who is on a ventilator. When the standards are completed, the RNs in the home health setting will provide the level of education as they already offer ongoing support, education, and training to the LVNs.

Ms. Kim, California Nurses Association/National Nurses United (CNA), submitted a letter opposing the draft language as they believe the proposed statutory changes threaten the health and safety of healthcare consumers and negatively impact the practice of LVN's (see attached letter dated February 3, 2020).

Mr. Oparowski, California Association for Health Services at Home, thanked the Board for their willingness to open the issue for public input and agrees there should be a standard. He expressed concerns that the language is too broad and depends too much on the regulations. He would like to see more language in the draft proposal, and less in regulations, citing that regulation language is harder to change.

Motion: That the BVNPT Board adopt proposed statutory language amending Section 2859.1, Article 2, Chapter 6.5, Division 2 of the California Business and Professions Code to include intravenous therapy, blood withdrawal, intravenous therapy with blood withdrawal, and care for patents on mechanical ventilation, and that staff seek an author for a spot bill for this legislation.

Moved/Seconded: Ms. Carpenter  
Motion carried. Ms. Endozo

<b>Member Name</b>	<b>Vote</b>
Ms. Endozo	Yes
Dr. Bass de Martinez	Yes
Ms. Amezola de Herrera	Absent
Ms. Carpenter	Yes
Mr. Dierking	Yes
Mr. Maxey	Absent

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Dr. Mountain	Yes
Ms. Norton	Yes
Ms. Rubalcava	Yes
Mr. Sellers	Absent
Ms. Turner	Yes

Motion: That the BVNPT Board adopt proposed statutory language to amend Section 4502.1, Article 1, Chapter 10, Division 2 of the California Business and Professions Code, and that staff seek an author for a spot bill. for this legislation.

Moved/Seconded: Ms. Carpenter.  
Motion carried. Mr. Dierking

<b>Member Name</b>	<b>Vote</b>
Ms. Endozo	Yes
Dr. Bass de Martinez	Yes
Ms. Amezola de Herrera	Absent
Ms. Carpenter	Yes
Mr. Dierking	Yes
Mr. Maxey	Absent
Dr. Mountain	Yes
Ms. Norton	Abstain
Ms. Rubalcava	No
Mr. Sellers	Absent
Ms. Turner	Abstain

**Agenda Item 7**

No further comment.

Public Comment on Items Not on the Agenda

**Note:** The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting [Government Code Section 11125 and 11125.7(a)].

**Agenda Item 8**

**Suggestions for Future Agenda Items**

Dr. Bass de Martinez would like the LVN and PT Scope of Practice as they relate to MVC placed on the next Board Meeting Agenda scheduled February 21, 2020.

**Agenda Item 9**

**Adjournment**

Ms. Endozo adjourned the meeting at 2:56 p.m.

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Prepared by: SIGNATURE ON FILE      Date: 3/6/2021

**Elaine Yamaguchi**

Executive Officer

Approved by: SIGNATURE ON FILE      Date: 3/6/2021

**Tammy Endozo, LVN**

Board President