

# INITIAL STATEMENT OF REASONS

## HEARING DATE

August 15, 2014

## SUBJECT MATTER OF PROPOSED REGULATIONS

Continuing Education, Military and Out-of-State Practitioner Exemptions and Fee Schedule

## SECTIONS AFFECTED

1399.301, 1399.326, 1399.328, 1399.329, 1399.343, 1399.344, 1399.345, 1399.346, 1399.350, 1399.351, 1399.352, and 1399.395 of Division 13.6, Title 16 of the California Code of Regulations (CCR).

## SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT OR REPEAL / FACTUAL BASIS/ RATIONALE

**1399.301** (Amendment): This amendment changes the Respiratory Care Board (Board) office address as a result of an office move in May 2012. This amendment will accurately reflect, in regulation, the Board's office address.

**1399.326** (Adoption): This Section provides that the Board shall review the driving history of each applicant as part of its investigation prior to licensure. The adoption of this Section provides clarity to the Board's existing application process and promotes social equity.

**1399.328** (Adoption): This Section provides that military personnel or spouses of military personnel called to active duty shall receive preferential treatment and such applications for licensure shall be expedited by the Board. The adoption of this Section codifies section 115.5 of the Business and Professions Code and promotes social equity for our military personnel and their families.

**1399.329** (Adoption): This Section provides the Board shall prorate the renewal fee and continuing education hours for licensees called to active military duty. The adoption of this Section codifies section 114.3 of the Business and Professions Code and promotes social equity in that it provides a means to waive fees and continuing education for military personnel who are not using their license or do not have the means to obtain continuing education because they are actively serving our country. It also ensures that respiratory care practitioner licenses of military personnel are not ultimately cancelled as a result of being called to active duty.

**1399.343** (Adoption): This Section provides definitions for a newly developed process concerning "Sponsored Free Health Care Events – Exemptions Requirements." This section, in addition to all the Sections proposed in Article 4 of this package (Sections 1399.343-1399.346), are necessary and required to codify section 901 of the Business and Professions Code.

**1399.344** (Adoption): This Section provides information for sponsoring entity registration and recordkeeping requirements for a newly developed process concerning "Sponsored Free Health Care Events – Exemptions Requirements." This Section, in addition to all the sections proposed in Article 4 of this package (Sections 1399.343-1399.346), are necessary and required to codify section 901 of the Business and Professions Code.

**1399.345** (Adoption): This Section provides information for out-of-state practitioner authorization to participate for a newly developed process concerning “Sponsored Free Health Care Events – Exemptions Requirements.” This section also includes a \$25 fee to cover expenses associated with processing these requests. This Section, in addition to all the sections proposed in Article 4 of this package (Sections 1399.343-1399.346), are necessary and required to codify section 901 of the Business and Professions Code.

**1399.346** (Adoption): This Section provides information to terminate an authorization and appeal for a newly developed process concerning “Sponsored Free Health Care Events – Exemptions Requirements.” This Section, in addition to all the sections proposed in Article 4 of this package (Sections 1399.343-1399.346,) are necessary and required to codify section 901 of the Business and Professions Code.

**1399.350** (Amendment): The proposed amendment in this Section increases the number of continuing education (CE) hours required for renewal of a respiratory care practitioner license from 15 to 30 hours every two years. At its April 4, 2014 meeting, the Board reviewed the number of CE hours required by other professions regulated by the California Department of Consumer Affairs as well as other respiratory care boards across the nation. As a result of this review, the Board moved to increase the number of CE hours from 15 to 30 and conduct a more in-depth study to determine if additional hours should be required. Existing law (section 3719 of the Business and Professions Code) was amended in 1998 to allow for a maximum of 30 hours of CE. This amendment provides greater clinical and technical relevance and provides greater consumer protection.

**1399.351** (Amendment): The proposed amendments in this Section update respiratory-related credentialing examinations that qualify for CE and recognize courses in the assessment and treatment of the acquired immune deficiency syndrome (AIDS) as provided for in Section 32 of the Business and Professions Code. These amendments provide current references to approved CE courses promoting fairness for Respiratory Care Practitioners (RCPs) in obtaining CE, greater protection of the public health and safety, and worker safety.

**1399.352** (Amendment): The proposed amendment in this Section recognizes preparation courses for the advanced level credential as qualified CE not directly related to the practice. As the Board is moving forward with legislation establishing the advance level credential as the minimum qualification for licensure, it is appropriate to then only recognize preparation courses for the exam as CE that is not directly related to the practice as is done for the entry level credential. This amendment provides a current reference to approved CE courses promoting fairness for RCPs in obtaining CE and greater protection of the public health and safety.

**1399.395** (Amendment): The amendment in this Section eliminates the specific dollar amount required for the exam and replaces it with the “actual cost” as was previously cited. Since the Board does not control these costs that are set by the national examination provider, the Board is proposing to again cite “actual cost,” so that applicants and interested parties will have an accurate representation of costs. This amendment promotes greater transparency.

#### **UNDERLYING DATA**

As identified above, the increase in continuing education hours is based on the following materials presented to the Board on April 4, 2014 as Agenda Item 7:

- California Continuing Education Requirements – Various Professions
- RCP Continuing Education/State Comparison

The Board also prepared the following to establish the \$25 application fee for practitioners as noted in section 1399.345 above:

- Data Supporting Application Fee for Out-of-State Practitioner Authorization to Participate in Sponsored Event

## **BUSINESS IMPACT**

These regulations will not have a significant adverse economic impact on businesses. Most of these regulations only impact respiratory care practitioners (RCPs) and those regulations that do affect businesses such as the temporary work authorization or increase in CE required provide a means to have a positive economic impact on businesses.

## **ECONOMIC IMPACT ASSESSMENT**

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because these regulations do not make any changes or provide for any new provisions that would affect the creation or elimination of jobs.
- It will not create new business or eliminate existing businesses within the State of California because these regulations do not make any changes or provide for any new provisions that would result in the creation or elimination of new businesses.
- It may affect the expansion of businesses currently doing business within the State of California because the increase in continuing education hours required may lead to additional enrollment or courses provided by existing CE providers.
- This regulatory proposal benefits the health and welfare of California residents because it provides for the increase in CE hours which may result in better care or service by RCPs. These regulations may also result in more representation by RCPs at free sponsored health care events in California giving consumers access to respiratory care and assessment.
- This regulatory proposal may benefit worker safety because it provides for increases in the number of CE hours required which may include courses in worker safety.
- This regulatory proposal does not affect the state's environment because the regulations do not make any changes or provide for any new provisions that would have any impact on the environment.

## **SPECIFIC TECHNOLOGIES OR EQUIPMENT**

This regulation does not mandate the use of specific technologies or equipment.

## **CONSIDERATION OF ALTERNATIVES**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Not adopt the regulations. This alternative was rejected because this regulatory proposal includes many amendments necessary to effectuate existing laws or amendments necessary to maintain current relevancy in the workforce that may improve consumer protection.
2. Adopt the regulations. The Board determined that this alternative is the most feasible because the regulatory proposal provides a means to effectuate several existing laws as well as update and enhance continuing education requirements for RCPs, necessary for current relevancy in the workforce.