

NOTICE OF PROPOSED CHANGES

Continuing Education, Military and O-O-S Practitioner Exemptions, and Fee Schedule Respiratory Care Board of California

NOTICE IS HEREBY GIVEN that the Respiratory Care Board of California (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held:

Friday, August 15, 2014
11:00 AM
Department of Consumer Affairs
1625 North Market Blvd.
El Dorado Room
Sacramento, CA 95834

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be received by the Board at its office not later than **5:00 p.m. on August 14, 2014**, or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 114.3, 115.5, 901, 3719, and 3722 of the Business and Professions Code, and to implement, interpret or make specific sections 32, 114.3, 115.5, 901, 3719, 3730, 3732, 3775, and 3775.5 of said Code, the Board is considering changes to Division 13.6 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code (B&P), section 3701 provides the Board's mandate is to "protect the public from the unauthorized and unqualified practice of respiratory care and from unprofessional conduct by persons licensed to practice respiratory care." B&P, section 3710.1 provides that "Protection of the public shall be the highest priority for the [Board] in exercising its licensing, regulatory, and disciplinary functions."

In effectuating its mandate, the Board is responsible for screening applicants to ensure education, criminal background checks, and competency requirements are met. This regulation proposal clarifies that the Board shall review the driving history for each applicant as part of its application screening process.

The Board is also increasing the number of continuing education hours from 15 to 30 hours to align its hours with other similar allied health professional requirements and as a matter of increasing public protection. The Board is also proposing to modify courses recognized for continuing education credit including 1) eliminating recognition of the passage of the Registered Respiratory Therapist examination as it is currently being proposed through legislation (AB 1972, Jones) to be the exam required for licensure; 2) new recognition of the Adult Critical Care Specialty examination and Sleep Disorders Testing and Therapeutic Intervention Respiratory Care Specialist examination, both relatively new examinations recognized nationally and offered by the National Board for Respiratory Care; and 3) recognizing education related to acquired immune deficiency syndrome (AIDS) in line with section 32 of the B&P. Amendments are being made to the fee structure to revert to a method that more accurately reflects fees imposed by the national testing vendor. The Board is proposing to change the actual dollar amount of the examination fee to “actual cost” as was previously done, thereby eliminating the need for the Board to modify its regulations when the vendor modifies its fee structure.

The Board is also adding regulatory sections to effectuate new laws to provide greater consumer protection, and/or promote fairness or social equity by: 1) providing preference to applications from active military personnel and their spouses or domestic partners; 2) exempting military personnel who are called to active duty from continuing education and renewal fee requirements as applicable; and 3) establishing a process for temporary licensure for out-of-state entities and personnel to practice respiratory care in California at a community event (sponsored-free health care events) of not more than 10 days.

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

At its April 4, 2014 meeting, the Board reviewed this final regulation proposal in detail, and approved moving forward with the rulemaking package.

INCORPORATION BY REFERENCE

The following documents are incorporated by reference:

1. “Registration of Sponsoring Entity under Business & Professions Code Section 901” Form 901-A (DCA/2014 - revised)
2. “Request for Authorization to Practice Without a California License at a Sponsored Free Health Care Event” Form 901-RCB (RCB/2014)

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: Minor. The Board estimates a potential net loss of revenue of up to \$2,000 per year as a result of prorating/waiving renewal fees for military personnel called to active duty.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Requires Reimbursement: None.

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide *adverse* economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

However, the amendments contained in section 1399.350 to increase the number of continuing education hours required for renewal of a respiratory care practitioner license from 15 hours to 30 hours every two years will impact businesses. Businesses may be impacted by greater demand for courses which may result in higher attendance at existing courses or the desire to offer additional courses. This economic impact is estimated to be up to \$1,118,250 annually.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Board are costs associated with increasing the number of continuing education hours required for renewal of a respiratory care practitioner license. Those costs are estimated to be \$0-\$225 every renewal cycle (two years) for each active licensed respiratory care practitioner.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The amendments contained in section 1399.350 to increase the number of continuing education hours required for renewal of a respiratory care practitioner license from 15 hours to 30 hours every two years will impact small businesses as well. There may be a greater demand for courses which may result in higher attendance at existing courses or the desire to offer additional courses. The overall economic impact to businesses (including small businesses) is estimated to be up to \$1,118,250 annually.

IMPACT ON JOBS/BUSINESSES

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

BENEFITS OF REGULATION

The Board has determined that this regulatory proposal will increase consumer protection and promote fairness or social equity.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing, upon request to the Board at 3750 Rosin Court, Suite 100, Sacramento, CA 95834 or on the Board’s website at www.rcb.ca.gov.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named, or by accessing the website listed, on the following page.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Christine Molina
Address: 3750 Rosin Court, Suite 100
Sacramento, CA 95834
Telephone No.: (916) 999.2190
Fax No.: (916) 263.7311
E-Mail Address: rcbinfo@dca.ca.gov

The backup contact person is:

Name: Stephanie Nunez
Address: 3750 Rosin Court, Suite 100
Sacramento, CA 95834
Telephone No.: (916) 999.2190
Fax No.: (916) 263.7311
E-Mail Address: rcbinfo@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.rcb.ca.gov.



SPONSORED FREE HEALTH CARE EVENTS

REGISTRATION OF SPONSORING ENTITY UNDER BUSINESS & PROFESSIONS CODE SECTION 901

In accordance with California Business and Professions Code section 901(d), a non-government organization administering an event to provide health-care services to uninsured and underinsured individuals at no cost, may include participation by certain health-care practitioners licensed outside of California if the organization registers with the California licensing authorities having jurisdiction over those professions. This form shall be completed and submitted by the sponsoring organization **at least 90 calendar days prior to the sponsored event**. *Note that the information required by Business and Professions Code section 901(d) must also be provided to the county health department having jurisdiction in each county in which the sponsored event will take place.*

PART 1 – ORGANIZATIONAL INFORMATION

1. Organization Name: _____

2. Organization Contact Information (*use principal office address*):

Address Line 1

Phone Number of Principal Office

Address Line 2

Alternate Phone

City, State, Zip

Website

County

Organization Contact Information in California (*if different*):

Address Line 1

Phone Number

Address Line 2

Alternate Phone

City, State, Zip

County

3. Type of Organization:

Is the organization operating pursuant to section 501(c)(3) of the Internal Revenue Code? Yes No

If not, is the organization a community-based organization*?

_____ Yes _____ No

Organization's Tax Identification Number _____

If a community-based organization, please describe the mission, goals, and activities of the organization (*attach separate sheet(s) if necessary*): _____

* A "community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

PART 2 – RESPONSIBLE ORGANIZATION OFFICIALS
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Please list the following information for each of the principal individual(s) who is the officer(s) or official(s) of the organization responsible for operation of the sponsoring entity.

Individual 1:

Name

Address Line 1

Address Line 2

City, State, Zip

County

Title

Phone

Alternate Phone

E-mail address

Individual 2:

Name

Address Line 1

Address Line 2

City, State, Zip

County

Title

Phone

Alternate Phone

E-mail address

Individual 3:

Name

Address Line 1

Address Line 2

City, State, Zip

County

Title

Phone

Alternate Phone

E-mail address

(Attach additional sheet(s) if needed to list additional principal organizational individuals)

PART 3 – EVENT DETAILS

1. Name of event, if any: _____

2. Date(s) of event (not to exceed ten calendar days): _____

3. Location(s) of the event (be as specific as possible, including address):

4. Describe the intended event, including a list of all types of healthcare services intended to be provided (*attach additional sheet(s) if necessary*): _____

5. Attach a list of all out-of-state health-care practitioners who you currently believe intend to apply for authorization to participate in the event. The list should include the name, profession, and state of licensure of each identified individual.

___ *Check here to indicate that list is attached.*

Note:

- Each individual out-of-state practitioner must request authorization to participate in the event by submitting an application to the applicable licensing Board or Committee.
- The organization will be notified in writing whether authorization for an individual out-of-state practitioner has been granted.

This form, any attachments, and all related questions shall be submitted to:

Department of Consumer Affairs
Attn: Sponsored Free Health-Care Events
Complaint Resolution Program
1625 North Market Blvd., Ste. S-202
Sacramento, CA 95834

Tel: (916) 574-7950
Fax: (916) 574-8676
E-mail: CRP2@dca.ca.gov

- I understand that I must maintain records in either electronic or paper form both at the sponsored event and for five (5) years in California, per the recordkeeping requirements imposed by California Business and Professions Code section 901 and the applicable sections of Title 16, California Code of Regulations, for the regulatory bodies with jurisdiction over the practice to be engaged in by out-of-state practitioners
- I understand that our organization must file a report with each applicable Board or Committee within fifteen (15) calendar days of the completion of the event.

I certify under penalty of perjury under the laws of the State of California that the information provided on this form and any attachments is true and current, and that I am authorized to sign this form on behalf of the organization:

Name Printed _____

Title _____

Signature _____

Date _____

PERSONAL INFORMATION COLLECTION, ACCESS AND DISCLOSURE

Disclosure of your personal information is mandatory. The information on this form is required pursuant to Business and Professions Code section 901. Failure to provide any of the required information will result in the form being rejected as incomplete. The information provided will be used to determine compliance with the requirements promulgated pursuant to Business and Professions Code section 901. The information collected may be transferred to other governmental and enforcement agencies. Individuals have a right of access to records containing personal information pertaining to that individual that are maintained by the applicable Board or Committee, unless the records are exempted from disclosure by section 1798.40 of the Civil Code. An individual may obtain information regarding the location of his or her records by contacting the Complaint Resolution Program at the address and telephone number listed above.



Respiratory Care Board of California

REQUEST FOR AUTHORIZATION TO PRACTICE WITHOUT A CALIFORNIA LICENSE AT A SPONSORED FREE HEALTH CARE EVENT

In accordance with California Business and Professions Code Section 901 any respiratory care practitioner licensed and in good standing in another state, district, or territory in the United States may request authorization from the Respiratory Care Board of California (Board) to participate in a free health care event offered by a local government entity or a sponsoring entity, registered with the Board pursuant to Section 901, for a period not to exceed ten (10) days.

PART 1 - APPLICATION INSTRUCTIONS

An application must be complete and must be accompanied by all of the following:

- A processing fee of \$25, made payable to the board.
- A copy of each valid, current active license and/or certificate authorizing the applicant to engage in the practice of respiratory care issued by any state, district, or territory of the United States.
- A copy of a valid photo identification of the applicant issued by one of the jurisdictions in which the applicant holds a license or certificate to practice.
- A full set of fingerprints or a Live Scan inquiry. This will be used to establish your identity and to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check.
- Educational records to prove you meet the education requirements provided for in Section 3740 of the Business and Professions Code.

The board will not grant authorization until this form has been completed in its entirety, all required enclosures have been received by the board, and any additional information requested by the Board has been provided by the applicant and reviewed by the board, and a determination made to grant authorization.

The board shall process this request and notify the sponsoring entity or the local government entity listed on this form whether the request is approved or denied within 20 calendar days of receipt. If the board requires additional or clarifying information, the board will contact you directly, but **written approval or denial of requests will be provided directly to the sponsoring entity or local government entity.** It is the applicant's responsibility to maintain contact with the sponsoring entity or the local government entity.

PART 3 – LICENSURE INFORMATION

1. Do you hold a valid, current active license in good standing issued by a state, district, or territory of the United States authorizing the unrestricted practice of respiratory care in your jurisdiction(s)? The term “good standing” means you:

- Have not been charged with an offense for any act substantially related to the practice for which the applicant is licensed by any public agency;
- Have not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant’s professional conduct or practice, including any voluntary surrender of license; and
- Have not been the subject of an adverse judgment resulting from the practice for which the applicant is licensed that the board determines constitutes evidence of a pattern of negligence or incompetence.

No If no, you are not eligible to participate as an out-of-state practitioner in the sponsored event.

Yes If yes, list every license, certificate, and registration authorizing you to engage in the practice of respiratory care in the following table. If there are not enough boxes to include all the relevant information please attach an addendum to this form. Please also attach a copy of each of your current licenses, certificates, and registrations.

State/ Jurisdiction	Issuing Agency/Authority	License Number	Expiration Date

2. Have you ever had a license to practice respiratory care revoked or suspended?
___ Yes ___ No

3. Have you ever been subject to any disciplinary action or proceeding by any licensing body?
___ Yes ___ No

4. Have you ever committed any act or been convicted of a crime constituting grounds for denial of licensure?
___ Yes ___ No

5. If you answered “Yes” to any of questions 2 – 4, above, please explain (*attach additional page(s) if necessary*):

PART 4 – SPONSORED EVENT

1. Name and address of local government entity, non-profit, or community-based organization hosting the free healthcare event (the “sponsoring entity”):

Name of Entity

Address Line 1

Phone

Address Line 2

Alternate Phone

City, State, Zip

E-mail address

2. Name of event: _____

3. Date(s) & location(s) of the event: _____

4. Date(s) & location(s) applicant will be performing healthcare services (if different):

5. Please specify the healthcare services you intend to provide: _____

6. Name and phone number of contact person with sponsoring entity or local government entity:

PART 5 – ACKNOWLEDGMENT/CERTIFICATION

I, the undersigned, declare under penalty of perjury under the laws of the State of California and acknowledge that:

- I have not committed any act or been convicted of a crime constituting grounds for denial of licensure by the board.
- I am in good standing with the licensing authority or authorities of all jurisdictions in which I hold licensure and/or certification to practice respiratory care.
- I am responsible for knowing and will comply with all applicable practice requirements required of licensed respiratory care practitioners and all regulations of the Board.
- In accordance with Business and Professions Code Section 901(i), I will only practice within the scope of practice for California-licensed respiratory care practitioners.
- I will provide the services authorized by this request and Business and Professions Code Section 901 to uninsured and underinsured persons only and shall receive no compensation for such services.
- I will provide the services authorized by this request and Business and Professions Code Section 901 only in association with the sponsoring entity or local government entity listed herein and only on the dates and at the locations listed herein for a period not to exceed 10 calendar days.
- I must post the notice required by 16 CCR 1399.345 if the event is sponsored by a local government entity.
- Practice of a regulated profession in California without proper licensure and/or authorization may subject me to potential criminal penalties.
- The Board may notify the licensing authority of my home jurisdiction and/or other appropriate law enforcement authorities of any potential grounds for discipline associated with my participation in the sponsored event.
- All information provided by me in this application is true and complete. By submitting this application and signing below, I am granting permission to the Board to verify the information provided and to perform any investigation pertaining to the information I have provided as the board deems necessary.

Signature

Date

Printed Name