Background and Purpose of Discussion

This meeting is being held by the Respiratory Care Board's (RCB) Professional Qualifications Committee (PQC).

Pursuant to its statutory authority under Business and Professions Code (BPC) section 3702.5 to define and identify basic respiratory tasks and services that do not require a respiratory assessment and require only manual or technical skills, or data collection, RCB adopted California Code of Regulations, title 16, section 1399.365. The regulation was developed through a formal rulemaking process that included stakeholder input and the adoption of a Final Statement of Reasons (FSOR), which reflects RCB's intent and rationale. Section 1399.365 became operative on October 1, 2025. In response to significant stakeholder concern regarding application of the new regulation to settings exempt under BPC section 3765 (i) and (j), RCB is currently amending the regulation to clarify that it is not applicable in the exempt settings. The proposed emergency rulemaking is currently under review by the Office of Administrative Law.

Following implementation, RCB also received questions from stakeholders specifically related to how section 1399.365 impacts suctioning-related tasks, particularly those involving oral, nasal, and tracheostomy-related care. These questions generally relate to tasks that are commonly viewed as basic nursing or caregiving functions and were not intended to be regulated as respiratory care services by RCB. The purpose of this PQC meeting is to review and discuss the stakeholder feedback, examine how certain suctioning tasks are described and categorized under section 1399.365, and consider whether additional clarification may be helpful for presentation to the full Board.

Regulatory Context

Section 1399.365 identifies basic respiratory tasks and services that do not require a respiratory assessment and involve only manual or technical skills, or data collection Section 1399.365 also identifies certain respiratory care services that require clinical respiratory assessment and therefore must be performed by a licensed Respiratory Care Practitioner (RCP) or another provider authorized by law. As explained in the FSOR, RCB's regulatory concerns with respect to suctioning procedures are focused on suctioning that involves *entry into the airway* and carries associated respiratory risks, such as bronchospasm, hypoxemia, mucosal trauma, or hemodynamic instability.

Consistent with this framework, the regulation was structured to address suctioning procedures that rise to the level of respiratory care because they involve airway entry and require clinical respiratory assessment. Section 1399.365 references "suctioning" as follows:

(c) For purposes of subdivision (a) of section 3702.5 of the B&P, basic respiratory tasks and services do not include the following:

. . .

5. Preoxygenation, or endotracheal or nasal suctioning. . . .
7. Tracheal suctioning, cuff inflation/deflation, use or removal of an external speaking valve, or removal and replacement of the tracheostomy tube or inner cannula.

Suctioning activities that do not enter the airway and are commonly treated as basic nursing tasks were not intended to fall within the scope of regulated respiratory care and therefore were not specifically listed in the regulation. The PQC is considering whether additional clarification would be helpful to promote understanding and consistent application of section 1399.365 in practice, without changing the regulation's intent reflected in the FSOR.

Areas Identified for Committee Discussion

Based on stakeholder feedback received since the regulation became operative, the PQC will discuss whether clarification may be appropriate in the following areas.

1. Nasal Suctioning – CCR § 1399.365(c)(5)

> *"(c) For purposes of subdivision (a) of section 3702.5 of the Business and Professions Code, basic respiratory tasks and services do not include the following:*
> *(5) Preoxygenation, or endotracheal or nasal suctioning."*

Section 1399.365(c)(5) identifies nasal suctioning as a task that is not considered a basic respiratory task. Stakeholder feedback has focused on whether this provision was intended to apply to all nasal suctioning, or whether it was intended to address nasal suctioning that is deep enough or enter the airway and therefore requires clinical respiratory assessment.

In practice, nasal suctioning ranges from very superficial suctioning at the nostril openings or upper nasal cavity to deeper suctioning that approaches the hypopharynx. The PQC has identified that superficial nasal suctioning is commonly treated as a basic nursing or caregiving task and does not involve airway entry.

The PQC will discuss whether clarification is needed to reflect this distinction between superficial, shallow nasal suctioning that remains limited to the upper nasal cavity and nasal suctioning that enters the airway. If such clarification is deemed necessary, then the PQC will consider whether amendments are needed to section 1399.365(b) and (c).

2. Tracheal Suctioning – CCR § 1399.365(c)(7)

> *"(c) For purposes of subdivision (a) of section 3702.5 of the Business and Professions Code, basic respiratory tasks and services do not include the following:*
> *(7) Tracheal suctioning, cuff inflation/deflation, use or removal of an external speaking valve, or removal and replacement of the tracheostomy tube or inner cannula."*

Section 1399.365(c)(7) identifies tracheal suctioning as a task that is not considered a basic respiratory task. Stakeholders have requested clarification regarding how this provision applies in clinical settings involving patients with tracheostomies.

Stakeholders have raised questions regarding whether suctioning that remains confined to the interior of a tracheostomy tube, where the depth is fixed and the suction catheter does not extend beyond the distal end of the tube, should be treated differently from suctioning that enters the patient's airway beyond the tube.

The PQC will discuss whether clarification is needed to reflect this distinction between suctioning that remains confined to the interior of a tracheostomy tube and suctioning that enters the patient's airway. If such clarification is deemed necessary, then the PQC will consider whether amendments are needed to section 1399.365(b) and (c).

3. Oral Suctioning

Section 1399.365 does not address oral suctioning. Currently, oral suctioning is permissible when it is limited to the visible oral cavity and does not enter the airway or the oropharynx. Stakeholders often request clarification regarding how suctioning beyond the visible oral cavity should be treated for purposes of identifying basic respiratory tasks. The PQC will discuss whether clarification is needed to reflect the distinction between suctioning in the visible oral cavity and oropharyngeal suctioning. If such clarification is deemed necessary, then the PQC will consider whether amendments are needed to section 1399.365(b) and (c).

Meeting Objective

Any clarification discussed by the PQC is intended to stay consistent with section 1399.365, the corresponding FSOR, and RCB's intent to limit airway-entry suctioning and respiratory assessment to appropriately licensed professionals. The PQC is not revisiting the regulation or the decisions made during rulemaking but is considering whether additional clarity would be helpful to address practical questions about how suctioning tasks are applied in practice pursuant to the regulation.

The objective of this discussion is for the PQC to:

- Identify whether clarification is necessary regarding suctioning-related tasks under section 1399.365;
- Reach consensus on the scope and nature of any recommended clarification; and
- Determine what, if any, recommendations should be presented to the full Board at its next scheduled meeting.

Following this discussion, the PQC, in coordination with RCB staff, will provide an update to the full Board at its next scheduled meeting. That update may include a summary of the committee's discussion and any recommended next steps, including whether to pursue rulemaking to address potential amendments to section 1399.365.