

**Discussion and Possible Action to Consider Changes to Previously Approved Text and Reauthorization of a Regular Rulemaking to Amend Title 16, California Code of Regulations Sections 1399.349, 1399.350, 1399.350.5, 1399.351, 1399.352, 1399.352.5, 1399.352.7, and 1399.381 and to Adopt 1399.352.6 (Continuing Education, Fines).**

**Prepared by: Alex Millington, Attorney III, Department of Consumer Affairs, Legal Affairs Division**

---

**Purpose of the Item**

The purpose of this agenda item is to provide the opportunity for the Respiratory Care Board (RCB or Board) to consider and approve proposed amendments to Title 16, California Code of Regulations (CCR) sections 1399.349 through 1399.381 (**Attachment 1**) relating to Continuing Education, continuing education providers, preceptors, and revisions to the citation and fine regulations for the Board. The language presented to the Board supersedes a previously approved version of similar text considered and voted on by the Board at its November 1, 2019 meeting (**Attachment 2**). For this reason, the suggested motion to approve the currently proposed language also contains a motion to rescind the prior approved text.

**Objectives and Background**

RCB's mission is to protect consumers by ensuring only qualified licensees practice in the Board's regulated fields. This proposal would provide comprehensive updates to the Board's regulations relating to continuing education (CE), approved courses, CE providers, add a listed fine for false statements, and add regulations for preceptors providing student instruction that would be considered qualifying CE.

This item was previously presented to the Board at its November 2019 Meeting for approval of the language. Since that time, the language has been reviewed by the Department of Consumer Affairs' Legal Office (DCA Legal) in accordance with the Administrative Procedures Act (APA) to ensure it met the necessity, authority, clarity, consistency, reference and non-duplication standards. During this review, DCA Legal recognized a number of organizational needs that required re-drafting the language. Specifically, DCA Legal recognized that moving text would require the contents of that text to be reviewed as 'new', requiring a reassertion of the underlying necessity, authority, clarity, consistency, reference, and non-duplication standards per the APA.

As a result, the language has been redrafted to retain the existing regulatory language in its current location where possible, while including the policy changes approved by the Board at its November 2019 meeting. However, in addition to this reorganization, discussions between Board staff and DCA Legal have led to a number of further clarifications to be made to the text. Language has been clarified or modified from the November 2019 version for consistency and clarity. Requirements have been added since the November 2019 version (for example adding the language at proposed section 1399.350(b)(1) specifies the type of proof of attendance that will be needed to count as CE from Board meetings, California Society for Respiratory Care meetings, or

## **Discussion and Possible Action to Consider Changes to Previously Adopted Text to Amend California Code of Regulations, Title 16, Section 2.8 – Definition of Satisfactory Evidence**

Page 2 of 3

American Association for Respiratory Care meetings intended for use as continuing education credit), and some text which was previously repealed by the November 2019 version is now retained (section 1399.355) to ensure that licensees know what “documentation of completion” of CE (which will be defined in this new proposal at 1399.350) will be required to restore a license to active status.

### **Action(s) Needed**

The Board is asked to rescind its prior approved language from November 1, 2019 and approve proposed language amendments for CCR sections 1399.349, 1399.350, 1399.350.5, 1399.351, 1399.352, 1399.352.5, 1399.352.7, and 1399.381, and the addition of section 1399.352.6. The order of actions is recommended as follows:

- 1) President calls the agenda item and it is presented by or as directed by the President.
- 2) Board member discussion/edits (if applicable).
- 3) Inquire for public comment / further Board discussion as applicable.
- 4) President requests motion on the Proposed Regulatory Language as described in the below “recommendation” section of this memorandum or, in the alternative, any other appropriate motion on the item.
- 5) President may request if there is a second to the motion, if not already made.
- 6) Repeat motion and vote: 1) aye, in favor, 2) no, not in favor, or 3) abstain.

### **Recommendation and Motion**

If the Board supports the proposed regulatory text to CCR sections 1399.349, 1399.350, 1399.350.5, 1399.351, 1399.352, 1399.352.5, 1399.352.7, and 1399.381, and the addition of section 1399.352.6, it is recommended the Board move as follows:

**Motion:** That the board rescind prior proposed text and approve the proposed regulatory text and changes to 16 CCR sections 1399.349, 1399.350, 1399.350.5, 1399.351, 1399.352, 1399.352.5, 1399.352.7, and 1399.381, and the adoption of section 1399.352.6, as provided in the materials and direct staff to submit all approved text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review. If no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any nonsubstantive changes to the package, and set the matter for hearing if requested. If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at Section(s)

**Discussion and Possible Action to Consider Changes to Previously Adopted Text to Amend California Code of Regulations, Title 16, Section 2.8 – Definition of Satisfactory Evidence**

Page 3 of 3

1399.349, 1399.350, 1399.350.5, 1399.351, 1399.352, 1399.352.5, 1399.352.6, 1399.352.7, and 1399.381.

**Attachments**

1) Proposed Regulatory Language Title 16, California Code of Regulations CCR sections 1399.349, 1399.350, 1399.350.5, 1399.351, 1399.352, 1399.352.5, 1399.352.6, 1399.352.7, and 1399.381.

2) Proposed Regulatory Language as reviewed by the Board at its November 1, 2019 meeting.

**California Code of Regulations**  
**Title 16. Professional and Vocational Regulations**  
**Division 13.6. Respiratory Care Board**

**PROPOSED LANGUAGE**

Proposed amendments to the regulatory language are shown in single underline for new text and single strikethrough for deleted text.

**Amend section 1399.349 to read as follows:**

§ 1399.349. Continuing Education Defined.

“Continuing Education” means the variety of forms of learning experiences, including, but not limited to, lectures, conferences, academic studies, in-service education, institutes, seminars, home study, internet courses, and workshops, taken by respiratory care practitioners for licensure renewal. These learning experiences are meant to enhance the knowledge of the respiratory care practitioner in the practice of respiratory care in direct and indirect patient care. Continuing education does not include ~~basic~~ education or training needed to become a licensed RCP.

Note: Authority cited: Sections 3719 and 3722, Business and Professions Code.  
Reference: Sections 3719 and 3740, Business and Professions Code.

**Amend section 1399.350 to read as follows:**

§ 1399.350. Continuing Education Required.

(a) Each respiratory care practitioner (RCP) is required to complete 30 hours of approved continuing education (CE) every 2 years. At least ~~two-thirds~~ 25 of the 30 required CE hours shall be ~~directly related to clinical practice.~~ completed in the following content areas:

(1) A minimum of 10 hours must be directly related to RCP leadership, including training for educators who provide instruction in respiratory care practice as defined in Sections 3702 and 3702.7 of the B&P, or training in case management, health-care financial reimbursement, health care cost containment or health care management. Hours earned as part of a licensee’s successful completion of the Law and Professional Ethics Course as provided in section 1399.350.5, and credit earned by a licensee for preceptor participation as provided in section 1399.352.6 shall be considered qualifying RCP leadership hours and counted by the Board toward meeting the requirements of this subsection in accordance with sections 1399.350.5 or 1399.352.6, as applicable.

(2) A minimum of 15 hours must be directly related to the clinical practice of respiratory care, including training on all activities involving the practice of respiratory care as defined in B&P sections 3702 and 3702.7. Hours earned as part of a licensee's successful completion of credentialing or certification examinations shall be considered qualifying CE and shall be counted by the Board toward meeting the requirements of this subsection in accordance with section 1399.351.

(b) An RCP may earn up to 5 hours of CE credit through physical attendance at Respiratory Care Board, California Society for Respiratory Care (CSRC), or American Association for Respiratory Care (AARC) meetings open to the public, or courses related to the role of a health care practitioner or indirectly related to respiratory care as defined in section 1399.352.

(1) For attendance at meetings open to the public, CE shall be calculated on an hour-for-hour basis with one hour of CE credit accepted for each hour spent in attendance at the meeting.

(2) An RCP requesting CE credit for attending a meeting pursuant to this subdivision must sign in and out on an attendance sheet at the meeting that requires the individual to provide the following:

(A) the RCP's first and last name,

(B) license number,

(C) time of arrival and time of departure from the meeting, and,

(D) disclose whether they are requesting CE credit for attendance at the board meeting.

(3) An RCP requesting CE credit for attending a CSRC or AARC meeting shall obtain from the CSRC or AARC a written confirmation on the letterhead of the organization confirming the RCP's physical attendance at the meeting.

(c) Subject to the requirements and limitations of this Article, CE credit may be earned in any of the forms of learning experiences set forth in section 1399.349. However, a minimum of 15 hours of CE as outlined in subdivision (a) must be earned from live courses or meetings provided with interaction between the licensee and instructor in real time. The instructor and the licensee need not be in the same place, but they must be able to communicate either verbally or in writing with each other during the time the learning activity is occurring. For the purposes of this section, live courses or meetings include, in-person lecture educational sessions that are part of conventions, courses, seminars, workshops, lecture series, and online meetings with participatory interaction between the licensee and the instructor via computer networks or the internet such as

via web casts, video conferences, and audio conferences in which the licensee can directly interact with the instructor in real time during the instructional period.

(d) A licensee may not claim CE hours, and the Board shall not accept CE hours, for the same course or credentialing or certification examination more than once per renewal period.

(b)(e) To renew the license, each RCP shall report compliance with the CE requirement. Supporting documentation showing evidence of compliance with each requirement under this Article, shall be submitted if requested upon request to by the board. For the purposes of this article, “supporting documentation” or “documentation supporting compliance” shall include certificates of completion as provided in subdivision (b) of section 1399.352 or, for courses completed through an approved post-secondary institution, an official transcript showing successful completion of the course accompanied by the catalog’s course description. For CSRC or AARC meeting attendance as provided in subdivision (b)(3) of section 1399.350, “supporting documentation” or “documentation supporting compliance” includes written confirmation of physical attendance.

(e)(f) CE supporting documentation shall be retained by the licensee for a period of four years.

Note: Authority cited: Sections 3719 and 3722, Business and Professions Code.  
Reference: Section 3719, Business and Professions Code.

**Amend Section 1399.350.5 to read as follows:**

§ 1399.350.5. Law and Professional Ethics Course.

(a) As part of required continuing education, every person licensed under this chapter shall successfully complete a course in law and professional ethics as provided in section 1399.352.7 of this division, during every other license renewal cycle.

(b) Continuing education units earned in accordance with this section shall represent three units toward the ~~non-clinical-practice~~ RCP leadership requirements set forth in section 1399.350(a)(1). However, the course may be taken for continuing education credit only once during any renewal period.

Note: Authority cited: Sections 3719.5 and 3722, Business and Professions Code.  
Reference: Sections 3719 and 3719.5, Business and Professions Code.

**Amend Section 1399.351 to read as follows:**

§ 1399.351. Approved CE Programs.

(a) Any course or program meeting the criteria set forth in this Article will be accepted by the board for CE credit.

~~(b) Passing an official credentialing or proctored self-evaluation examination shall be approved for CE as follows~~ The Board shall approve 15 hours of continuing education (CE) credit for the award of any of the following initial credentials after successful completion of an examination given by the National Board for Respiratory Care:

(1) ~~Adult Critical Care Specialty Examination~~ Specialist (ACCS) –15 hours;

(2) ~~Certified Pulmonary Function Technologist (CPFT) –15 CE hours;~~

(3) ~~Registered Pulmonary Function Technologist (RPFT) –15 CE hours;~~

(4) ~~Neonatal/Pediatric Respiratory Care Specialist (NPS) –15 CE hours;~~

(5) ~~Sleep Disorders Testing and Therapeutic Intervention Respiratory Care Specialist (SDS) –15 hours; and,~~

(6) Registered Respiratory Therapist, if not required at the time of initial licensure pursuant to B&P section 3735.

(c) The Board shall approve 15 hours of CE for each initial certification and 5 hours of CE for each renewal or recertification for a licensee's successful completion of the following certification examinations:

~~(61) Advanced Cardiac Cardiovascular Life Support (ACLS) –number of CE hours to be designated by the provider;~~

~~(72) Neonatal Resuscitation Program (NRP); - number of CE hours to be designated by the provider; and~~

~~(83) Pediatrics Advanced Life Support (PALS) –number of CE hours to be designated by the provider.~~

~~(94) Advanced Trauma Life Support (ATLS) –number of CE hours to be designated by the provider.~~

(5) Asthma Educator Certified (AE-C) (provided by the National Asthma Educator Certification Board).

(d) The following certifications are approved by the Board for continuing education credit for initial certification only and for the number of hours given by the provider named below:

(1) Pulmonary Rehabilitation-Certified (provided by the American Association for Respiratory Care (AARC) and the American Association of Cardiovascular and Pulmonary Rehabilitation);

(2) Tobacco and Smoking Cessation-Certified (provided by the AARC); and,

(3) COPD Educator-Certified (provided by the AARC).

(ee) Any course including training regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS) meeting the criteria set for in this Article, will be accepted by the board for CE credit CE credit will not be granted for:

(1) any review and/or preparation courses for credentialing or certification examinations,

(2) basic life support credentialing,

(3) the renewal or recertification of any certification not expressly identified in subdivision (c), or

(4) employment-related courses on subjects not described in this Article.

~~(d) Examinations listed in subdivisions (b)(1) through (b)(5) of this section shall be those offered by the National Board for Respiratory Care and each successfully completed examination may be counted only once for credit.~~

~~(ef) Successful completion of each examination listed in subdivisions (b)(6) through (b)(9) of this section may be counted only once for credit and must be for the initial certification. See section 1399.352 for re-certification CE. These pPrograms and examinations listed in subdivision (c) shall be provided by an approved entity listed in subdivision (h) of Section 1399.352.~~

~~(f) The board shall have the authority to audit programs offering CE for compliance with the criteria set forth in this Article.~~

Note: Authority cited: Sections 3719 and 3722, Business and Professions Code.  
Reference: Sections 32 and 3719, Business and Professions Code.



**Amend Section 1399.352 to read as follows:**

§ 1399.352. Criteria for Acceptability of Courses.

Acceptable courses and programs shall meet the following criteria:

(a) The content of the course or program shall be relevant to the scope of practice of respiratory care, including the content areas listed in section 1399.350(a)(1)-(2). Credit may be given for a course that is ~~not directly related to clinical practice~~ related to the role of a health care practitioner or indirectly related to respiratory care if the content of the course or program relates to any of the following:

~~(1) Those activities relevant to specialized aspects of respiratory care, which activities include education, supervision, and management.~~

~~(2) Health care cost containment or cost management.~~

~~(21)~~ Preventative health services and health promotion, including tobacco and smoking cessation counseling.

~~(32)~~ Required abuse reporting.

~~(43)~~ Other subject matter which is directed by legislation to be included in CE for licensed healing arts practitioners.

~~(54) Re-certification for ACLS, NRP, PALS, and ATLS. Courses regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS).~~

~~(65) Review and/or preparation courses for credentialing examinations provided by the National Board for Respiratory Care, excluding those courses for entry-level or advance level respiratory therapy certification. Courses in electronic systems used for purposes of medical billing or treatment of respiratory care patients.~~

(b) The faculty shall be knowledgeable in the subject matter as evidenced by:

(1) A degree from an accredited college or university and verifiable experience in the subject matter, or

(2) Teaching and/or clinical experience in the same or similar subject matter.

(c) Educational objectives shall be listed.

(d) The teaching methods shall be described, e.g., lecture, seminar, audio-visual, simulation.

(e) Evaluation methods shall document that the objectives have been met.

(f) Each course must be provided in accordance with this Article.

(g) Each course or provider shall hold approval from one of the entities listed in subdivision (h) from the time the course is distributed or instruction is given through the completion of the course.

(h) ~~Each~~ Approved continuing education courses, in any format, must be provided or approved by one of the following entities. ~~Courses that are provided by one of the following entities must be approved by the entity's president, director, or other appropriate personnel:~~

(1) Any post-secondary institution accredited by a regional accreditation agency or association recognized by the United States Department of Education.

(2) A general acute care hospital ~~or health-care facility~~ licensed by the California Department of Health Services.

(3) The American Association for Respiratory Care.

(4) The California Society for Respiratory Care (and all other state societies directly affiliated with the American Association for Respiratory Care).

(5) The American Medical Association.

(6) The California Medical Association.

(7) The California Thoracic Society.

(8) The American College of Surgeons.

(9) The American College of Chest Physicians.

(10) The American Heart Association

(11) American Lung Association

(12) Allergy and Asthma Network

(13) Society for Critical Care Medicine

(14) National Asthma Education Certification Board

(40i) Additional CE providers are approved by the Board to provide live, “real-time” courses if the entity is Any entity approved or accredited by:

(1) any entity identified in subdivision (h),

(2) the California Board of Registered Nursing, or

(3) the Accreditation Council for Continuing Medical Education.

(ij) Course organizers shall maintain a record of attendance of participants, documentation of participant’s completion as provided in subdivision (k), and a description of the course, and evidence of course approval for four years.

(j) All program information by providers of CE shall state: “This course meets the requirements for CE for RCPs in California.”

(k) Except as otherwise provided in this section, upon successful completion of a course, All course providers shall provide a certificate of completion or other documentation to course participants that includes participant name, RCP license number, course title, the course delivery method (e.g. on-line, live-on-line, in-person), the entity approving the course as provided in section 1399.351 and any other number or code uniquely assigned by that entity to represent that approval, if applicable, number of hours of CE awarded, date(s) CE hours awarded, and name and address of course provider.

(l) For quarter or semester-long courses (or their equivalent) completed at any post-secondary institution accredited by a regional accreditation agency or association recognized by the United States Department of Education, an official transcript showing successful completion of the course accompanied by the catalog’s course description shall fulfill the requirements in subdivisions (ij), and (jk), and (k).

(m) The board may audit providers offering CE for compliance with the criteria set forth in this Article.

Note: Authority cited: Sections 3719 and 3722, Business and Professions Code.  
Reference: Section 3719, Business and Professions Code.

**Amend Section 1399.352.5 as follows:**

§ 1399.352.5. CE Hours.

The board will accept hours of approved CE as follows:

(a) The number of hours designated by those entities identified in subdivision (h) of Section 1399.352 ~~as it pertains to their own course or a course approved by them.~~

(b) Notwithstanding subdivision (a), one (1) academic quarter unit is equal to ten (10) CE hours and one (1) academic semester unit is equal to fifteen (15) CE hours.

(c) Providers may not grant partial credit for any CE course. Partial credit is defined as any time segment less than the total designated course duration or time period.

Note: Authority cited: Sections 3719 and 3722, Business and Professions Code.

Reference: Section 3719, Business and Professions Code.

**Adopt Section 1399.352.6 as follows:**

§ 1399.352.6. Preceptors.

(a) For the purposes of this division, “preceptor” means any person responsible for the direct supervision and clinical instruction of a student, as part of an approved respiratory education program per B&P section 3740, at an acute care facility who meets all of the following criteria:

(1) Holds a valid, current, and unrestricted license issued under this chapter.

(2) Holds a current and valid Registered Respiratory Therapist credential issued by the National Board for Respiratory Care.

(3) Has a minimum of two (2) years of full-time experience practicing as a respiratory care practitioner.

(4) Has completed a preceptor course within the last four years from the current date of expiration for the license, provided by:

(A) the American Association for Respiratory Care,

(B) the California Society for Respiratory Care, or

(C) An acute care facility and employer using the course materials from the provider listed in (A) or (B) of this subdivision..

(5) Is employed by an acute care facility to provide patient care as an RCP.

(b) Preceptors who meet the criteria in subdivision (a) may claim continuing education as follows:

(1) Up to two times the listed amount of CE hours earned for successful completion of a course identified in subdivision (a)(4). The amount of CE claimed per course under this subdivision may not exceed six (6) hours for each renewal cycle.

(2) Preceptors responsible for direct supervision and instruction to students in an acute care setting, in their role as an respiratory care practitioner (RCP) employed to provide patient care, may claim the following CE earned during any one renewal cycle period:

(A) Five (5) CE hours for one thousand (1000) to one thousand nine hundred ninety-nine (1999) hours of preceptor supervision and instruction.

(B) Ten (10) CE hours for two thousand (2000) to two thousand nine hundred ninety-nine (2999) hours of preceptor supervision and instruction.

(C) Fifteen (15) CE hours for three thousand (3000) or more hours of preceptor supervision and instruction.

(D) Preceptors claiming CE credit shall retain records that clearly indicate the name(s) of the student(s) supervised, the hours precepted on each date and written time logs signed or initialed by the education program's clinical director of all hours for a period of four (4) years from the date of instruction.

(E) Preceptor hours identified in this subdivision are for hours of instruction, regardless of the number of students instructed at one time.

(c)(1) Instructor, for purposes of this section, means a person who teaches a preceptor course specified in subdivision (a)(4), to potential preceptors and meets the following requirements:

(A) Holds a valid, current, and unrestricted license issued under this chapter.

(B) Holds a current and valid Registered Respiratory Therapist credential issued by the National Board for Respiratory Care.

(C) Has a minimum of four (4) years of full-time experience practicing as a respiratory care practitioner prior to the time of the instruction.

(D) Is employed by an acute care facility.

(2) This subdivision does not include instruction to students in the role of an educator or clinical instructor employed by a respiratory care education program.

(d) Instructors who meet all of the criteria in subdivision (c) may claim up to ten (10) hours of CE for each renewal cycle for actual time spent teaching preceptor courses meeting the criteria in subdivision (a)(4). CE shall be calculated on an hour-for-hour basis with one hour of CE credit accepted for each hour spent teaching.

(e) The CE earned as provided in this section may be counted toward hours required for the RCP leadership requirement as provided in section 1399.350 (a)(1) and toward the hours required for live, real-time CE requirement as provided in section 1399.350(c).

Note: Authority cited: Section 3722, Business and Professions Code. Reference: Sections 3719, 3719.5, and 3742 Business and Professions Code.

**Amend Section 1399.352.7 as follows:**

§ 1399.352.7. Law and Professional Ethics Course Criteria.

An acceptable course in law and professional ethics shall meet the following criteria and be approved by the board or its designee:

(a) The course shall be provided by the American Association for Respiratory Care or the California Society for Respiratory Care.

(b) The course shall be three hours in length. One hour of instruction shall consist of not less than 50 minutes of actual classroom time or actual time spent by the licensee completing the coursework on the internet.

(c) At least two hours of ~~The content of the course shall consist of~~ be dedicated to professional ethics with a concentration in the following subject areas:

(1) Obligations of licensed respiratory care practitioners to patients under their care; and,

(2) Responsibilities of respiratory care practitioners to report illegal activities occurring in the work place; ~~and,~~

(d) The course content may also include up to one hour of material with a concentration in:

~~(3) Acts that jeopardize licensure and licensure status; and,~~

(2) Current activities of the RCP profession.

~~(de)~~ The course shall meet all of the following requirements:

(1) The course shall consist of two (2) hours dedicated to professional ethics and one (1) hour toward California law. The board may opt to prepare or edit in full or part, any portion of the course.

(2) The course title shall be "Law and Professional Ethics."

(3) Delivery and format of the course shall be user-friendly.

(4) The course will be at least thirty (30) pages of written material ~~with at least twenty (20) test questions related to professional ethics and ten (10) related to California law.~~

(5) ~~The Course content~~ must include a course description including course content segments as defined in subdivision (d)(6), course objectives, ~~references, scenarios, questions,~~ a post-examination (a test provided to the student at the end of the instructional period), a certificate of completion as provided in section 1399.352, and legal disclosures to students required by State or federal law, and a list of course materials as applicable.

(6) The course shall provide several segments. Each segment must include a narrative or discussion, a scenario, and at least one question. For each question there must be between three and six possible responses with only one correct answer. Each response must include an explanation as to why the response is incorrect or correct. The number of questions tied to each segment may vary, as each component will differ in length and content.

(7) ~~The course post-examination will include at least thirty (30) scenario-based questions that require critical thinking skills related to the instructional materials presented.~~

(8) The provider shall submit course test scores, names and other course related information to the board, ~~as requested~~ upon request by the board.

(9) The provider shall not charge more than thirty dollars (\$30) for board applicants and sixty dollars (\$60) for board licensees or petitioners for reinstatement.

(10) The provider shall ensure that procedures are in place to address Americans with Disabilities Act (ADA) requests.

(11) The participant shall be allowed one (1) year to complete the course/exam after enrollment.

(12) The participant shall not be able to exit the post examination once commenced.

(13) The participant shall not have a time limit to take the post examination.

(14) The minimum post examination passing score shall be 70%. The post examination shall be scored on all cumulative components, not by each section.

(15) As applicable, the provider shall offer and allow participants who failed the initial post examination to retake the post examination free of charge. There shall be no wait time to retake the post examination if previously failed.

(16) The course will include a survey, optional to participants, to gather feedback for the board.

(ef) The course is solely the product of the provider and the provider assumes full responsibility for the course.

(fg) The course must be revised once every four years. Each revision must be approved by the board.

(gh) ~~The board's Education Committee~~ or its designee may rescind the approval of a course at any time if it believes it has been altered or finds that the course does not meet the requirements as provided for in this article.

(hi) The provider may advertise and or reference that an approved course is "approved" by the board.



Note: Authority cited: Section 3722, Business and Professions Code. Reference: Sections 3719 and 3719.5, Business and Professions Code.

**Amend section 1399.381 to read:**

**§ 1399.381. Fines.**

(a) Fines shall be assessed in accordance with the following schedule as provided for by law:

**BUSINESS AND PROFESSIONS CODE**

**Maximum Fine**

|   |          |
|---|----------|
| 3717 Records from employer                                      | \$10,000 |
| 3731 Title Used by licensee                                     | \$5,000  |
| 3739 Practice during license process                            | \$5,000  |
| 3750(a) Advertising   | \$5,000  |
| 3750(b) Fraud in the procurement of any license                 | \$5,000  |
| 3750(c) Knowingly employing unlicensed persons                  | \$15,000 |
| 3750(d) Conviction of crime                                     | \$5,000  |
| 3750(e) Impersonating an applicant in any examination           | \$5,000  |
| 3750(f) Negligence  | \$5,000  |
| 3750(g) Conviction of any violation of division 2               | \$5,000  |
| 3750(h) Aiding/Abetting person to violate this chapter          | \$5,000  |
| 3750(i) Aiding/abetting person to engage in unlawful practice   | \$5,000  |
| 3750(j) Commission of fraudulent, dishonest or corrupt act      | \$5,000  |
| 3750(k) Falsifying/ incorrect/ inconsistent entries in record   | \$5,000  |
| 3750(l) Changing prescriptions/falsifying orders for treatment  | \$5,000  |
| 3750(m) Discipline taken by another agency                      | \$5,000  |
| 3750(n) Knowing failure to protect patients - infection control | \$5,000  |
| 3750(o) Incompetence  | \$5,000  |
| 3750(p) Pattern of substandard care                             | \$5,000  |
| 3750(q) False statements  | \$5,000  |
| 3750.5 Obtained/possessed/use of drugs                          | \$5,000  |
| 3750.6 Production of work permit/pocket license                 | \$5,000  |
| 3753.1 Probation monitoring costs                               | \$5,000  |
| 3753.5 Cost recovery  | \$5,000  |
| 3754.5 Obtains license by fraud or misrepresentation            | \$5,000  |
| 3755 Unprofessional conduct                                     | \$5,000  |
| 3758 Employer report on suspension/termination                  | \$10,000 |
| 3758.5 RCP report on violation made by other RCP                | \$5,000  |
| 3758.6 Employer report on supervisor                            | \$10,000 |
| 3760 Practice without a license/Misrepresentation               | \$15,000 |
| 3761(a) Misrepresentation in claim of license to practice       | \$15,000 |
| 3761(b) Knowingly employing an unlicensed person                | \$15,000 |

|   |          |
|---|----------|
| 3773(a)(1) License renewal - notice of conviction       | \$5,000  |
| 3773(a)(2) License renewal - identify employer          | \$5,000  |
| 3773(b) License renewal - additional information        | \$5,000  |
| REGULATIONS   |          |
| 1399.304 Current address                                | \$5,000  |
| 1399.350 CE requirements                                | \$5,000  |
| 1399.350.5 Completion of ethics/professional law course | \$5,000  |
| 1399.360 Unlicensed personnel/home care                 | \$15,000 |
| 1399.377 Records from employer                          | \$10,000 |
| 1399.378 Licensee reporting                             | \$5,000  |
| 1399.379 Employer reporting                             | \$10,000 |

(b) The methodology for assessing fine amounts shall be for each inspection or investigation made with respect to the violation, except as provided below:

(1) The assessment of fine amounts for a violation involving fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare, shall be based on each violation or count.

(2) The assessment of fine amounts for a violation of section 3717 of the B&P or section 1399.377 of these regulations, shall be based upon each incident in which the employer fails to respond to a request to inspect or produce records as provided for in section 3717 of the B&P or section 1399.377 of these regulations.

(3) The assessment of fine amounts for a violation of section 3758, 3758.5 or 3758.6 of the B&P, or section 1399.378 or 1399.379 of these regulations, shall be based upon each person and/or each incident required to be reported to the board.

(4) The assessment of fine amounts for a violation of section 3750(c), 3760, 3761(a), or 3761(b) of the B&P or section 1399.360 of these regulations, shall be based upon each person who acts in the capacity of, or engages in the business of, or represents themselves as, a respiratory care practitioner, at each facility or location.

(c) Administrative fines collected pursuant to this section shall be deposited into the board's special fund.

Note: Authority cited: Sections 125.9 and 3722, Business and Professions Code.  
Reference: Sections 125.9, 3717, 3731, 3739, 3750, 3750.5, 3750.6, 3753.1, 3753.5, 3754.5, 3755, 3758, 3758.5, 3758.6, 3760, 3761, 3766, 3767 and 3773, Business and Professions Code.

RESPIRATORY CARE BOARD  
Department of Consumer Affairs  
California Code of Regulations, Title 16, Division 13.6 Respiratory Care Board, Article 5  
CONTINUING EDUCATION

---

## PROPOSED LANGUAGE

### § 1399.349. Continuing Education Defined.

“Continuing Education” means the variety of forms of learning experiences, including, but not limited to, lectures, conferences, academic studies, in-service education, institutes, seminars, home study, internet courses, and workshops, taken by respiratory care practitioners for licensure renewal. These learning experiences are meant to enhance the knowledge of the respiratory care practitioner in the practice of respiratory care in direct and indirect patient care. Continuing education does not include basic education or training needed to become a licensed RCP.

Note: Authority cited: Sections 3719 and 3722, Business and Professions Code. Reference: Sections 3719 and 3740, Business and Professions Code.

### § 1399.350. Continuing Education Required.

(a) Each respiratory care practitioner (RCP) is required to complete 30 hours of approved continuing education (CE) every 2 years as follows: At least two-thirds of the required CE hours shall be directly related to clinical practice.

(1) A minimum of 10 hours must be directly related to practitioner leadership, including courses and conventions for educators educating students and practitioners, ~~preceptor training,~~ case management, or health-care financial reimbursement, cost containment or management. Successful completion of the Law and Professional Ethics Course as provided in section 1399.352, and credit earned for preceptor participation as provided in section 1399.352.5 may be counted toward this requirement.

(2) A minimum of 15 hours must be directly related to the clinical practice of respiratory care. Successful completion of credentialing or certification examinations may be counted toward this requirement as provided in section 1399.353.

(3) Up to 5 hours may be earned through physical attendance at Respiratory Care Board, California Society for Respiratory Care, or American Association for Respiratory Care meetings open to the public or courses related to the role of a health care practitioner or indirectly related to respiratory care as may be included in section 1399.354.

(b) A minimum of 15 hours of CE as outlined in subdivision (a) must be earned from live courses or meetings provided with interaction in real time. The provider and the learner need not be in the same place but they must be able to communicate either verbally or in writing with each other during the time the learning activity is occurring. Examples of provider

directed activities include, but are not limited to, live lecture educational sessions that are part of conventions, courses, seminars, workshops, lecture series, and distance learning activities such as web casts, video conferences, and audio conferences in which the learner can directly interact with the provider in real time.

(c) Completion of courses or successful completion of credentialing or certification examinations may not be repeated for credit during any one renewal cycle period.

~~(b) (d)~~ To renew the license, each RCP shall report compliance with the CE requirement. ~~Supporting documentation showing evidence of compliance with each requirement under this Article, shall be submitted if requested by the board.~~ Upon the board's request, the licensee shall provide the board with documentation as provided in subdivision (b) of section 1399.356 or for courses completed through an approved post-secondary institution, an official transcript showing successful completion of the course accompanied by the catalog's course description.

~~(e) (e)~~ CE supporting documentation shall be retained by the licensee for a period of four years.

Note: Authority cited: Sections 3719 and 3722, Business and Professions Code. Reference: Section 3719, Business and Professions Code.

#### **§ 1399.351. Approved Courses and Providers.**

(a) Approved continuing education (CE) courses, in any format, shall be approved by or provided by the following entities:

(1) Any post-secondary institution accredited by a regional accreditation agency or association recognized by the United States Department of Education.

(2) A general acute care hospital licensed by the California Department of Public Health.

(3) The American Association for Respiratory Care.

(4) The California Society for Respiratory Care (and all other state societies directly affiliated with the American Association for Respiratory Care).

(5) The American Medical Association.

(6) The California Medical Association.

(7) The California Thoracic Society.

(8) The American College of Surgeons.

(9) The American College of Chest Physicians.

(10) The American Heart Association.

(11) American Lung Association

(12) Allergy and Asthma Network

(13) Society for Critical Care Medicine

(14) National Asthma Educator Certification Board

(b) Additional CE providers approved to provide live, "real-time" courses include any provider approved or accredited by:

(1) any entity identified in subdivision (a),

(2) the Accreditation Council for Continuing Medical Education, or

(3) the California Board of Registered Nursing.

**§ ~~1399.350.5~~ 1399.352. Law and Professional Ethics Course.**

(a) As part of required continuing education, every person licensed under this chapter shall successfully complete a course in law and professional ethics as provided in section ~~1399.352.7~~ 1399.357 of this division, during every other license renewal cycle.

(b) Continuing education ~~units~~ earned in accordance with this section shall represent three hours of continuing education towards the requirement in subdivision (a)(1) of section 1399.350. ~~units toward the non-clinical practice requirements set forth in section 1399.350(a). However, the course may be taken for continuing education credit only once during any renewal period.~~

Note: Authority cited: Sections 3719.5 and 3722, Business and Professions Code. Reference: Sections 3719 and 3719.5, Business and Professions Code.

**§ 1399.352.5. Preceptors.**

**(a) Any person who meets the all of the following criteria may claim continuing education for active participation in a preceptor role as provided in subdivision (b):**

- 1) Hold a valid, current, and unrestricted license issued under this chapter.
- 2) Hold a current and valid Registered Respiratory Therapist credential issued by the National Board for Respiratory Care.
- 3) Have a minimum of two (2) years of full-time experience practicing as a respiratory care practitioner.
- 4) Have completed a preceptor course within the last four years from the date of license expiration, provided by:
  - A) the American Association for Respiratory Care.
  - B) the California Society for Respiratory Care.
  - C) An acute care facility and employer using either the American Association for Respiratory or California Society for Respiratory course.
- 5) Not have any prior or existing personal relationship with the student(s) precepted.

**(b) Persons meeting the criteria in subdivision (a) may claim continuing education as follows:**

- 1) Up to two times the listed amount of CE hours earned for successful completion of a course identified in subdivision (a)(4). The amount of CE claimed per course under this subdivision may not exceed six (6) hours for each renewal cycle.
- 2) Preceptors responsible for direct supervision and instruction to students in an acute care setting, may claim the following CE earned during any one renewal cycle period:
  - A) Five (5) CE hours for one thousand (1000) to one thousand nine hundred ninety nine (1999) hours of preceptor supervision and instruction.
  - B) Ten (10) CE hours for two thousand (2000) to two thousand nine hundred ninety nine (2999) hours of preceptor supervision and instruction.
  - C) Fifteen (15) CE hours for three thousand (3000) or more hours of preceptor supervision and instruction.
  - D) Preceptors claiming CE credit shall retain records that clearly indicate the student(s) supervised, the hours precepted on each date and written verification of all hours by

the education program's clinical director for a period of four (4) years from the date of instruction.

(c) Instructors who meet the following requirements may claim actual time spent on instruction up to ten (10) hours of CE for each renewal cycle:

(i) Instruct a course identified in subdivision (a)(4).

(ii) Meet the criteria in subdivision (a), and

(iii) Have practiced full time for a minimum of four (4) years as a respiratory care practitioner at the time of the instruction of the course identified in subdivision (a).

(d) The CE earned as provided in this section may be counted toward hours required for the practice leadership requirement as provided in section 1399.350 (a)(1) and toward the hours required for live, real-time CE requirement as provided in section 1399.350(b).

Note: Authority cited: Section 3722, Business and Professions Code. Reference: Sections 3719 and 3719.5, Business and Professions Code.

**§ 1399.351. Approved CE Programs.—1399.353. Credentialing and Certification Exams.**

(a) Any course or program meeting the criteria set forth in this Article will be accepted by the board for CE credit.

(b) Passing an official credentialing or proctored self-evaluation examinations Successful completion of an examination leading to one of the following credentials awarded by the National Board for Respiratory Care, shall be approved for 15 hours of continuing education (CE), for initial credentialing only: as follows:

(1) Adult Critical Care Specialist Specialty Examination (ACCS)—15 hours;

(2) Certified Pulmonary Function Technologist (CPFT)—15 CE hours;

(3) Registered Pulmonary Function Technologist (RPFT) —15 CE hours;

(4) Neonatal/Pediatric Respiratory Care Specialist (NPS) —15 CE hours;

(5) Sleep Disorders Testing and Therapeutic Intervention Respiratory Care Specialist (SDS) —15 hours;

(6) Registered Respiratory Therapist, if not required at the time of initial licensure.

(b) The following certifications are approved for continuing education credit for initial certification only and for the number of hours given by the provider:

(1) Pulmonary Rehabilitation Certified (provided by the American Association for Respiratory Care (AARC) and the American Association of Cardiovascular and Pulmonary Rehabilitation)

(2) Tobacco and Smoking Cessation-Certified (provided by the AARC)

(3) COPD Educator-Certified (provided by the AARC)

(bc) Successful completion of the following certification examinations, approved by an entity

listed in section 1399.351, shall each be approved for 15 hours of CE for initial certification and 5 hours of CE for renewal or recertification:

~~(6)(1) Advanced Cardiac Cardiovascular Life Support (ACLS) -- number of CE hours to be designated by the provider;~~

~~(7)(2) Neonatal Resuscitation Program (NRP); -- number of CE hours to be designated by the provider; and~~

~~(8)(3) Pediatrics Advanced Life Support (PALS) -- number of CE hours to be designated by the provider.~~

~~(9)(4) Advanced Trauma Life Support (ATLS) -- number of CE hours to be designated by the provider.~~

(5) Asthma Educator Certified (AE-C) (provided by the National Asthma Educator Certification Board)

(d) CE credit will not be granted for:

(1) any review and/or preparation courses for credentialing or certification examinations,

(2) basic life support credentialing, or

(3) the recredentialing of any certification not expressly identified in subdivision (c).

~~(c) Any course including training regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS) meeting the criteria set for in this Article, will be accepted by the board for CE credit.~~

~~(d) Examinations listed in subdivisions (b)(1) through (b)(5) of this section shall be those offered by the National Board for Respiratory Care and each successfully completed examination may be counted only once for credit.~~

~~(e) Successful completion of each examination listed in subdivisions (b)(6) through (b)(9) of this section may be counted only once for credit and must be for the initial certification. See section 1399.352 for re-certification CE. These programs and examinations shall be provided by an approved entity listed in subdivision (h) of Section 1399.352.~~

~~(f) The board shall have the authority to audit programs offering CE for compliance with the criteria set forth in this Article.~~

Note: Authority cited: Sections 3719 and 3722, Business and Professions Code. Reference: Sections 32 and 3719, Business and Professions Code.

**§ 1399.352. Criteria for Acceptability of Courses. §1399.354. General Continuing Education.**

Continuing Education (CE) courses related to the role of a health care practitioner or indirectly related to respiratory care include, but are not limited to the following:

Acceptable courses and programs shall meet the following criteria:

~~(a) The content of the course or program shall be relevant to the scope of practice of respiratory care. Credit may be given for a course that is not directly related to clinical practice if the content~~

of the course or program relates to any of the following:

~~(1) Those activities relevant to specialized aspects of respiratory care, which activities include education, supervision, and management.~~

~~(2) Health care cost containment or cost management.~~

~~(3) (1) Preventative health services and health promotion, including tobacco and smoking cessation counseling.~~

~~(4) (2) Required abuse reporting.~~

~~(5) (3) Other subject matter which is directed by legislation to be included in CE for licensed healing arts practitioners.~~

~~(4) Any course including training regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS).~~

~~(6) Re-certification for ACLS, NRP, PALS, and ATLS.~~

~~(7) Review and/or preparation courses for credentialing examinations provided by the National Board for Respiratory Care, excluding those courses for entry-level or advance level respiratory therapy certification.~~

~~(b) The faculty shall be knowledgeable in the subject matter as evidenced by:~~

~~(1) A degree from an accredited college or university and verifiable experience in the subject matter, or~~

~~(2) Teaching and/or clinical experience in the same or similar subject matter.~~

~~(c) Educational objectives shall be listed.~~

~~(d) The teaching methods shall be described, e.g., lecture, seminar, audio-visual, simulation.~~

~~(e) Evaluation methods shall document that the objectives have been met.~~

~~(f) Each course must be provided in accordance with this Article.~~

~~(g) Each course or provider shall hold approval from one of the entities listed in subdivision~~

~~(h) from the time the course is distributed or instruction is given through the completion of the course.~~

~~(h) Each course must be provided or approved by one of the following entities. Courses that are provided by one of the following entities must be approved by the entity's president, director, or other appropriate personnel:~~

~~(1) Any post-secondary institution accredited by a regional accreditation agency or association recognized by the United States Department of Education.~~

~~(2) A hospital or health-care facility licensed by the California Department of Health Services.~~

~~(3) The American Association for Respiratory Care.~~

~~(4) The California Society for Respiratory Care (and all other state societies directly affiliated with the American Association for Respiratory Care).~~

~~(5) The American Medical Association.~~

~~(6) The California Medical Association.~~

~~(7) The California Thoracic Society.~~

~~(8) The American College of Surgeons.~~

~~(9) The American College of Chest Physicians.~~

~~(10) Any entity approved or accredited by the California Board of Registered Nursing or the Accreditation Council for Continuing Medical Education.~~

~~(i) Course organizers shall maintain a record of attendance of participants, documentation of participant's completion, and evidence of course approval for four years.~~

~~(j) All program information by providers of CE shall state: "This course meets the requirements for CE for RCPs in California."~~

~~(k) All course providers shall provide documentation to course participants that includes participant name, RCP number, course title, course approval identifying information, number of~~



~~hours of CE, date(s), and name and address of course provider.~~

~~(l) For quarter or semester-long courses (or their equivalent) completed at any post-secondary institution accredited by a regional accreditation agency or association recognized by the United States Department of Education, an official transcript showing successful completion of the course accompanied by the catalog's course description shall fulfill the requirements in subdivisions (i), (j) and (k).~~

~~(m) The board may audit providers offering CE for compliance with the criteria set forth in this Article.~~

Note: Authority cited: Sections 3719 and 3722, Business and Professions Code. Reference: Section 3719, Business and Professions Code.

**§ ~~1399.352.5.~~ 1399.355. ~~GE Continuing Education Hours.~~**

The board will accept hours of approved continuing education (CE) as follows:

(a) The number of hours designated by those entities identified in ~~subdivision (h)~~ of Section ~~1399.352~~ 1399.351 ~~as it pertains to their own course or a course approved by them.~~

(b) Notwithstanding subdivision (a), one (1) academic quarter unit is equal to ten (10) CE hours and one (1) academic semester unit is equal to fifteen (15) CE hours.

(c) Providers may not grant partial credit for any CE course. Partial credit is defined as any time segment less than the total designated course duration or time period.

Note: Authority cited: Sections 3719 and 3722, Business and Professions Code. Reference: Section 3719, Business and Professions Code.

**§ 1399.356. Provider Obligations.**

(a) Approved providers shall ensure faculty is knowledgeable in the subject matter as evidenced by a degree from an accredited college or university and verifiable experience in the subject matter, or teaching and/or clinical experience in the same or similar subject matter.

(b) Upon successful completion of a course, continuing education (CE) providers shall provide documentation to the course participant that includes:

(1) the participant's name.

(2) the participant's RCP license number.

(3) the course title.

(4) the course delivery method (e.g. on-line, live-on-line, live-in-person).

(5) the course approval identifying information (for those providers identified in subdivision (b) of section 1399.351).

(6) the number of CE hours awarded.

(7) the date CE hours were awarded, and

(8) the name and address of the course provider.

(c) Course providers shall maintain records identified in subdivision (b) for a period of four years as well as a description and details of the course.

(d) Courses completed at an approved post-secondary institution are exempt from this section provided the courses are reported on an official transcript.

Note: Authority cited: Sections 3719 and 3722, Business and Professions Code. Reference: Section 3719, Business and Professions Code.xx

**§ 1399.352.7. § 1399.357. Law and Professional Ethics Course Criteria.**

An acceptable course in law and professional ethics shall meet the following criteria and be approved by the board's executive or education committee:

(a) The course shall be provided by the American Association for Respiratory Care or the California Society for Respiratory Care.

(b) The course shall be three hours in length. One hour of instruction shall consist of not less than 50 minutes of actual classroom time or actual time spent by the licensee completing the coursework on the internet.

(c) The course shall include:

\_\_\_\_\_ (1) a course description.

\_\_\_\_\_ (2) course objectives.

\_\_\_\_\_ (3) references (as applicable).

\_\_\_\_\_ (4) legal disclosures (as applicable).

\_\_\_\_\_ (5) course content.

\_\_\_\_\_ (6) a post-examination.

\_\_\_\_\_ (7) an optional survey.

\_\_\_\_\_ (8) and a certificate of completion with information as identified in subdivision (b) of section 1399.356.

(e) The delivery and format of the course shall be user-friendly.

(f) The provider shall not charge more than thirty dollars (\$30) for board applicants and sixty dollars (\$60) for board licensees or petitioners for reinstatement.

(g) The provider shall ensure that procedures are in place to address Americans with Disabilities Act (ADA) requests.

(h) The course title shall be "Law and Professional Ethics."

(i) The course content shall consist of a minimum of thirty (30) pages of written material and a minimum of two (2) hours dedicated to professional ethics with a concentration in:

\_\_\_\_\_ (1) Obligations of licensed respiratory care practitioners to patients under their care and

\_\_\_\_\_ (2) Responsibilities of respiratory care practitioners to report illegal activities occurring in the work place.

(j) The course content may also include, as directed by the board, up to one hour of material with a concentration in:

\_\_\_\_\_ (1) Current activities of the profession and

\_\_\_\_\_ (2) Acts that jeopardize licensure and licensure status.

~~(c) The content of the course shall consist of the following subject areas:~~

~~\_\_\_\_\_ (1) Obligations of licensed respiratory care practitioners to patients under their care;~~

~~\_\_\_\_\_ (2) Responsibilities of respiratory care practitioners to report illegal activities occurring in the work place, and~~

~~\_\_\_\_\_ (3) Acts that jeopardize licensure and licensure status.~~

~~(d) The course shall meet all of the following requirements:~~

~~(1) (d) The course shall consist of two (2) hours dedicated to professional ethics and one (1) hour toward California law. The board may opt to prepare or edit in full or part, any portion of the~~

course:

~~(2) The course title shall be "Law and Professional Ethics."~~

~~(3) Delivery and format of the course shall be user-friendly.~~

~~(4) The course will be at least thirty (30) pages of written material with at least twenty (20) test questions related to professional ethics and ten (10) related to California law.~~

~~(5) Course content must include course description, course objectives, references, scenarios, questions, certificate of completion and legal disclosures, as applicable.~~

~~(6) (k) The course content shall provide several segments. Each segment must include a narrative or discussion, ~~a scenario, and at least one question~~ and at least one scenario-based question requiring critical thinking skills. For each question there must be between three and six possible responses with only one correct answer. Each response must include an explanation as to why the response is incorrect or correct. The number of questions tied to each segment may vary, as each component will differ in length and content.~~

~~(7) The course will include at least thirty (30) scenario-based questions that require critical thinking skills.~~

~~(8) The provider shall submit course test scores, names and other course related information to the board, as requested by the board.~~

~~(9) The provider shall not charge more than thirty dollars (\$30) for board applicants and sixty dollars (\$60) for board licensees or petitioners.~~

~~(10) The provider shall ensure that procedures are in place to address Americans with Disabilities Act (ADA) requests.~~

~~(11) (l) The participant shall be allowed one (1) year to complete the course/exam after enrollment.~~

~~(m) The post examination shall consist of at least thirty (30) questions related to the materials presented.~~

~~(12) (n) The participant shall not be able to exit the post examination once commenced.~~

~~(13) (o) The participant shall not have a time limit to take the post examination.~~

~~(14) (p) The minimum post examination passing score shall be 70%. The post examination shall be scored on all cumulative components, not by each section.~~

~~(15) (q) As applicable, the provider shall offer and allow participants who failed the initial post examination to retake the post examination free of charge. There shall be no wait time to retake the post examination if previously failed.~~

~~(16) (r) The course will include a survey, optional to participants, to gather feedback for the board.~~

~~(s) The provider shall submit course test scores, names and other course related information to the board, as requested by the board.~~

~~(t) The board may opt to prepare or edit in full or part, any portion of the course.~~

~~(e) (u) The course is solely the product of the provider and the provider assumes full responsibility for the course.~~

~~(f) (v) The course must be revised once every four years. Each revision must be approved by the board.~~

~~(g) (w) The board's Education Executive Committee may rescind the approval of a course at any~~

time if it believes it has been altered or finds that the course does not meet the requirements as provided for in this article.

~~(h)~~ (x) The provider may advertise and or reference that an approved course is “approved” by the board.

Note: Authority cited: Section 3722, Business and Professions Code. Reference: Sections 3719 and 3719.5, Business and Professions Code.

**~~§ 4399.353.~~ 1399.358. Audit and Sanctions for Noncompliance.**

(a) The board shall audit a random sample of RCPs for compliance with the continuing education (CE) requirements.

(b) If documentation of the CE requirement is improper or inadequate, or the licensee fails to provide the requested documentation within 30 days, the license becomes inactive. The practice of respiratory care, or representation that one is an RCP, is prohibited while the license is inactive. Practice on an inactive license shall constitute grounds for appropriate disciplinary action pursuant to the B&P.

(c) Notwithstanding subdivision (b), if the board determines that through no fault of the licensee the CE completed does not meet the criteria set forth in this article, the board may grant an extension, not to exceed six months, for the licensee to complete approved CE.

(d) Misrepresentation of compliance shall constitute grounds for disciplinary action.

(e) Documentation supporting compliance with CE requirements shall be available to the board upon request during the four year period following relicensure.

Note: Authority cited: Section 3722, Business and Professions Code. Reference: Sections 3719, 3719.5 and 3750, Business and Professions Code.

**~~§ 4399.354.~~ 1399.358.5. Waiver of Requirements.**

At the time of making application for renewal of a license, an RCP may request a waiver from completion of the continuing education (CE) requirements. ~~The board shall grant a waiver only if the RCP verifies in writing that, during the two-year period immediately prior to the expiration date of the license, he or she:~~

(a) Upon receipt of military orders or other verifiable documentation, the board shall grant a waiver of CE if ~~(a)~~ the licensee has ~~Has~~ been absent from California for at least one year during the two-year period immediately prior to the expiration date of the license, because of military service reasonably preventing completion of the CE requirements; or

(b) Upon receipt of verification by a licensed physician and surgeon, the board shall grant a waiver of CE if the licensee has ~~Has~~ been prevented from completing the CE requirements for reasons of health or other good cause for at least one year during the two-year period immediately prior to the expiration date of the license, which includes:

(1) Total medical disability of the RCP ~~for at least one year;~~ or

(2) Total medical disability of an immediate family member ~~for at least one year~~ where the RCP ~~has~~ had total responsibility for the care of that family member.

~~Verification of the disability under subsection (b) shall be verified in writing by a licensed physician and surgeon.~~

Note: Authority cited: Sections 3719 and 3722, Business and Professions Code. Reference: Section 3719, Business and Professions Code.

**~~§ 1399.355. Renewal After Inactive or Delinquent Status.~~**

~~(a) For the renewal of an expired license up to more than two years and within three years of the date of expiration, the applicant shall provide documentation of completion of the required 30 hours of CE during the four-year period preceding the application for renewal.~~

~~(b) For the renewal of an expired license two years or less from the expiration date, the applicant shall provide documentation of completion of the required 15 hours of CE during the two-year period preceding the application for renewal.~~

~~(c) After a license has been expired for three years, it will be cancelled and the applicant must make application just as for an initial license and meet all the current criteria required for licensure~~

~~Note: Authority cited: Sections 3719 and 3722, Business and Professions Code. Reference: Sections 3719 and 3774, Business and Professions Code.~~

**§ ~~1399.356.~~ 1399.359. License Status.**

A licensee may request, in writing, to change the status of his/her license as follows:

(a) To change the status of a license from active to inactive, the licensee shall make application to the board for such a change.

(b) To change the status of a license from inactive to active, the licensee shall request such in writing, pay all current, delinquent and accrued renewal fees, and provide documentation of completion of ~~45~~ 30 hours of ~~CE~~ continuing education during the two-year period preceding the request for active status.

Note: Authority cited: Sections 701, 704, 3719 and 3722, Business and Professions Code. Reference: Sections 3719, 3774 and 3775, Business and Professions Code.

**§ 1399.381. Fines.**

(a) Fines shall be assessed in accordance with the following schedule as provided for by law:

**BUSINESS AND PROFESSIONS CODE**

**Maximum Fine**

|   |          |
|---|----------|
| 3717 Records from employer                            | \$10,000 |
| 3731 Title Used by licensee                           | \$5,000  |
| 3739 Practice during license process                  | \$5,000  |
| 3750(a) Advertising                                   | \$5,000  |
| 3750(b) Fraud in the procurement of any license       | \$5,000  |
| 3750(c) Knowingly employing unlicensed persons        | \$15,000 |
| 3750(d) Conviction of crime                           | \$5,000  |
| 3750(e) Impersonating an applicant in any examination | \$5,000  |
| 3750(f) Negligence                                    | \$5,000  |
| 3750(g) Conviction of any violation of division 2     | \$5,000  |

|   |                |
|---|----------------|
| 3750(h) Aiding/Abetting person to violate this chapter          | \$5,000        |
| 3750(i) Aiding/abetting person to engage in unlawful practice   | \$5,000        |
| 3750(j) Commission of fraudulent, dishonest or corrupt act      | \$5,000        |
| 3750(k) Falsifying/ incorrect/ inconsistent entries in record   | \$5,000        |
| 3750(l) Changing prescriptions/falsifying orders for treatment  | \$5,000        |
| 3750(m) Discipline taken by another agency                      | \$5,000        |
| 3750(n) Knowing failure to protect patients - infection control | \$5,000        |
| 3750(o) Incompetence  | \$5,000        |
| 3750(p) Pattern of substandard care                             | \$5,000        |
| <b>3750(q) False statements</b>                                 | <b>\$5,000</b> |
| 3750.5 Obtained/possessed/use of drugs                          | \$5,000        |
| 3750.6 Production of work permit/pocket license                 | \$5,000        |
| 3753.1 Probation monitoring costs                               | \$5,000        |
| 3753.5 Cost recovery  | \$5,000        |
| 3754.5 Obtains license by fraud or misrepresentation            | \$5,000        |
| 3755 Unprofessional conduct                                     | \$5,000        |
| 3758 Employer report on suspension/termination                  | \$10,000       |
| 3758.5 RCP report on violation made by other RCP                | \$5,000        |
| 3758.6 Employer report on supervisor                            | \$10,000       |
| 3760 Practice without a license/Misrepresentation               | \$15,000       |
| 3761(a) Misrepresentation in claim of license to practice       | \$15,000       |
| 3761(b) Knowingly employing an unlicensed person                | \$15,000       |
| 3773(a)(1) License renewal - notice of conviction               | \$5,000        |
| 3773(a)(2) License renewal - identify employer                  | \$5,000        |
| 3773(b) License renewal - additional information                | \$5,000        |

#### REGULATIONS

|   |          |
|---|----------|
| 1399.304 Current address                                | \$5,000  |
| 1399.350 CE requirements                                | \$5,000  |
| 1399.350.5 Completion of ethics/professional law course | \$5,000  |
| 1399.360 Unlicensed personnel/home care                 | \$15,000 |
| 1399.377 Records from employer                          | \$10,000 |
| 1399.378 Licensee reporting                             | \$5,000  |
| 1399.379 Employer reporting                             | \$10,000 |

(b) The methodology for assessing fine amounts shall be for each inspection or investigation made with respect to the violation, except as provided below:

- (1) The assessment of fine amounts for a violation involving fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare, shall be based on each violation or count.
- (2) The assessment of fine amounts for a violation of section 3717 of the B&P or section 1399.377 of these regulations, shall be based upon each incident in which the employer fails to respond to a request to inspect or produce records as provided for in section 3717 of the B&P or section 1399.377 of these regulations.
- (3) The assessment of fine amounts for a violation of section 3758, 3758.5 or 3758.6 of the B&P, or

section 1399.378 or 1399.379 of these regulations, shall be based upon each person and/or each incident required to be reported to the board.

(4) The assessment of fine amounts for a violation of section 3750(c), 3760, 3761(a), or 3761(b) of the B&P or section 1399.360 of these regulations, shall be based upon each person who acts in the capacity of, or engages in the business of, or represents themselves as, a respiratory care practitioner, at each facility or location.

(c) Administrative fines collected pursuant to this section shall be deposited into the board's special fund.

Note: Authority cited: Sections 125.9 and 3722, Business and Professions Code. Reference: Sections 125.9, 3717, 3731, 3739, 3750, 3750.5, 3750.6, 3753.1, 3753.5, 3754.5, 3755, 3758, 3758.5, 3758.6, 3760, 3761, 3766, 3767 and 3773, Business and Professions Code.