



Item: Adoption of the Board’s Proposed Rulemaking to Amend California Code of Regulations, Title 16, 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) following the 15-day Comment Period to Modified Text

Item Summary: Staff are presenting this regulatory language for the Board’s final approval. The language was amended as directed by the Board at its October 28, 2022 meeting. Public notice of the modified text was made available December 28, 2022. The 15-day period to comment on the modified text ended January 13, 2023. No comments were received.

- Board Action:**
1. President calls the agenda item and it is presented by or as directed by the President.
 2. President requests a motion on this item:
 - 1) To approve and adopt the proposed regulations as described in the modified text and notice from December 2022 of the Board’s Proposed Rulemaking to Amend California Code of Regulations, Title 16, Sections 1399.349, 1399.350, 1399.350.5, 1399.351, 1399.352, 1399.352.5, 1399.352.7, and 1399.381 and to adopt Section 1399.352.6 having received no adverse comments during the 15-day modified text public comment period, and also to delegate to the Executive Officer the authority to make any technical or nonsubstantive changes that may be required in completing the rulemaking file or in promulgating the regulation.

- OR -
 - 2) Any other appropriate motion.
 3. President may request if there is a second to the motion, if not already made.
 4. Board member discussion/edits (if applicable).
 5. Inquire for public comment / further Board discussion as applicable.
 6. Repeat motion and vote: 1) aye, in favor, 2) no, not in favor, or 3) abstain

Background Timeline

June 9, 2022: The proposed text of this package was redrafted and presented to the Board. The Board approved the redrafted language and authorized the executive officer to begin the rulemaking process with the motion for the Board to:

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

July 29, 2022: The Notice, Initial Statement of Reasons, and Proposed Text were filed with the Office of Administrative Law requesting publication.

August 12, 2022: The Notice of the regulatory proposal was published in the “California Regulatory Notice Register [register 2022, number 32-Z].” Board staff issued notifications to its interested parties list and published all materials on its website. The Notice provided a 45-day period to submit written comments to the Board with the closing date of September 27, 2022. The Notice also advised the public that a hearing would be held upon request.

August 19, 2022: A request to hold a public hearing was made:

September 1, 2022: Notice was made that a public hearing would be held at 1:00 p.m. on Thursday, October 6, 2022, at 3750 Rosin Court, Suite 100, Sacramento, CA 95834.

September 9 and 10, 2022: Additional requests to hold a hearing were made with one requesting the hearing be held via internet.

September 20, 2022: Board staff determined it had resources to accommodate holding the hearing in person and via WebEx (via telephone or Internet), and issued an Amended Notice of Hearing advising the public of such.

October 28, 2022: Written and oral comments are presented to the Board. Each comment was reviewed by the Board that made the decision to accept or reject the comment and modify text accordingly. The following motion was passed unanimously by the Board:

Dr. Lewis made a motion for the Board to accept and/or reject comments as identified, and authorize Board staff to amend the language accordingly, including any other non-substantive changes, and pursue the promulgation of the regulatory amendments. Regardless of whether any further comments are received during the 15-day public notice, Board staff shall place the language and any comments received during the 15-day notice period on the agenda of the next Board meeting for review and approval to proceed with the rulemaking and adoption of the amended proposed regulations at Section(s) 1399.349, 1399.350, 1399.350.5, 1399.351, 1399.352, 1399.352.5, 1399.352.7, 1399.381 and 1399.352.6 of Title 16, California Code of Regulations.

December 28, 2022: Notice and modified text was made available to the public with the closing period for comments on January 13, 2023. No comments were received.

Attachments

- A) Modified Text: 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 as published 12/28/22
- B) Original Text: 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 as published 8/12/22
- C) Comments Presented at the October 28, 2022 Board Meeting (Please see October 28, 2022 meeting minutes, Agenda Item 2, beginning on page 5, to review which comments were accepted and rejected by the Board.)

Agenda Item 6
ATTACHMENT A

Modified Text: Proposed Regulatory Language as published 12/28/22
California Code of Regulations
Title 16. Professional and Vocational Regulations
Division 13.6. Respiratory Care Board

MODIFIED TEXT

Legend:

Changes addressed in Notice of Proposed Regulatory Action (45-day comment period):

- Deleted text is indicated by ~~strike through~~
- Added text is indicated with an underline

Modified Text (15-day comment period):

- Deleted text is indicated by ~~double strike through~~
- Added text is indicated by double underline

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 (RCPs) for licensure renewal. These learning experiences are meant to enhance the knowledge of the ~~respiratory care practitioner~~ RCP 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~~ **shall** be directly related to RCP leadership, including **effective communication in healthcare**, 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~~ subdivision in accordance with sections 1399.350.5 or 1399.352.6, as applicable.

(2) A minimum of 15 hours ~~must~~ shall 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~~ subdivision in accordance with section 1399.351.

(b) An RCP may earn up to 5 hours of CE credit through ~~physical attendance at~~ ~~open sessions of~~ Respiratory Care Board ~~meetings~~, or California Society for Respiratory Care (CSRC), or American Association for Respiratory Care (AARC) meetings, ~~at the discretion of the AARC or CSRC in compliance with this subdivision, 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 ~~Board~~ meeting pursuant to this subdivision ~~must~~ shall sign in and out on an attendance sheet at the ~~in-person meeting~~ or by way of a comment through a virtual, internet-based application (Webex or similar on-line meeting or video conferencing computer-based platform) if the Board offers on-line public participation for 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 subdivisions (a) and (b) mustshall 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 mustshall 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)(k) 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 as provided in subdivision (l) of section 1399.352. 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;~~

(6) Asthma Educator Specialist (AE-C) and,

~~(6)(7)~~ 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:

(6)1) ~~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).

~~(ce) 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.~~

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

~~(4) Required abuse reporting.~~

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

~~(6) Re-certification for ACLS, NRP, PALS, and ATLS. Courses regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS).~~

~~(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. 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~~shall 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~~shall~~ 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~~health care facility licensed by the California Department of ~~Health Services~~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 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.

(j) 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 (j), and (k), 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 subdivisions s (h) or (i) 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~~ a facility, licensed by the California Department of Public Health, 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 ~~practiced~~ a minimum of 4,000 hours as a respiratory care practitioner (RCP) within the five (5) years immediately preceding the date preceptor services are provided. ~~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 (AARC),

(B) the California Society for Respiratory Care (CSRC), or

(C) ~~An acute care~~A facility, licensed by the California Department of Public Health, and employer using the course materials from the provider listed in (A) or (B) of this subdivision.

(5) Is employed by ~~an acute care~~ licensed 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 patient-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 ~~five hundred (500) to nine hundred ninety nine (999)~~ ~~one thousand (1000) to one thousand nine hundred ninety nine (1999)~~ hours of preceptor supervision and instruction.

(B) Ten (10) CE hours for ~~one thousand (1000) to one thousand four hundred ninety nine (1499)~~ ~~two thousand (2000) to two thousand nine hundred ninety nine (2999)~~ hours of preceptor supervision and instruction.

(C) Fifteen (15) CE hours for ~~one thousand five hundred (1500)~~ ~~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 practiced a minimum of 8,000 hours as an RCP within the six (6) years immediately preceding the date instruction is provided. ~~four (4) years of full-time experience practicing as a respiratory care practitioner prior to the time of instruction.~~

(D) Is employed by ~~an acute care~~ facility, licensed by the California Department of Health or designated by the AARC or CSRC to provide said education.

(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 ~~T~~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 (RCPs) to patients under their care; and,

(2) Responsibilities of respiratory care practitioner RCPs 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 in California ~~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.~~

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

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

(3)(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.

(4)(5) The Course content mustshall include a course description including course content segments as defined in subdivision (d)(6), course objectives, references, scenarios, questions, a post-course 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.

(5)(6) The course shall provide several segments. Each segment mustshall include a narrative or discussion, a scenario, and at least one question. For each question there mustshall be between three and six possible responses with only one correct answer. Each response mustshall 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.

~~(6)(7)~~ The course post-course examination will include at least thirty (30) scenario-based questions that require critical thinking skills related to the instructional materials presented.

~~(7)(8)~~ The provider shall submit course test scores, names and other course related information to the board, as requested upon request by the board.

~~(8)(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.

~~(9)(10)~~ The provider shall ensure that procedures are in place to address Americans with Disabilities Act (ADA) requests.

~~(10)(11)~~ The participant shall be allowed one (1) year to complete the course/exam after enrollment.

~~(11)(12)~~ The participant shall not be able to exit the post-course examination once commenced.

~~(12)(13)~~ The participant shall not have a time limit to take the post-course examination.

~~(13)(14)~~ The minimum post-course examination passing score shall be 70%. The post-course examination shall be scored on all cumulative components, not by each section.

~~(14)(15)~~ As applicable, the provider shall offer and allow participants who failed the initial post-course examination to retake the post-course examination free of charge. There shall be no wait time to retake the post-course examination if previously failed.

~~(15)(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 mustshall be revised once every four years. Each revision mustshall 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.

Agenda Item 6
ATTACHMENT B

Original Text: Proposed Regulatory Language as published 8/12/22

**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~~ 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:

~~(31)~~ 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
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3758.5 RCP report on violation made by other RCP	\$5,000
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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.

Agenda Item 6
ATTACHMENT C

Comments Presented at the October 28, 2022 Board Meeting

(Please see October 28, 2002 meeting minutes, Agenda Item 2, beginning on page 5, to review which comments were accepted and rejected by the Board.)

Amendments Requested Prior to Notice Publication

The following suggested amendments are made for the Board's consideration as a result of consultation between staff and legal counsel and an inquiry received from the CSRC prior to publication of the Notice and the 45-day comment period. Those highlighted in blue are substantive amendments.

	Requested Amendment
1	Replace the word "must" with "shall" throughout text to provide consistency and preferred legal verbiage. (Legal/Staff)
2	§1399.350(a)(1) Replace "subsection" with "subdivision" to provide consistency and correct legal verbiage. (Legal/Staff)
3	§1399.350(b) and (b)(1) Remove "open to the public" CSRC provides, "A quick review of the CSRC Bylaws does not reflect any mention of "public" anywhere. When it comes to the area of meetings, the references are always "...meeting of the members." I believe it would be a good idea to have clarity from the attorney(s) on the matter of attendees at CSRC meetings. A point of clarification for the attorney(s) to consider in reference to conventions, conferences or events, these activities are not meetings of the membership. These activities are open to non-members willing to pay the registration fees. We issue CEs to all of the attendees. Meetings of CSRC include Board of Director Meetings and "called" Membership Meetings. The CSRC's intent of offering CEs for attendance at its Board of Directors Meetings provides an incentive for members to attend and see the inner-workings of the CSRC. This would serve to educate the membership on the intricate interactions of the Respiratory profession and community. Finally, CSRC is hopeful that it would result in increased volunteerism to the CSRC to fulfill its mission." (CSRC/Staff)
4	§1399.350(e) Replace subdivision "(b)" with "(k)" to correct the citation and add "as provided in subdivision (l) of section 1399.352" to provide clarity and consistency in cited references. (Legal/Staff)
5	§1399.352(k) Add comma after "the course as provided in section 1399.351" to provide proper punctuation. (Legal/Staff)
6	§1399.352.5(a) Replace "subdivision (h)" with "subdivisions (h) or (i)" to correctly cite all CE providers designating CE hours. (Legal/Staff)
7	§1399.352.6(a)(3) Add "or its equivalent, within five (5) years from the date preceptor services are provided" to the preceptor qualification that requires two years of full-time experience as an RCP. (CSRC/Staff)
8	§1399.352.6(b)(2) Delete "respiratory care practitioner (RCP)" and replace with RCP to provide consistency. (Legal/Staff)

9	§1399.352.6(c)(1)(C) Add "or its equivalent, within six (6) years from the date preceptor services are provided," to instructor (of preceptor courses) qualifications that require a minimum of four years of experience as an RCP. (CSRC/Staff)
10	§1399.352.6(c)(1)(D) Add "or designated by the AARC or CSRC to provide said education" following "Is employed by an acute care facility." (CSRC/Staff)
11	§1399.352.7(e)(1) Delete "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" and renumber subdivision (e) accordingly. This language conflicts with new language found in 1399.352.7(d)(2). The language to edit the course is not necessary as the Board's designee is authorized to approve the course. (Legal/Staff)
12	1399.352.7 Throughout this section, replace "post examination" with "post-course examination" to provide clarity.

Comments Received During the 45-Day Period and at Hearing

The following comments were made by the public during the 45-day comment period (8/12/22-9/27/22) and at the hearing (10/6/22) directly related to the proposal and are presented to the Board for consideration to accept and modify text accordingly or reject. Requests for a hearing or an Internet platform for the hearing are not included here.

	Comment
13	I am writing in opposition of the California Respiratory Care Board proposal for Amendment 16 CCR 1399.350 Continuing Education Subdivision (c) and the requirement that 15 of the 30 hours of instruction must be earned from live courses or meetings. (Fantazia-RCP-8/31/22 e-mail)
14	<p>Change.org Petition created by Fantazia [169 total signatures/Estimate 105 of those signatures from CA licensed RCPs]</p> <p>This petition OPPOSES the California Respiratory Care Board proposal for Amendment 16 CCR 1399.350 Continuing Education Subdivision(c) and the requirement that 15 of the 30 hours of instruction must be earned from live courses or meetings.</p> <p>Problems:</p> <p>There is a fiscal impact for the RCP. Live CEs are not readily accessible to all RCPs especially in rural areas. Some RCPs will need to travel (cost of conference, cost of room, cost of food, cost of transportation, cost of time off work, and possibly cost of daycare).</p> <p>There is a potential fiscal impact on Employers accommodating time off work; we are already short staffed at many facilities, and this could result in increased workloads.</p> <p>This proposal decreases flexibility for licensees and is not modernizing how we learn. The RCB states "this proposal modernizes the Board’s continuing education system by offering improved flexibility for licensees in how continuing education credit is obtained" (RCB, 2022) when actually it is doing the opposite.</p> <p>This proposal is not evidence based. There are studies show there is not difference with clinical outcomes, or superiority in learning, when comparing traditional learning and e-learning with healthcare providers. One article in particular is E-Learning for Health Professionals(2022) from the Cochrane Library.</p> <p>Another article the board should consider reading is Effectiveness of distance learning strategies for continuing professional development(CPD) for rural allied health practitioners: a systematic review (2017). Lastly, Effects of e-learning in a continuing education context on nursing care: a review of systematic qualitative, quantitative and mixed studies reviews (protocol) from BMJ (2017).</p> <p>It will need to be restructured if we have another pandemic. The board tried to pass this in 2018 and we could not have met the requirements due to Covid-19.</p> <p>The proposal is written in a way that is confusing and may cause delayed licensing renewals due to the accessibility, and availability, of live courses.</p> <p>Action:</p> <p>The Respiratory Care Practitioners in California have signed this petition requesting the board not to make any live or face-to-face requirements for continuing education. Vote NO on this proposal.</p> <p>RCB STAFF NOTE: See Attachment D for References.</p>

15	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Legislation: Amend §1399.350 Continuing Education Required</p> <p>Current Requirements: (a) At least two-thirds required CE hours shall be directly related to clinical practice.</p> <p>Proposed Requirements: 25 of the 30 required CE hours shall be directly related to clinical practice.</p> <p>CSRC Recommendation: Clarify to state: “A minimum of 20 CE hours shall be directly related to clinical practice.”</p> <p>Note: 1) Contradicts 1399.350(a)(1) in that it is understood/perceived that clinical practice and leadership are separate categories 2) Minimum of 20 allows for RCPs to earn >20 CE hours.</p> <p>RCB STAFF NOTE: No contradiction exists. Proposed text published 8/12/22 repeals the 2/3 requirement and instead provides that at least 25 of the 30 required CE shall be completed in the following content areas: 1) minimum of 10 hours from leadership and 2) a minimum of 15 hours directly related to clinical practice.</p>
16	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (a)(1) A minimum of 10 hours must be directly related to RCP leadership training in case management, health-care financial reimbursement, health care cost containment or health care management.</p> <p>Hours earned as part of a licensee’s successful completion of the Law and Professional Ethics Course and preceptor participation.</p> <p>CSRC Recommendation: Clarify and remove contradiction of 1399.350. by stating: “A minimum of 5 CE hours shall be in leadership training...”</p> <p>Note: 1) Contradicts 1399.350(a)(1) in that it is understood/perceived that clinical practice and leadership are separate categories 2) The RCB is defining the Law & Professional Ethics course as leadership education 3) The RCB is defining future Preceptor training and work as a Preceptor as leadership education 4) Suggestions/feedback received from the community: a) 5 CE hours in leadership b) Community appears lack of understanding/reading of RCB’s proposed language of what constitutes leadership c) CSRC should define leadership not RCB 5) The recommendation will allow flexibility between clinical practice and leadership training.</p> <p>RCB STAFF NOTE: No contradiction exists. Proposed text published 8/12/22 repeals the 2/3 requirement and instead provides that at least 25 of the 30 required CE shall be completed in the following content areas: 1) minimum of 10 hours from leadership and 2) a minimum of 15 hours directly related to clinical practice.</p>
17	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (a)(2) A minimum of 15 hours must be directly related to clinical practice...successful completion of credentialing or certification examinations shall be considered qualifying...</p> <p>CSRC Recommendation: Remove the contradiction by aligning the number of clinical practice CEs with the above recommendation of 20 CE hours.</p> <p>Note: 1) Contradicts 1399.350 and 1399.350(a)(1) in the number of CEs in clinical practice.</p> <p>RCB STAFF NOTE: No contradiction exists. Proposed text published 8/12/22 repeals the 2/3 requirement and instead provides that at least 25 of the 30 required CE shall be completed in the following content areas: 1) minimum of 10 hours from leadership and 2) a minimum of 15 hours directly related to clinical practice.</p>

18 CSRC WRITTEN COMMENT 9/26/22

Proposed Requirements: (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...

CSRC Recommendation: "(b) An RCP may earn up to 5 hours of leadership CE credit through physical attendance at Respiratory Care Board meetings, California Society for Respiratory Care (CSRC), or American Association for Respiratory Care (AARC) meetings open to its membership to include general membership meetings, CSRC Board meetings, Region Board meetings, Managers meetings, and Educators Meetings."

Note: 1) The AARC and CSRC are private organizations, not public organizations. There are references in CSRC's Bylaws (Article 3 Meetings of Members) for membership meetings. CSRC does NOT have regularly scheduled "Membership Meetings" where the membership is invited to be aware of current issues or address the BOD.

2) Attendance at any meeting of the CSRC is open to its members or non-members at the invite of the CSRC President.

3) BOD meetings in most organizations are limited to the BOD and any invitees. Same applies to committee meetings.

4) Internal CSRC recommendation: Ad Hoc Committee to research and report findings/provide recommendation on holding "Membership Meetings."

5) Currently, CSRC has no process in place for the recording of identifying attendees membership status, attendance, issuance and tracking of CEs. The CSRC will need to develop a process which meets all the requirements.

6) Do these CEs fall under clinical practice or leadership?

7) Most meetings are held virtually and likely will continue to do so for quite some time.

8) California cannot mandate to AARC to facilitate any/all requirements for attendance at AARC meeting.

RCB STAFF NOTE: As noted in the proposed modified text, should "private" meetings not open to the public be counted for CE credit? The intent of these regulations are not to "mandate" the AARC or CSRC issue CEs for meetings. Rather, they are to allow CSRC and AARC to offer credit. The language may need to be amended to make this clear.

19	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (c) ...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.</p> <p>CSRC Recommendation: Agree with language. Please consider adding "Instructor led skills days" to the list of acceptable providers.</p> <p>Note: 1) Where does the data come from to suggest these numbers? 2) Requires too many live CEs. The 50/50 concept was introduced several years ago - the push back then was not enough online CEs available. 3) The CSRC is NOT the sole provider of live CE events. The RCB provides an extensive list of approved providers of live CEs: (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) AARC (4) CSRC (and all other state affiliates of AARC (5) AMA (6) CMA (7) CTS (8) American College of Surgeons (9) American College of Chest Physicians (10) American Heart Association (11) American Lung Association (12) Allergy and Asthma Network (13) Society for Critical Care Medicine (14) National Asthma Education Certification ...Additional CE providers are approved by the Board...." (1) any entity identified in subdivision (h) (2) California Board of Registered Nursing, or (3) Accreditation Council for Continuing Medical Education 4) Distance/time off work is a barrier for attending live events. 5) Live CE events is defined as "...provided with interaction between the licensee and instructor in real time." 6) This would include hospital/dept in services, instructor led trainings, presentations at meetings whether they are live or online. 7) Instructor-led "skills days" qualifies for CE credit. The facility would have to submit required paperwork for issuing CEs.</p>
20	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Legislation: Amend §1399.350.5. Law and Professional Ethics Course.</p> <p>Current Requirements: (b) Continuing education units earned in accordance with this section shall represent three units toward the non-clinical practice</p> <p>Proposed Requirements: (b) Continuing education units earned in accordance with this section shall represent three units toward RCP leadership requirements</p> <p>CSRC Recommendation: Agree with the language</p> <p>Note: 1) The RCB is defining the Law & Professional Ethics course as leadership education</p>
21	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Legislation: Amend §1399.351. Approved CE Programs.</p> <p>Current Requirements: (b) Passing an official credentialing or proctored self-evaluation examination shall be approved for CE as follows...(15 CEs for each exam listed)</p> <p>Proposed Requirements: ((b) 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) ACCS (2) CPFT (3) RPFT (4) NPS (5) SDS (6) RRT, if not required at the time of initial licensure pursuant to B&P section 3735.</p> <p>CSRC Recommendation: Agree with the language</p> <p>Note: 1)Note the red/underlined/bold of the term "initial." The RCB appears to be emphasizing this as a point of further clarification. 2) At the time of this draft, the NBRC had not yet announced the addition of the AE-C examination. It would be reasonable that this will be added to the final draft.</p> <p>RCB STAFF NOTE: NBRC's Asthma Educator Specialist exam (AE-C) is now available. Board should consider adding it to §1399.351 (c)(5) OR §1399.351 (b)</p>

22	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (a)(2) A minimum of 15 hours must be directly related to clinical practice...successful completion of credentialing or certification examinations shall be considered qualifying...</p> <p>CSRC Recommendation: Agree with the language.</p>
23	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: ((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 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).</p> <p>CSRC Recommendation: Agree with the language.</p>
24	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (e) 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.</p> <p>CSRC Recommendation: Agree with the language.</p>
25	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (h) Each Approved continuing education courses, in any format, must be provided or approved by one of 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 or health-care facility licensed by the California Department of Health Services. (3) AARC (4) CSRC (and all other state affiliates of AARC) (5) AMA (6) CMA (7) CTS (8) American College of Surgeons (9) American College of Chest Physicians (10) American Heart Association (11) American Lung Association (12) Allergy and Asthma Network (13) Society for Critical Care Medicine (14) National Asthma Education Certification</p> <p>CSRC Recommendation: Agree with the language.</p>
26	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (i)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.</p> <p>CSRC Recommendation: Agree with the language.</p>

27	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Legislation: Amend §1399.352.6. Preceptors.</p> <p>Proposed Requirements: (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 <i>acute care facility</i> who meets all of the following criteria:</p> <p>CSRC Recommendation: Recommend changing the language to:</p> <p>(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, <u>at an acute care facility at any facility which accepts RT students performing clinical rotation(s) at that facility</u> who meets all of the following criteria:</p> <p>(1) Holds a valid, current, and unrestricted license issued under this chapter.</p> <p>(2) Holds a current and valid Registered Respiratory Therapist credential issued by the National Board for Respiratory Care.</p> <p>(3) Has a minimum of two (2) years of full-time experience, <u>or its equivalent, within five (5) years from the date preceptor services are provided</u>, practicing as a respiratory care practitioner.</p> <p>Note: 1) Concern over the limitation to acute care facility. Students gain clinical experience in other settings including LTACHs and subacute facilities.</p> <p>RCB STAFF NOTE: ISOR provides: “Nearly all clinical education is provided at acute care facilities. In general, acute care facilities are organized, have education departments, and are held to a higher standard by regulatory and credentialing entities. They have multiple areas where RCPs are most often employed (e.g. emergency, neonatal, acute care, ICU, transport, etc.) Therefore, the Board believed it prudent to offer CE incentive for preceptors at these facilities.”</p>
28	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (a)(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) <i>An acute care facility</i> and employer using the course materials from the provider listed in (A) or (B) of this subdivision. ... (a)(5) Is employed by an <i>acute care facility</i> to provide patient care as an RCP.</p> <p>CSRC Recommendation: Recommend changing the language to: “...at any facility which accepts RT students performing clinical rotation at that facility.”</p> <p>Note: Concern over the limitation to acute care facility. Students gain clinical experience in other settings including LTACHs and subacute facilities.</p> <p>Community Feedback: • CSRC’s ability to comply with ADA requirements.</p> <p>• How to do • CSRC currently does not have a Preceptor training course. Has been tasked to the Education Committee and is in progress</p> <p>RCB STAFF NOTE: ISOR provides: “Nearly all clinical education is provided at acute care facilities. In general, acute care facilities are organized, have education departments, and are held to a higher standard by regulatory and credentialing entities. They have multiple areas where RCPs are most often employed (e.g. emergency, neonatal, acute care, ICU, transport, etc.) Therefore, the Board believed it prudent to offer CE incentive for preceptors at these facilities.”</p>

29	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (b)(2) Preceptors responsible for direct supervision and instruction to students in an acute care setting, in their role as a respiratory care practitioner (RCP) employed to provide patient care, may claim the following CE earned during any one renewal cycle period:</p> <p>CSRC Recommendation: Recommend changing the language to: "...at any facility which accepts RT students performing clinical rotation at that facility."</p> <p>Note: Concern over limitation to acute care facility. Students gain clinical experience in other settings including LTACHs and subacute facilities.</p> <p>RCB STAFF NOTE: ISOR provides: "Nearly all clinical education is provided at acute care facilities. In general, acute care facilities are organized, have education departments, and are held to a higher standard by regulatory and credentialing entities. They have multiple areas where RCPs are most often employed (e.g. emergency, neonatal, acute care, ICU, transport, etc.) Therefore, the Board believed it prudent to offer CE incentive for preceptors at these facilities."</p>
30	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (b)(2)(A) Five (5) CE hours for one thousand (1000) to one thousand nine hundred ninety-nine (1999) hours of preceptor supervision and instruction.</p> <p>CSRC Recommendation: Suggest starting with 300-500 hours/cycle period. This may be an enough incentive to claim CEs in this area.</p> <p>Note: 1) 1000-1999 hours of precepting is excessive for 5 CEs. 2) The average RCP working 12 hours shifts performs 1872 hours of work/year. 3) Over a 2-year license renewal period, that RCP would have to precept 27%-53% of their work hours. 4) Reality – it is estimated that the average RCP working in a facility which takes students is closer to 10-20% of their work hours. This is due to their work schedule, number of RCPs staffed/shift vs. number of students/shifts, and how many days the students are scheduled. 5) Suggest <u>starting</u> with 300-500 hours/cycle period. This may be an enough incentive to claim CEs in this area.</p> <p>RCB STAFF NOTE: ISOR provides: "The Board anticipates the incentives provided in subdivision (2) are significant enough to encourage numerous RCPs to meet preceptor qualifications and volunteer as a preceptor. The Board anticipates with these incentives, the preceptor qualifications will be regarded as an industry standard without imposing mandates that the Board suspects would result in a decline in participation. The Board anticipates these incentives to foster participation as a qualified preceptor"</p>

31	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (b)(2)(B) Ten (10) CE hours for two thousand (2000) to two thousand nine hundred ninety-nine (2999) hours of preceptor supervision and instruction.</p> <p>CSRC Recommendation: Suggest <u>starting</u> with 500-800 hours/cycle period. This may be an enough incentive to claim CEs in this area.</p> <p>Note: 1) 12000-2999 hours of precepting is excessive for 10 CEs. 2) The average RCP working 12 hours shifts performs 1872 hours of work/year. 3) Over a 2-year license renewal period, that RCP would have to precept 53%-80% of their work hours. 4) Reality – it is estimated that the average RCP working in a facility which takes students is closer to 10-20% of their work hours. This is due to their work schedule, number of RCPs staffed/shift vs. number of students/shifts, and how many days the students are scheduled. 5) Suggest starting with 500-800 hours/cycle period. This may be an enough incentive to claim CEs in this area.</p> <p>RCB STAFF NOTE: ISOR provides: “The Board anticipates the incentives provided in subdivision (2) are significant enough to encourage numerous RCPs to meet preceptor qualifications and volunteer as a preceptor. The Board anticipates with these incentives, the preceptor qualifications will be regarded as an industry standard without imposing mandates that the Board suspects would result in a decline in participation. The Board anticipates these incentives to foster participation as a qualified preceptor”</p>
32	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (b)(2)(C) Fifteen (15) CE hours for three thousand (3000) or more hours of preceptor supervision and instruction.</p> <p>CSRC Recommendation: Suggest starting with 800-1200 hours/cycle period. This may be an enough incentive to claim CEs in this area.</p> <p>Note: 1) 3000+ hours of precepting is excessive for 15 CEs. 2) The average RCP working 12 hours shifts performs 1872 hours of work/year. 3) Over a 2-year license renewal period, that RCP would have to precept >80% of their work hours. 4) Reality – it is estimated that the average RCP working in a facility which takes students is closer to 10-20% of their work hours. This is due to their work schedule, number of RCPs staffed/shift vs. number of students/shifts, and how many days the students are scheduled. 5) Suggest <u>starting</u> with 800-1200 hours/cycle period. This may be an enough incentive to claim CEs in this area.</p> <p>RCB STAFF NOTE: ISOR provides: “The Board anticipates the incentives provided in subdivision (2) are significant enough to encourage numerous RCPs to meet preceptor qualifications and volunteer as a preceptor. The Board anticipates with these incentives, the preceptor qualifications will be regarded as an industry standard without imposing mandates that the Board suspects would result in a decline in participation. The Board anticipates these incentives to foster participation as a qualified preceptor”</p>

33	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (b)(2)(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.</p> <p>CSRC Recommendation: Recommend a simpler method of tracking hours. Create a standardized editable PDF form good for a calendar year (Jan 1- Dec 31) which a RCP would use to track their precepting hours and have their Supervisor/Manager/Director sign off/validate at the end of the year.</p> <p>Note: Many concerns with this model of record keeping</p> <p>1) Excerpted from FERPA website: o Family Educational Rights and Privacy Act (FERPA) is a federal law that affords parents the right to have access to their children’s education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information from the education records. When a student turns 18 years old, or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student (“eligible student”). The FERPA statute is found at 20 U.S.C. § 1232g and the FERPA regulations are found at 34 CFR Part 99</p> <p>2) Keeping detailed records as presented, will be problematic with FERPA privacy laws. Think of them as you would HIPAA.</p> <p>3) This level of detail will add additional and excessive burdens upon: o DCEs o Employers o The RCP desiring to claim CEs o Too much interaction between too many parties</p> <p>RCB STAFF NOTE: ISOR provides: “The provisions of subdivision (2)(D) are designed to clarify for preceptors claiming CE credit the types of information that must be retained for proof of hours precepted. The Board believes the information outlined in this subdivision will be sufficient to demonstrate proof of work. The record retention period of four years is consistent with the existing standard for proof of other CE work, for example in existing section 1399.350(c).”</p>
34	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (c)(1) Instructor, for purposes of this section, means a person who teaches a preceptor course...</p> <p>CSRC Recommendation: Agree with the language</p> <p>Note: Defines a person who teaches the Preceptor course during live presentations</p>
35	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (c)(1)(D) Is employed by an <u>acute care facility</u>.</p> <p>CSRC Recommendation: Recommended change: “Is employed by the facility which accepts students in clinical settings.” And add the following criteria: (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 <u>or designated by the AARC or CSRC to provide such education.</u></p> <p>Note: 1) Concern over limitation to acute care facility. Students gain clinical experience in other settings including LTACHs and subacute facilities. 2) This will clarify what is minimally qualifies someone to be a Preceptor.</p> <p>RCB STAFF NOTE: Suggested changes noted in the attached DRAFT MODIFIED TEXT</p>

36	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (c)(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.</p> <p>CSRC Recommendation: Agree with the language</p> <p>Note: Educational institutions faculty do not qualify for CEs under the B&P code.</p>
37	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (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.</p> <p>CSRC Recommendation: Agree with the language</p> <p>Note: Emphasis here is for actual time spent teaching preceptor courses</p>
38	<p>CSRC WRITTEN COMMENT 9/26/22</p> <p>Proposed Requirements: (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).</p> <p>CSRC Recommendation: Agree with the language</p> <p>Note: Emphasis/clarification here is that CEs earned by precepting, or teaching preceptor courses falls under the leadership CEs and live/real-time CE categories.</p>

39	TESTIMONY FROM HEARING HELD 10/6
	<p>Sabato – I’m currently and instructor for the BSRT program at Skyline College in San Bruno and recently retired from a 42-year career mainly in leadership and management at UCSF Children’s Hospital in Oakland California. I want to release that I am a member of the CSRC and the Chair for Education Committee as well as the Ethics Committee. I am not representing CSRC at this point and am solely representing my own viewpoints. First, I personally want to congratulate the respiratory care board on your attention to these really important add-ons to the education and training and leadership particularly precepting and making education more current. However, I feel that your timing and the significant hours you are suggesting for such education could not come at a worse time. I know you are all aware that the pandemic challenged every aspect of the profession. I don’t need to go into that but, what is relevant I believe, is that</p> <p>- the 15 live C.E.U.s are going to place a very huge hardship, both financially, and mentally on a huge proportion of our RTs, particularly those RTs in the rural areas of California which is significant. -</p> <p>First off, the list of organizations you cite, in which RTs would be able to obtain these live C.E.U.s, the average cost for attending their live annual conferences, I estimate, to be around \$750 just to attend, never mind the travel and everything. On top of that, we know that the respiratory therapy profession right now is operating very short staffed. We do need more RTs to come into the profession. I think the idea that the live C.E.U.s is going to challenge departments. How are they going to get staff to go to these live C.E.U.s? How are the going to financially pay for the C.E.U.s. the RT departments are going to be very challenged to provide coverage for individuals to go to these live C.E.U.s. I do note that if a department provides a skills day or workshop that it can suffice as a live interactive C.E.U. I think that is great. I just want to acknowledge that, through my travels and attending as well as the fact that I have a daughter who is an RT out in the rural area that many of these departments have not had the opportunity or the staff to provide these live interactive workshops. I think they need time to have the resources and the ability to really beef up their workshops, their in-services, so that they can their staff on-site live, interactive C.E.U.s. So, I’m suggesting that there is an introductory phase of the live C.E.U.s and that we start off somewhere around 5 to 7 being required as live and introduce more of the requirement for live C.E.U.s after 1 to 2 cycles of the renewal period so that we can have time to get ready for the 15 that you want to require. Again, live C.E.U.s are great. I think they are the best way to provide education and I don’t think the RTs would disagree, we just need time to be able to provide that for the entire State of California.</p> <p>As far as leadership, we all acknowledge that everyone in the respiratory care profession is a leader. I have issue with the content that the Respiratory Care Board is saying that would qualify as a leadership C.E.U. event. I think you should consider topics such as communication, empathy, emotional intelligence, working as a team. That such content in a C.E.U would qualify as leadership. I think that would be very helpful and would definitely prepare RTs to enter into the field of leadership.</p>
40	<p>LaMere – If we could just get clarification about the 15 live C.E.U.s, does that mean Zoom live? If we do want live, we need them closer to RTs that live in rural cities so we’re not having to spend so much in driving and hotels.</p> <p>Then, the leadership, I know we’re all leaders but there are many RTs that don’t desire to be a manager or leadership role so if we could change exactly what those leadership classes are going to be. The preceptor training where RTs are going to have to take a class to be preceptors. We need clarification on that being we don’t really have the time or the staff in the departments to be missing work to do preceptor training. Those are just my concerns and the department that I work at concerns.</p>

41	<p>Dyer – I am a respiratory therapist and professor at Modesto Junior College in central California. I’m also on the education committee for the CSRC but do not represent them in these comments. I’d like to comment on the 15 live C.E.U.s and reiterate what some of the others have said that for those who live in rural areas in Northern California, this is an unfair burden placed upon them. There is not a sufficient quantity of live seminars or at times that are convenient for therapist to attend. The resources have not been allocated as far getting departments to be able to offer their own C.E.U.s. Many of these smaller departments in rural areas do not have Education Directors within their departments that would be responsible for coordinating that. I think that the 15 C.E.U.s being live face-to-face perhaps as Katie had mentioned being phased in although I’ve still not seen any evidence from the Board or otherwise how this will improve patient safety, which is the charter of the Respiratory Care Board.</p> <p>As we move forward on the preceptor side, the original proposal as is written right now calls for the director of clinical education to validate their hours. This is completely unreasonable and would not be possible in our case. We cover multiple hospitals over 12 different hospitals and maybe 10 different preceptors at each different hospital. It would be very difficult administratively. I think it is good to train them, but it needs to be provided again at a cost-effective manner and not put a burden on the existing respiratory therapist. As far as respiratory therapist having communication with each other and face-to-face communication at seminars improving any of our outcomes, respiratory therapist work face-to-face with doctors, nurses and communicate on a regular basis. I do not see any advantages that would come from that.</p> <p>As for the leadership, I agree that leadership should include communication and should include team building but going to leadership workshops or seminars of any sort are not going to enhance development of managers, management, or leaders in the industry. That would take formal education. So, I do not believe that these changes are, in fact, going to be productive.</p>
42	<p>Craddock – I am employed at UC Davis Health and a part of the CSRC but the views that I am mentioning now are my own. I do not represent either, just myself as an RT for 15 years. I wanted to clarify and piggyback off of what everyone else is saying regarding the live C.E.U.s. The live C.E.U.s can be, from what I understand, attending a zoom or webinar session or those types of virtual platforms where there is a live presentation with a question-and-answer period afterwards. I received one last week for free. There are plenty of them available especially now after Covid they have become more available. So that does get considered as a live C.E.U. I know Katie had mentioned that RTs agree that those are important and the best way to learn and being able to ask questions and get clarifying answers is important. I am completely in support of moving forward and seeing if we can have live C.E.U.s or being mandated by the Respiratory Care Board that so many C.E.U.s be performed live, personally.</p> <p>I had wanted to put on the record a clarifying question regarding the preceptor course whether or not these courses would be mandated for anyone who precepts a student or new hire respiratory care practitioner or if that course is only for seeking C.E.U.s for precepting.</p> <p>RCB STAFF NOTE: Regulatory language regarding preceptor courses is only for those seeking CE credit for precepting. These courses are NOT required to precept a student, but rather offered as a CE incentive</p>
43	<p>Fantazia – I am a respiratory care practitioner for over 30 years, also an instructor at Modesto Junior College in the A.S program and the B.S program. I am actually not representing the college, but I did do a Change.org against the live C.E.U requirement. We wanted to have on record that there are 175 respiratory care practitioners that are in disagreement with the live requirement for the C.E.U.s. Maybe the respiratory care board can look at that Change.org.</p> <p>RCB STAFF NOTE: See Attachment D</p>