



Item: Proposed Regulatory Language for Approval (Action Item): Continuing education, continuing education providers, preceptors, continuing education waiver for military personnel, and citation and fine. Review proposed regulatory text and determine to move forward with the regulatory process or take other action as appropriate.

Item Summary: Staff are presenting a clean copy of the proposed continuing education regulation changes with additional changes highlighted in yellow for the Board's approval to begin the rulemaking process.

- Board Action:**
1. President calls the agenda item and it is presented by or as directed by the President.
 2. President requests motion on Proposed Regulatory Language:
 - move for board staff to pursue the promulgation of regulatory amendments as outlined in the attached proposed regulatory text and authorize board staff to make non-substantive changes as necessary;
 - 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: At its May 2018 meeting, the Board moved to circulate draft language and obtain stakeholder feedback prior to initiating the rulemaking (regulation) process to revise continuing education requirements.

Board staff issued a "NOTICE" in August 2018 requesting public comment by December 1, 2018.

At the Board's October 26, 2018 meeting, the Board reviewed comments received through October 15, 2018 and made suggested changes.

At the Board's March 1, 2019 meeting the Board reviewed a working document version of the August 2018 notice that contained proposed regulatory changes with several suggested changes, some contentious, in response to public comment. The Board also reviewed a detailed summary of hundreds of comments received from licensees.

At the Board's March 1, 2019 meeting, a motion was made to begin the rulemaking process.

Consideration: The language is being presented to the Board again because the format it was presented in at the March 1, 2019 was a marked up copy of a "notice."

In addition, since that time, two additional proposals have come forward.

- 1) Board staff noticed fine amounts had not been updated to include a new legislative change (page 12).
- 2) Board staff met with President Goldstein and member, Ricardo Guzman to discuss and identify solutions in line with the Board's Strategic Plan, Education Goal #1. As a result, the recommended action includes proposed regulatory changes that cross over the CE regulation changes proposed in March 2019 (pages 1, 3 and 4).

Education Goal #1

The Board's Strategic Plan, Education Goal #1 reads:

"Develop an action plan to establish laws and regulations or accrediting standards for student clinical requirements to increase consumer protection and improve education outcomes."

During the discussion, with President Goldstein, member Ricardo Guzman, and staff Christine Molina and Stephanie Nunez present, the following materials were reviewed:

- 1) Minutes from our March 2019 Board meeting
- 2) CoARC Proposed Standards Related to Clinical Practice
- 3) Proposed Preceptor Laws/Regulations (also discussed at the March 1, 2019 board meeting)

CoARC Proposed Standards

It was noted that many concerns with clinical practice are currently being addressed by CoARC including the following new proposed standards:

Standard 1.03: Requires programs to "ensure" students have access to clinical sites (standard strengthened)

Standard 2.07: The Director of Clinical Education would now be responsible for providing "evolving practice skills" as part of clinical education for "all students." (standard strengthened)

Standard 2.10: Proposed change would include "frequent" visits by the Director of Clinical Education with students, clinical faculty and clinical affiliates at all program locations. The interpretive guideline demonstrates that the clinical director must be accessible to all parties.
Standard 3.06: "Employer and graduate" surveys must be completed

as part of the programs annual assessment of program outcomes. Deficiencies identified must be resolved by the program. Beginning 7/1/20, accreditation decision will again be based on survey results that cover the prior three years. CoARC's "outcomes threshold grid" provides the threshold as "at least 80% of returned employer surveys rating overall satisfaction 3 or higher on a 5-point Likert scale."

Standard 3.10: Evidence of compliance for "Clinical Site Evaluation" now includes "Clinical evaluation mechanisms that document the progressive independence of the student in the clinical setting" and "detailing required student competencies."

Standard 4.01: "Clinical evaluation mechanisms that document the progressive independence of the student in the clinical setting" will be added as "evidence of compliance" for minimum course content. The interpretative guideline for this standard is also beefed up heavily providing that "Each clinical experience should be of sufficient quality and duration to meet the objectives/competencies identified in the clinical syllabi for that rotation. The program must document that each clinical site provides student access to the physical facilities, patient populations, and supervision necessary to fulfill program expectations for the clinical experience at that site. The number of hours per semester devoted to clinical practice should increase as students progress in the program. Programs must ensure that students are exposed to all the categories of patient encounters necessary to prepare them for entry into practice as Registered Respiratory Therapists. At a minimum these should include preventive, emergent, acute and chronic patient encounters.

Standard 4.03: Curriculum must be based on competencies performed by RRTs as established by the NBRC and must be updated anytime the NBRC's TMC matrix is updated. This standard broadly defines the scope of practice.

Standard 4.04: Provides that "Graduates must be competent to perform all respiratory care diagnostic and therapeutic procedures required of a Registered Respiratory Therapist entering the profession." Evidence of Compliance includes "Evaluations that document the student's ability to perform all required diagnostic and therapeutic procedures safely and effectively in patient care settings"

Standard 4.08: Provides all learning experiences for each program's students must be equivalent.

Standard 4.09: Provides that "The program must be solely responsible for the selection and coordination of clinical sites as well as ensuring that the type, length, and variety of clinical experiences are sufficient for students to acquire all required competencies." The Evidence of Compliance includes "Detailed clinical schedules" and "current, formal clinical affiliation agreements or memoranda of understanding with all sites." The interpretative guideline also states in part, "The coordination

of clinical experiences involves identifying, contacting and evaluating clinical sites for suitability as a required or elective rotation experience, which is a responsibility usually assigned to the Director of Clinical Education (DCE). When program clinical faculty will not be involved at a given site, the DCE should work with employer representatives on the Advisory Committee (when applicable) and/or with department supervisors at the clinical sites, to identify suitable preceptors to supervise students when they are on site.

Standard 5.09: Provides that students must be appropriately supervised at all times during clinical education. Students must not be used to substitute for clinical, instructional, or administrative staff. Students are not to be paid, however they may be paid interns in states where this is allowed. The standard provides that interns shall not receive educational credits for this experience.

Definition:

“Clinical Preceptor” is defined as “A Registered Respiratory Therapist, employed by the clinical site, who teaches, supervises, and evaluates students while completing an assigned standard patient load. The assigned student to clinical preceptor ratio cannot exceed 2:1.”

Proposed Action

As previously discussed at the Board’s March 2019 meeting, it was noted that mandating preceptor requirements would likely result in less clinical opportunities.

President Goldstein and member Ricardo Guzman determined that in addition to changes being made by CoARC, the Board could make great strides in promoting qualified preceptorship by allowing RCPs to obtain CE credit. This proposed change would strengthen clinical education programs, expand leadership opportunities and ultimately increase consumer protection. As a result, language was drafted and included with the pending CE regulatory language for review and approval to begin the rulemaking process. All new language is highlighted in yellow.

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

PROPOSED LANGUAGE

§ 1399.349. Continuing Education Defined

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

RCP.

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

~~§ 1399.350. Continuing Education Required.~~
(a) ~~Each respiratory care practitioner (RCP) is required to complete 30 hours of approved continuing education (CE) every 2 years as follows: At least two-thirds of the required CE hours shall be directly related to clinical practice.~~

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

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

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

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

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

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

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

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

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

§ 1399.351. Approved Courses and Providers.

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

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

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

(3) The American Association for Respiratory Care.

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

(5) The American Medical Association.

(6) The California Medical Association.

(7) The California Thoracic Society.

(8) The American College of Surgeons.

(9) The American College of Chest Physicians.

(10) The American Heart Association.

(11) American Lung Association

(12) Allergy and Asthma Network

(13) Society for Critical Care Medicine

(14) National Asthma Educator Certification Board

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

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

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

(3) the California Board of Registered Nursing.

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

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

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

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

§ 1399.352.5. Preceptors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Adult Critical Care Specialist Specialty Examination (ACCS)—15 hours;
- (2) Certified Pulmonary Function Technologist (CPFT)—15 CE hours;
- (3) Registered Pulmonary Function Technologist (RPFT) —15 CE hours;
- (4) Neonatal/Pediatric Respiratory Care Specialist (NPS) —15 CE hours;
- (5) Sleep Disorders Testing and Therapeutic Intervention Respiratory Care Specialist (SDS) —15 hours;
- (6) Registered Respiratory Therapist, if not required at the time of initial licensure.

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

- (1) Pulmonary Rehabilitation Certified (provided by the American Association for Respiratory Care (AARC) and the American Association of Cardiovascular and Pulmonary Rehabilitation)
- (2) Tobacco and Smoking Cessation-Certified (provided by the _____
AARC)(3) COPD Educator-Certified (provided by the AARC)

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

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

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

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

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

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

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

(d) CE credit will not be granted for:

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

(2) basic life support credentialing, or

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

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

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

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

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

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

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

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

~~Acceptable courses and programs shall meet the following criteria:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ ~~1399.352.5.~~ 1399.355. CE Continuing Education Hours.

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

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

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

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

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

§ 1399.356. Provider Obligations.

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

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

(1) the participant's name.

(2) the participant's RCP license number.

(3) the course title.

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

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

(6) the number of CE hours awarded.

(7) the date CE hours were awarded, and

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

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

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

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

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

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

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

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

(c) The course shall include:

_____ (1) a course description.

_____ (2) course objectives.

_____ (3) references (as applicable).

_____ (4) legal disclosures (as applicable).

_____ (5) course content.

_____ (6) a post-examination.

_____ (7) an optional survey.

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

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

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

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

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

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

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

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

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

_____ (1) Current activities of the profession and

_____ (2) Acts that jeopardize licensure and licensure status.

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

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

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

~~_____ (3) Acts that jeopardize licensure and licensure status.~~

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

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

course:

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

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

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

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

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

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

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

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

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

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

~~(12) (m) The post examination shall consist of at least thirty (30) questions related to the materials presented.~~

~~(13) (n) The participant shall not be able to exit the post examination once commenced.~~

~~(14) (o) The participant shall not have a time limit to take the post examination.~~

~~(15) (p) The minimum post examination passing score shall be 70%. The post examination shall be scored on all cumulative components, not by each section.~~

~~(16) (q) As applicable, the provider shall offer and allow participants who failed the initial post examination to retake the post examination free of charge. There shall be no wait time to retake the post examination if previously failed.~~

~~(17) (r) The course will include a survey, optional to participants, to gather feedback for the board.~~

~~(18) (s) The provider shall submit course test scores, names and other course related information to the board, as requested by the board.~~

~~(19) (t) The board may opt to prepare or edit in full or part, any portion of the course.~~

~~(20) (u) The course is solely the product of the provider and the provider assumes full responsibility for the course.~~

~~(21) (v) The course must be revised once every four years. Each revision must be approved by the board.~~

~~(22) (w) The board's Education Executive Committee may rescind the approval of a course at any~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1399.381. Fines.

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

BUSINESS AND PROFESSIONS CODE

Maximum Fine

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

3750(h) Aiding/Abetting person to violate this chapter	\$5,000
3750(i) Aiding/abetting person to engage in unlawful practice	\$5,000
3750(j) Commission of fraudulent, dishonest or corrupt act	\$5,000
3750(k) Falsifying/ incorrect/ inconsistent entries in record	\$5,000
3750(l) Changing prescriptions/falsifying orders for treatment	\$5,000
3750(m) Discipline taken by another agency	\$5,000
3750(n) Knowing failure to protect patients - infection control	\$5,000
3750(o) Incompetence	\$5,000
3750(p) Pattern of substandard care	\$5,000
3750(g) 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.