RESPIRATORY CARE BOARD
OF CALIFORNIA

Public protection is our highest priority.

Agenda Item: 7
Meeting Date: 10/28/22

Item: Consideration of and Possible Action on Comments Received During the 45-day Comment Period and Hearing for 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)

Item Summary: Staff are presenting requested amendments and comments received during the 45-day comment period (8/12/22 through 9/27/22) and at the hearing held October 6, 2022 for the Board's consideration to accept and/or reject these comments and to proceed with the rulemaking process accordingly.

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 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.

   - 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 proposal 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."

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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:

> "I am requesting that a public meeting be held to discuss the proposed changes to the CEU requirements of the Respiratory Care Practice Act. Invitations for this meeting should be sent out to ALL Respiratory Care Practitioners in California. These invitations should be sent out by email and the meeting should be broadcast via Zoom or other platform to allow remote participation of all RCPs."

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, 2022: Ten additional "form letter" requests from RCPs were forwarded to the Board in one email and read:

> "We are valued Respiratory Care practitioners who would like to request an open forum meeting that can be attended by those who wish to attend. We are requesting this forum so that our questions and concerns about the proposed changes regarding the CEU's can be addressed directly. As Respiratory Care Practitioners we feel we need to have a voice for our future."

September 10, 2022: A request to hold the public hearing via the Internet was received:

> "Would it be possible to have the meetings broadcast on Zoom, so working RCPs can participate in the discussion and have their opinions heard. It is not practical for RCPs outside of the Sacramento area to commute to these meetings."

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.

RCB Mandate

RCB's mandate is to protect consumers by ensuring only qualified licensees practice in the Board's regulated fields (B&P §3701). Further, protection of the public shall be the highest priority for the Respiratory Care Board of California in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount (B&P §3710.1).

RCB Mission

To protect and serve consumers by licensing qualified respiratory care practitioners, enforcing the provisions of the Respiratory Care Practice Act, expanding the availability of respiratory care services, increasing public awareness of the profession; and supporting the development and education of respiratory care practitioners. (Strategic Plan 2017)

Amendments Requested Prior to Notice Publication (Attachment C)

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. Please also see Attachment C, "DRAFT MODIFIED TEXT" where requested amendments are clearly indicated throughout text.

	Requested Amendment	Accept	Reject
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	Change.org Petition created by Fantazia [169 total signatures/Estimate 105 of those signatures from CA licensed RCPs] 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.** **Problems:** 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). 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. 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. 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. 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). 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. 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. **Action:** 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. **RCB STAFF NOTE:** See Attachment D for References.

15	CSRC WRITTEN COMMENT 9/26/22 **Legislation:** Amend §1399.350 Continuing Education Required **Current Requirements:** (a) At least two-thirds required CE hours shall be directly related to clinical practice. **Proposed Requirements:** 25 of the 30 required CE hours shall be directly related to clinical practice. **CSRC Recommendation:** Clarify to state: "A minimum of 20 CE hours shall be directly related to clinical practice." **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. **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.
16	CSRC WRITTEN COMMENT 9/26/22 **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. Hours earned as part of a licensee's successful completion of the Law and Professional Ethics Course and preceptor participation. **CSRC Recommendation**: Clarify and remove contradiction of 1399.350. by stating: "A minimum of 5 CE hours shall be in leadership training…" **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. **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.
17	CSRC WRITTEN COMMENT 9/26/22 **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… **CSRC Recommendation**: Remove the contradiction by aligning the number of clinical practice CEs with the above recommendation of 20 CE hours. **Note:** 1) Contradicts 1399.350 and 1399.350(a)(1) in the number of CEs in clinical practice. **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.

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~~ <u>open to its membership to include general membership meetings, CSRC Board meetings, Region Board meetings, Managers meetings, and Educators Meetings.</u> **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	CSRC WRITTEN COMMENT 9/26/22 **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. **CSRC Recommendation**: Agree with language. Please consider adding "Instructor led skills days" to the list of acceptable providers. **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.
20	CSRC WRITTEN COMMENT 9/26/22 **Legislation:** Amend §1399.350.5. Law and Professional Ethics Course. **Current Requirements:** (b) Continuing education units earned in accordance with this section shall represent three units toward the non-clinical practice **Proposed Requirements:** (b) Continuing education units earned in accordance with this section shall represent three units toward RCP leadership requirements **CSRC Recommendation:** Agree with the language **Note**: 1) The RCB is defining the Law & Professional Ethics course as leadership education
21	CSRC WRITTEN COMMENT 9/26/22 **Legislation:** Amend §1399.351. Approved CE Programs. **Current Requirements:** (b) Passing an official credentialling or proctored self-evaluation examination shall be approved for CE as follows…(15 CEs for each exam listed) **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. **CSRC Recommendation:** Agree with the language **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. **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)

22	CSRC WRITTEN COMMENT 9/26/22 **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… **CSRC Recommendation**: Agree with the language.
23	CSRC WRITTEN COMMENT 9/26/22 **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). **CSRC Recommendation**: Agree with the language.
24	CSRC WRITTEN COMMENT 9/26/22 **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. **CSRC Recommendation**: Agree with the language.
25	CSRC WRITTEN COMMENT 9/26/22 **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 **CSRC Recommendation**: Agree with the language.
26	CSRC WRITTEN COMMENT 9/26/22 **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. **CSRC Recommendation**: Agree with the language.

27	CSRC WRITTEN COMMENT 9/26/22 **Legislation:** Amend §1399.352.6. Preceptors. **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 *acute care facility* who meets all of the following criteria: **CSRC Recommendation:** Recommend changing the language to: (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~~ at any facility which accepts RT students performing clinical rotation(s) at that 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, or its equivalent, within five (5) years from the date preceptor services are provided, practicing as a respiratory care practitioner. **Note**: 1) Concern over the limitation to acute care facility. Students gain clinical experience in other settings including LTACHs and subacute facilities. **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 credentialling 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."
28	CSRC WRITTEN COMMENT 9/26/22 **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) *An acute care facility* and employer using the course materials from the provider listed in (A) or (B) of this subdivision. …(a)(5) Is employed by an *acute care facility* to provide patient care as an RCP. **CSRC Recommendation**: Recommend changing the language to: "…at any facility which accepts RT students performing clinical rotation at that facility." **Note:** Concern over the limitation to acute care facility. Students gain clinical experience in other settings including LTACHs and subacute facilities. Community Feedback: • CSRC's ability to comply with ADA requirements. • How to do • CSRC currently does not have a Preceptor training course. Has been tasked to the Education Committee and is in progress **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 credentialling 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."

29	CSRC WRITTEN COMMENT 9/26/22 **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: **CSRC Recommendation**: Recommend changing the language to: "…at any facility which accepts RT students performing clinical rotation at that facility." **Note:** Concern over limitation to acute care facility. Students gain clinical experience in other settings including LTACHs and subacute facilities. **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 credentialling 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."
30	CSRC WRITTEN COMMENT 9/26/22 **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. **CSRC Recommendation**: Suggest starting with 300-500 hours/cycle period. This may be an enough incentive to claim CEs in this area. **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. **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"

31	CSRC WRITTEN COMMENT 9/26/22 **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. **CSRC Recommendation**: Suggest starting with 500-800 hours/cycle period. This may be an enough incentive to claim CEs in this area. **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. **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"
32	CSRC WRITTEN COMMENT 9/26/22 **Proposed Requirements**: (b)(2)(C) Fifteen (15) CE hours for three thousand (3000) or more hours of preceptor supervision and instruction. **CSRC Recommendation**: Suggest starting with 800-1200 hours/cycle period. This may be an enough incentive to claim CEs in this area. **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 starting with 800-1200 hours/cycle period. This may be an enough incentive to claim CEs in this area. **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"

33	CSRC WRITTEN COMMENT 9/26/22 **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. **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. **Note:** Many concerns with this model of record keeping 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 2) Keeping detailed records as presented, will be problematic with FERPA privacy laws. Think of them as you would HIPAA. 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 **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)."
34	CSRC WRITTEN COMMENT 9/26/22 **Proposed Requirements**: (c)(1) Instructor, for purposes of this section, means a person who teaches a preceptor course… **CSRC Recommendation**: Agree with the language **Note:** Defines a person who teaches the Preceptor course during live presentations

35	CSRC WRITTEN COMMENT 9/26/22 **Proposed Requirements**: (c)(1)(D) Is employed by an <u>acute care facility.</u> **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> **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. **RCB STAFF NOTE:** Suggested changes noted in the attached DRAFT MODIFIED TEXT
36	CSRC WRITTEN COMMENT 9/26/22 **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. **CSRC Recommendation**: Agree with the language **Note:** Educational institutions faculty do not qualify for CEs under the B&P code.
37	CSRC WRITTEN COMMENT 9/26/22 **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. **CSRC Recommendation**: Agree with the language **Note:** Emphasis here is for actual time spent teaching preceptor courses
38	CSRC WRITTEN COMMENT 9/26/22 **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). **CSRC Recommendation**: Agree with the language **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.

39	TESTIMONY FROM HEARING HELD 10/6 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 **- 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. -** 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. 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.
40	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. 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.

41	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. **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. **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.**
42	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 of 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. 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. **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
43	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. **RCB STAFF NOTE:** See Attachment D

Attachments

A) 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

B) Initial Statement of Reasons (ISOR) as published 8/12/22

C) Draft Modified Text - Amendments Requested Prior to Notice Publication Placed in Text for Board Consideration

D) Comment #14- Change.org Petition and References

E) CSRC Letter Dated 9/26/22 [Comment Nos. 15-38]