

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

PROPOSED LANGUAGE

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

Amend section 1399.349 to read as follows:

§ 1399.349. Continuing Education Defined.

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

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

Amend section 1399.350 to read as follows:

§ 1399.350. Continuing Education Required.

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

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

(2) A minimum of 15 hours must be directly related to the clinical practice of respiratory care, including training on all activities involving the practice of

respiratory care as defined in B&P sections 3702 and 3702.7. Hours earned as part of a licensee's successful completion of credentialing or certification examinations shall be considered qualifying CE and shall be counted by the Board toward meeting the requirements of this subsection in accordance with section 1399.351.

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

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

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

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

(B) license number,

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

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

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

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

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

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

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

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

Amend Section 1399.350.5 to read as follows:

§ 1399.350.5. Law and Professional Ethics Course.

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

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

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

Amend Section 1399.351 to read as follows:

§ 1399.351. Approved CE Programs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) basic life support credentialing,

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

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

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

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

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

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

Amend Section 1399.352 to read as follows:

§ 1399.352. Criteria for Acceptability of Courses.

Acceptable courses and programs shall meet the following criteria:

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

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

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

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

(32) Required abuse reporting.

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

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

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

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

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

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

(c) Educational objectives shall be listed.

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

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

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

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

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

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

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

(3) The American Association for Respiratory Care.

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

(5) The American Medical Association.

(6) The California Medical Association.

(7) The California Thoracic Society.

(8) The American College of Surgeons.

(9) The American College of Chest Physicians.

(10) The American Heart Association

(11) American Lung Association

(12) Allergy and Asthma Network

(13) Society for Critical Care Medicine

(14) National Asthma Education Certification Board

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

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

(2) ~~the~~ California Board of Registered Nursing, or

(3) the Accreditation Council for Continuing Medical Education.

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

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

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

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

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

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

Amend Section 1399.352.5 as follows:

§ 1399.352.5. CE Hours.

The board will accept hours of approved CE as follows:

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

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

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

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

Reference: Section 3719, Business and Professions Code.

Adopt Section 1399.352.6 as follows:

§ 1399.352.6. Preceptors.

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

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

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

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

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

(A) the American Association for Respiratory Care,

(B) the California Society for Respiratory Care, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) Is employed by an acute care facility.

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

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

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

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

Reference: Sections 3719, 3719.5, and 3742 Business and Professions Code.

Amend Section 1399.352.7 as follows:

§ 1399.352.7. Law and Professional Ethics Course Criteria.

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

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

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

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

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

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

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

~~(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
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.