

**State of California
Office of Administrative Law**

In re:
Respiratory Care Board

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections:

Amend sections: 1399.395

Repeal sections:

NOTICE OF APPROVAL OF REGULATORY
ACTION

Government Code Section 11349.3

OAL Matter Number: 2017-0417-01

OAL Matter Type: Regular (S)

This action by the Respiratory Care Board increases licensing fees for respiratory care practitioners for biennial license renewal, delinquencies, and inactive licenses.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 7/1/2017.

Date: May 24, 2017



Amy R. Gowan
Attorney

For: Debra M. Cornez
Director

Original: Stephanie Nunez
Copy: Christine Molina

RECEIVED
2017 MAY 26 PM 12:08
RESPIRATORY CARE BOARD

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2017-010601	REGULATORY ACTION NUMBER 2017-0417-015	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

RECEIVED DATE JAN 06 '17	PUBLICATION DATE JAN 20 '17	2017 APR 17 A 11: 08 OFFICE OF ADMINISTRATIVE LAW
Office of Administrative Law NOTICE		REGULATIONS

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

MAY 24 2017

1:46 PM

AGENCY WITH RULEMAKING AUTHORITY Respiratory Care Board of California (Department of Consumer Affairs)	AGENCY FILE NUMBER (if any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Fee Increase July 2017	TITLE(S) 16	FIRST SECTION AFFECTED 1399.395	2. REQUESTED PUBLICATION DATE January 20, 2017
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON Christine Molina	TELEPHONE NUMBER 916.999.2212	FAX NUMBER (Optional) 916.263.7311
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER 2017, 03-2	PUBLICATION DATE 1/20/2017

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Fee increases	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)
ACTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADOPT
AMEND 1399.395
REPEAL
TITLE(S) 16

3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))
 Effective on filing with Secretary of State
 §100 Changes Without Regulatory Effect
 Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660)
 Fair Political Practices Commission
 State Fire Marshal

Other (Specify) **DEAN GRAFILO, Director, DEPT. of Consumer Affairs**

7. CONTACT PERSON Christine Molina	TELEPHONE NUMBER 916.999.2212	FAX NUMBER (Optional) 916.263.7311	E-MAIL ADDRESS (Optional) christine.molina@dca.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Stephanie Nunez</i>	DATE 4/17/17
TYPED NAME AND TITLE OF SIGNATORY Stephanie Nunez, Executive Officer	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAY 24 2017

Office of Administrative Law

RESPIRATORY CARE BOARD
Department of Consumer Affairs
California Code of Regulations. Title 16. Division 13.6 Respiratory Care Board
Fee Increase – July 1, 2017

ORDER OF ADOPTION

ARTICLE 9. FEES

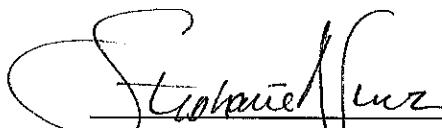
Amend Section 1399.395 of Division 13.6 of Title 16 of the California Code of Regulations as follows:

§ 1399.395. Fee Schedule.

The following schedule of fees is hereby adopted pursuant to sections 3775 and 3775.5 of the B&P:

(a) Application fee	\$300
(b) Examination fee	Actual cost
(c) Re-examination fee	Actual cost
(d) Renewal fee for licenses expiring on or after January 1, 2002	\$230 <u>\$250</u>
(e) Delinquency fee (not more than 2 years after expiration)	\$230 <u>\$250</u>
(f) Delinquency fee (after 2 years but not more than 3 years after expiration)	\$460 <u>\$500</u>
(g) Inactive license fee	\$230 <u>\$250</u>
(h) Duplicate license fee	\$25
(i) Endorsement fee	\$25

Note: Authority cited: Section 3722, Business and Professions Code. Reference: Sections 3775 and 3775.5, Business and Professions Code.



STEPHANIE NUNEZ, Executive Officer
Respiratory Care Board of California

5-17-17

Date

FINAL STATEMENT OF REASONS

Hearing Date: March 6, 2017

Subject Matter of Proposed Regulations: Biennial Renewal and Delinquent Fee Increase

Section Affected: Section 1399.395 of Division 13.6, Title 16 of the California Code of Regulations (CCR).

Updated Information

The Initial Statement of Reasons is included in the file. No changes have been made which would warrant a change to the information contained therein.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Small Business Impact

This action will not have a significant adverse economic impact on small businesses. This initial determination is based on the fact that the license fee will be increased by \$20 to \$250 biennially. An additional \$20 delinquent fee may be assessed only when a licensee fails to renew their license prior to the expiration, and a \$40 delinquent fee may be assessed after the renewal remains unpaid for 2 years.

This proposal benefits consumer protection as it is designed to enable the Board to maintain its licensing and oversight operations while also ensuring significant surpluses are not created. The proposed fee increase ensures licensing revenues are more in line with expenditures, thereby protecting the Board's fund from insolvency.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the board would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Objections or Recommendations/Responses

The following comments were made regarding the proposed action:

Comment:

A comment was received via email on January 20, 2017, from Charles Groves. Mr. Groves stated:

"Renewal RN fee is \$190. Maybe the cost of the RCB should be looked at. Do we not charge licensee for discovery and recovery cost? \$10 a year is not a big increase, but considering the State had borrowed money from the RCB during its last financial crisis, did they reimburse the money or is that gone. Will discuss this with Alan Roth next time I see him. Thank you."

Response:

The Board rejects Mr. Groves' comment regarding the registered nurse renewal fee as it is irrelevant to this regulatory proposal.

The Board partially accepts Mr. Groves' comment regarding cost recovery. The Board does seek recovery of enforcement costs where appropriate and warranted in licensee disciplinary matters.

The Board partially accepts Mr. Groves' comment regarding monies borrowed by the State during its last financial crisis. In 1992, the Board had \$785,000 of its reserve transferred to the General Fund to assist the State with balancing the General Fund budget. However, this money was repaid over a five year period in the late to mid-1990s and since then, the State has not transferred any additional loans from the Board's fund.

Comment:

A comment was received via email on January 20, 2017, from Dawn Fowler-Hamilton, RRN, RRT. Ms. Hamilton stated:

"Respiratory licensing fees are already outrageous as compared to, for example, Registered Nurse licensing fees in California. This is especially true if you compare nursing pay to RCP pay. I know when RTs first were licensed, the rationale was there were so many less RTs than nurses that it cost more per person to manage the State's costs. This should be made more equitable somehow."

Response:

The Board rejects Ms. Fowler-Hamilton's comments regarding the comparison of respiratory care licensing fees and pay to that of a registered nurse. These comments are irrelevant to the current regulatory proposal.

As stated in the Initial Statement of Reasons, the renewal and delinquency fees have remained the same since 2002. The proposed fee increases intend to address the Board's structural imbalance and will protect the Respiratory Care Board Fund (Fund) from becoming insolvent as projected in FY 17/18. Analysis of the Board's Fund Balance measured by Months in Reserve projects that at the end of the current fiscal year 2016/17, a 2.4 month reserve will exist. However, the reserve is projected to steadily decline in the following fiscal years to the point where there will be a -4.0 month deficit at the conclusion of FY 2018/19. Correcting the Board's structural imbalance is vital to the Board's solvency and will be unattainable without a renewal fee increase.