



Item: Consideration and Possible Action to Amend California Code of Regulations, Title 16, Section 1399.365 to Clarify Suctioning Activities

Item Summary: The Professional Qualifications Committee (PQC) issued guidance on January 23, 2026, clarifying how suctioning activities are evaluated under CCR section 1399.365. Staff have since developed proposed amendments to section 1399.365 to provide more effective direction to stakeholders and align the regulatory text with the PQC's guidance. The Board is asked to review and consider approval of the proposed regulatory language and to consider approval of initiation of the related rulemaking.

- 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 to approve the proposed regulatory text for section 1399.365, as presented (or as amended during the meeting); direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review; and, if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, including making any non-substantive changes to the package and setting the matter for a public hearing. If no adverse comments are received during the 45-day comment period or at the public hearing, if requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations as noticed.
 - 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 January 23, 2026, public meeting, the Respiratory Care Board's Professional Qualifications Committee (PQC) considered multiple stakeholder questions regarding how suctioning activities are classified under California Code of Regulations (CCR), section 1399.365. These discussions focused on clarifying when suctioning constitutes a "basic respiratory task and service" versus when it rises to the level of respiratory care requiring a respiratory assessment.

The PQC specifically evaluated nasal, oral, and tracheal suctioning and their appropriate designation within section 1399.365. The PQC also considered whether amendments to subdivisions (b) and (c) of the regulation were necessary to provide clearer direction to licensees, employers, and other stakeholders.

Following this discussion, the PQC developed and issued written guidance to clarify how suctioning activities should be interpreted under the current regulation. The guidance explains that suctioning is generally not considered a respiratory task when it remains confined to anatomical areas such as the oral cavity, nasal cavity, or within a tracheostomy tube so long as it does not extend into the pharynx or natural airway. Conversely, suctioning becomes a respiratory task when it enters the pharynx, airway, or extends beyond the distal end of a tracheostomy tube, at which point it is subject to the limitations of CCR section 1399.365, including requirements related to respiratory assessment and authorized providers.

While this guidance provides important clarification, it does not modify the existing regulatory text. As noted by the PQC, further regulatory action is necessary to align section 1399.365 with the interpretation reflected in the guidance and to ensure consistent application across practice settings.

To address this, staff have developed proposed amendments to CCR section 1399.365. These changes are intended to improve clarity, mitigate inconsistent interpretation in the field, and support patient safety by reinforcing when respiratory assessment and licensed practice are required.

The proposed regulatory language is presented for the Board's review and consideration of approval to proceed with rulemaking.

**DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. RESPIRATORY CARE BOARD OF CALIFORNIA**

**PROPOSED REGULATORY LANGUAGE
Basic Respiratory Tasks and Services**

Legend:	Added text is indicated with an <u>underline</u> . Omitted text is indicated by (* * * *) Deleted text is indicated by strikeout .
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AMEND SECTION 1399.365 of Division 13.6 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.365. Basic Respiratory Tasks and Services.

- (a) For purposes of this section, “assessment” means making an analysis or judgment and making recommendations concerning the management, diagnosis, treatment, or care of a patient or as a means to perform any task in regard to the care of a patient. Assessment as used in this section is beyond documenting observations, and gathering and reporting data to a licensed respiratory care practitioner, registered nurse, or physician.
- (b) For purposes of subdivision (a) of section 3702.5 of the B&P, basic respiratory tasks and services do not require a respiratory assessment and include the following:
 - (1) Patient data collection.
 - (2) Application and monitoring of a pulse oximeter.
 - (3) Medication administration by aerosol that does not require manipulation of an invasive or non-invasive mechanical ventilator.
 - (4) Heat moisture exchanger (HME) and oxygen tank replacement for patients who are using non-invasive mechanical ventilation.
 - (5) Hygiene care including replacement of tracheostomy ties and gauze and cleaning of the stoma sites.
 - (6) Use of a manual resuscitation device and other cardio-pulmonary resuscitation technical skills (basic life support level) in the event of an emergency.
 - (7) Documentation of care provided, which includes data retrieved from performing a breath count or transcribing data from an invasive or noninvasive ventilator interface.
 - (8) Observing and gathering data from chest auscultation, palpation, and percussion.
- (c) For purposes of subdivision (a) of section 3702.5 of the B&P, basic respiratory tasks and services do not include the following:
 - (1) Manipulation of an invasive or non-invasive ventilator.

- (2) Assessment or evaluation of observed and gathered data from chest auscultation, palpation, and percussion.
 - (3) Pre-treatment or post-treatment assessment.
 - (4) Use of medical gas mixtures other than oxygen.
 - (5) Preoxygenation, ~~or endotracheal or nasal suctioning.~~
 - (6) Initial setup, change out, or replacement of a breathing circuit or adjustment of oxygen liter flow or oxygen concentration.
 - (7) Oral suctioning that extends past the oropharynx.
 - (8) Nasal suctioning that extends past the nasopharynx.
 - (9) Endotracheal suctioning.
 - (10) Tracheal suctioning.
 - (11) Tracheostomy tube suctioning that extends beyond the distal end of the tracheostomy tube.
 - ~~(7)~~ (12) Tracheal suctioning, cuff inflation/deflation of a tracheostomy tube cuff, use or removal of an external speaking valve, or removal and replacement of the tracheostomy tube or inner cannula.
- (d) This section does not apply to licensed vocational nurses performing respiratory care services identified by the Board while working in any of the exempt settings listed, and under the conditions specified, in subdivisions (i) and (j) of section 3765 of the B&P.

Note: Authority cited: Sections 3702.5 and 3722, Business and Professions Code. Reference: Sections 2860, 3701, 3702, 3702.5, 3702.7, 3703, and 3765, Business and Professions Code.