

Item: Discussion of, and Possible Action on, Comments Received During 45-Day Comment Period Regarding Proposed Adoption of CCR, Title 16, Section 1399.361, Home and Community-Based Respiratory Tasks and Services

Item Summary: Staff is presenting the comments received during the 45-day public comment period for proposed CCR section 1399.361, Home and Community-Based Respiratory Tasks and Services, along with staff's recommended responses for the Board's review and approval.

The proposed regulation identifies the respiratory care tasks and services LVNs may perform in specified exempt settings. The 45-day public comment period closed on September 28, 2026.

Board approval of the recommended responses will allow staff to proceed with the remaining steps of the rulemaking process.

- Board Action:
1. President calls the agenda item and it is presented by or as directed by the President.
 2. President requests motion:
 - move to accept the Board staff's recommended comment responses as presented or as amended during the meeting, and adopt the proposed regulatory text for section 1399.361 as noticed on August 14, 2026; 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 November 14, 2025, meeting, the Board approved proposed regulatory text for California Code of Regulations (CCR), Title 16, Section 1399.361, Home and Community-Based Respiratory Tasks and Services, to begin the regular rulemaking process.

The proposed regulation identifies the respiratory care tasks and services that licensed vocational nurses (LVNs) may perform in specified exempt settings under Business and Professions Code section 3765.

As required by the Administrative Procedure Act, the proposed regulation was released for a 45-day public comment period beginning August 14, 2026, and ending September 28, 2026. The Board received comments during this period.

During the rulemaking process, Senate Bill (SB) 1304 was signed into law, amending Business and Professions Code section 3765 effective January 1, 2027. Staff considered these statutory changes when reviewing the comments and preparing the recommended responses.

Staff reviewed the comments and prepared summaries and recommended responses for the Board's consideration and approval.

Attachments

Provided with this item are the following attachments:

1. Proposed regulatory text released for the 45-day public comment period.
2. Staff-prepared summaries of comments with recommended responses.
3. Written comments received during the 45-day public comment period.

At This Meeting

Board members will have an opportunity to review the comments received during the 45-day public comment period and staff's recommended responses.

The Board will consider whether to approve the recommended responses as presented or with modifications. Approval will allow staff to proceed with the remaining steps of the rulemaking process.

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

**PROPOSED REGULATORY LANGUAGE
Home and Community-Based 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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ADD SECTION 1399.361 of Division 13.6 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.361. Exemption for Licensed Vocational Nurses to Perform Specified Respiratory Care Tasks and Services

(a) For the purposes of subdivisions (i) and (j) of section 3765 of the Business and Professions Code, a licensed vocational nurse may perform the following respiratory care tasks and services:

(1) Ventilator Reconnection, Change-Out, and Circuit Management Tasks and Services

(A) Authorized tasks and services include:

1. Connecting a patient to a ventilator who may breathe independently at other times of the day.
2. Transferring a patient from a stationary ventilator to a travel ventilator that has been preprogrammed by a physician or respiratory care practitioner.
3. Changing out to a backup ventilator that has been preprogrammed by a physician or respiratory care practitioner when necessary.
4. Reassembling or reattaching a ventilator circuit using standardized components as directed by the manufacturer or as prescribed by a physician, after cleaning, replacement, ventilator change-out, or in response to an emergency.
5. Connecting or disconnecting the ventilator circuit as needed.
6. Changing to an alternative ventilator setting that has been preprogrammed by a physician or respiratory care practitioner.
7. Reconnection, change out or replacement of heat moisture exchanger (HME) or other humidification device.
8. Filling, refilling, or cleaning a heater humidifier water chamber.
9. Using a manual resuscitation device (bag-valve mask) for a ventilated patient during an emergency.

(B) Tasks and services not authorized include:

1. Programming or configuring a ventilator pursuant to prescription for initial use by a home care provider.

2. Initiating or modifying any ventilator setting.
 3. Performing the initial build or configuration of a ventilator circuit.
- (2) Ventilator Alarm Management Tasks and Services
 - (A) Authorized tasks and services include:
 1. Verifying and testing ventilator alarms prior to patient connection.
 2. Responding to ventilator alarms by identifying the cause and either taking corrective action within the LVN's training and competency or escalating to the supervising provider.
 3. Silencing alarms temporarily when the cause has been or is being resolved within the LVN's training and competency.
 - (B) Tasks and services not authorized include:
 1. Programming or adjusting alarm parameters from a locked settings menu.
- (3) Non-Invasive Ventilation (NIV) Mask and Strap Management Tasks and Services
 - (A) Authorized tasks and services include:
 1. Applying the NIV mask to a patient for ventilator use, including securing straps to ensure proper fit and seal.
- (4) Ventilator Oxygen Concentration Management Tasks and Services
 - (A) Authorized tasks and services include:
 1. Adjusting the oxygen concentration delivered through a ventilator, provided it does not involve changing the ventilator's programmed settings.
- (5) Aerosol Treatment Administration Tasks and Services
 - (A) Authorized tasks and services include:
 1. Configuring and applying tracheostomy masks, face masks, and inline ventilator circuits for the purpose of administering nebulized medications.
 2. Connecting and disconnecting aerosol delivery circuits as needed.
 3. Performing pre-treatment assessments.
 4. Administering preoxygenation.
 5. Using prescribed medical gas mixtures during treatments.
 6. Conducting post-treatment assessments.
 7. Activating ventilator controls (e.g., pushing nebulizer delivery buttons) when applicable to provide aerosol treatments.
 8. Aerosolized Medication Delivery, for example:
 - a. Metered dose inhalers (both independent devices and those connected to ventilator or tracheostomy tubes).
 - b. Medication delivery via ventilators.
 - c. Specialized medication delivery for antibiotics.

- d. Treatments delivered via Continuous Positive Airway Pressure (CPAP) and Non-invasive Positive Pressure Ventilation (NiPPV) devices.

(6) Ventilator Weaning Tasks and Services

(A) Authorized tasks and services include:

- 1. Performing “sprints” off the ventilator for progressively increasing periods of time.

(B) Tasks and services not authorized include:

- 1. Independently managing or directing the ventilator weaning process.

(7) Oxygen Management Tasks and Services

(A) Authorized tasks and services include:

- 1. Reconnection, change-out, or replacement of the oxygen circuit or tubing.
- 2. Adjustment of oxygen liter flow or oxygen concentration from oxygen tanks.
- 3. Applying, adjusting, or maintaining tracheostomy oxygen interfaces.

(8) Tracheostomy Care Tasks and Services

(A) Authorized tasks and services include:

- 1. Inflating and deflating the tracheostomy cuff.
- 2. Placement or removal of an external speaking valve or tracheostomy cap as prescribed by a physician.
- 3. Removal or replacement of the tracheostomy tube, including inner and outer cannula.
- 4. Reconnection, change out or replacement of heat moisture exchanger (HME) or other humidification device from a tracheostomy tube.
- 5. Filling, refilling, or cleaning a heater humidifier water chamber.
- 6. Using a manual resuscitation device (bag-valve mask) to provide emergency ventilation for a patient with a tracheostomy.
- 7. Hygiene care including replacement of tracheostomy ties and gauze and cleaning of the stoma sites.

(B) Tasks and services not authorized include:

- 1. Clinical assessment of whether a speaking valve or tracheostomy cap is appropriate for use.

(9) Troubleshooting Artificial Airway Management Tasks and Services

(A) Authorized tasks and services include:

- 1. Checking that the tracheostomy tube is correctly positioned and clear.
- 2. Identifying and correcting common airway issues such as blockages or dislodgement.

3. Making selections or adjustments only within the options explicitly prescribed by a physician.
- (B) Tasks and services not authorized include:
 1. Making clinical decisions regarding the type, size, or style of tracheostomy tube beyond the options prescribed by a physician.
- (10) Assessment and Response to Patient Respiratory Status Tasks and Services
 - (A) Authorized tasks and services include:
 1. Observing patients for signs and symptoms of respiratory distress.
 2. Taking appropriate action, such as calling 911, in response to respiratory distress.
- (11) Respiratory Treatments, Therapies, and Device Management Tasks and Services
 - (A) Authorized tasks and services include:
 1. Instruction, assistance, assembly, operation, connection, disconnection, and troubleshooting of the following respiratory treatments and devices as applicable:
 2. Lung Inflation Techniques, for example:
 - a. Intrapulmonary Percussive Ventilator (IPV) treatments and percussive vest therapy.
 3. Bronchial Hygiene, for example:
 - a. Manual chest percussion therapy.
 - b. Cough assist machines, including activating ventilator cough assist functions when applicable.
 4. Humidification Techniques, for example:
 - a. Air compressors for cool mist, heater, and humidifier functions.
 5. Respiratory Monitors, for example:
 - a. Apnea monitors.
 - b. Pulse oximetry.
 6. Oxygen Delivery, for example:
 - a. Nasal cannula.
 - b. Oxygen mask.
 - c. Direct tracheostomy interfaces (high flow oxygen/humidifier devices).
 7. Device power supply management.
- (12) Suctioning Tasks and Services
 - (A) Authorized tasks and services include:
 1. Nasal tracheal suctioning, including deep suctioning.
 2. Suctioning via tracheostomy, including surface and deep suctioning.

3. Suctioning via stoma, including surface and deep suctioning.
 4. Oral suctioning.
- (13) Documentation Tasks and Services
- (A) Authorized tasks and services include:
1. Documenting all care provided.
 2. Recording observations of patients' status and responses.
- (14) Education and Instruction Tasks and Services
- (A) Authorized tasks and services include:
1. Providing instruction on the proper operation or application of respiratory devices, procedures, or therapies for which the LVN has received training.
 2. Offering advice or instruction regarding safety hazards related to respiratory care.

Note: Authority cited: Sections 3722 and 3765, Business and Professions Code.

Reference: Section 3765, Business and Professions Code.

**TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 13.6. RESPIRATORY CARE BOARD OF CALIFORNIA
ARTICLE 6. SCOPE OF PRACTICE
DEPARTMENT OF CONSUMER AFFAIRS**

**COMPILATION OF COMMENTS RECEIVED DURING 45-DAY COMMENT PERIOD:
Home and Community-Based Respiratory Tasks and Services**

The Respiratory Care Board's (Board) summary of and response to the comments received is presented below.

Comment 1: Jenny McLelland
Email Dated August 16, 2026

The commenter requests clarification regarding whether the ventilator reconnection, change-out, circuit management, and alarm management tasks identified in section 1399.361(a)(1) and (2) also apply to non-invasive ventilation devices such as CPAP and BiPAP when used by patients in exempt settings. The commenter states that a change to the regulatory text may not be necessary but recommends that the issue be clarified in future implementation guidance.

Recommended Response to Comment:

The Board agrees with the commenter that the authorized ventilator-related tasks and services identified in section 1399.361 apply, as applicable, to non-invasive ventilation devices such as CPAP and BiPAP when used in an exempt setting.

The Board also agrees that additional guidance may be helpful to distinguish the respiratory tasks and services LVNs may perform in exempt settings under section 1399.361 from the basic respiratory tasks and services addressed in section 1399.365. The Board will consider this issue when developing implementation guidance for these regulations.

Because the commenter does not request a change to the regulatory text and the Board does not believe additional regulatory language is necessary to provide this clarification, no change to the proposed text is necessary.

Comment 2: California Association of Health Facilities (CAHF)
Email Dated September 24, 2026

The commenter expresses concern regarding the timing of the proposed regulation in relation to the January 1, 2027, effective date of SB 1304. The commenter states that statutory references in proposed section 1399.361 will become outdated when SB 1304 takes effect and recommends that the Board clarify that section 1399.361 will become

effective after January 1, 2027, and revise the regulation to align with the amended statute.

Recommended Response to Comment:

The Board agrees that section 1399.361 should accurately reference the applicable provisions of Business and Professions Code section 3765 as amended by SB 1304. The Board intends to address the necessary conforming changes pursuant to section 100 of title 16 of the California Code of Regulations.

No change to the proposed text is necessary in response to this comment.

Comment 3: California Association of Health Facilities (CAHF)
Email Dated: September 24, 2026

The commenter recommends restructuring section 1399.361 so that section 1399.365 serves as the foundational respiratory care framework and section 1399.361 identifies only the additional respiratory tasks and services LVNs may perform in exempt settings. The commenter states that the proposed structure creates overlapping lists of authorized tasks and may create confusion for providers, employers, licensees, and others attempting to determine what LVNs may perform in different settings.

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to make amendments to the proposed text based on this comment.

Section 1399.361 is intended to provide LVNs and employers in exempt settings with a single list of the respiratory tasks and services LVNs may perform in those settings. Requiring LVNs and employers to consult both section 1399.361 and section 1399.365 to determine the full range of respiratory tasks and services an LVN may perform in an exempt setting would require them to assemble the applicable requirements from multiple regulations.

Because section 1399.361 applies specifically to LVNs working under the statutory exemptions identified in Business and Professions Code sections 3765(i) and (j), the Board believes maintaining a comprehensive list in section 1399.361 provides greater clarity for the individuals and entities subject to the regulation.

No change to the proposed text is necessary in response to this comment.

Comment 4: California Association of Health Facilities (CAHF)
Email Dated September 24, 2026

The commenter states that certain suctioning activities identified in section 1399.361 are now expressly included within the practice of vocational nursing under SB 1304 and

may therefore be performed by LVNs without relying on an exemption. The commenter recommends that activities already within the practice of vocational nursing not be included in the list of respiratory tasks and services authorized by section 1399.361.

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to remove the suctioning activities from section 1399.361.

The Board recognizes that the Vocational Nursing Practice Act authorizes certain suctioning activities and that those activities are not considered respiratory care when performed within the limits established by that statute. However, the suctioning activities authorized by section 1399.361 are not necessarily limited to those same parameters.

For example, oral suctioning performed within the oral cavity is included within the practice of vocational nursing. Section 1399.361 uses the broader term “oral suctioning” because an LVN working under an applicable statutory exemption may perform oral suctioning beyond the limits otherwise established for vocational nursing. The Board does not believe it is necessary or helpful to divide oral suctioning into separate tasks based on the point at which the activity becomes respiratory care.

Section 1399.361 is intended to provide LVNs and employers in exempt settings with a complete list of the respiratory tasks and services LVNs may perform in those settings.

No change to the proposed text is necessary in response to this comment.

Comment 5: California Association of Health Facilities (CAHF)
Email Dated September 24, 2026

The commenter suggests that the Board, in collaboration with the Board of Vocational Nursing and Psychiatric Technicians, consider developing regulations similar in specificity to section 1399.361 that identify tasks LVNs may perform in non-exempt settings.

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to make amendments to the proposed text based on this comment.

Section 1399.365 already establishes the basic respiratory tasks and services that may be performed in all settings. Section 1399.361 serves a different purpose. It identifies the additional respiratory tasks and services that LVNs may perform when working under an applicable exemption established by Business and Professions Code sections 3765(i) and (j).

Accordingly, the Board believes sections 1399.365 and 1399.361 together provide the appropriate regulatory framework for distinguishing between basic respiratory tasks and services that may be performed outside the exempt settings and additional respiratory tasks and services authorized for LVNs in applicable exempt settings.

No change to the proposed text is necessary in response to this comment.

Comment 6: **LeadingAge California**
Email Dated September 24, 2026

The commenter supports the proposed clarification of respiratory care services LVNs may perform in exempt settings and generally agrees that the services identified in proposed section 1399.361 reflect an appropriate LVN scope of practice. However, the commenter states that SB 1304 establishes additional statutory authority for certain respiratory care-related services, including specific suctioning tasks, and recommends delaying final adoption until section 1399.361 is aligned with the new statutory framework.

Recommended Response to Comment:

The Board appreciates the commenter's support for the proposed regulation and agrees that section 1399.361 should accurately reference the applicable provisions of Business and Professions Code section 3765 as amended by SB 1304. The Board intends to address the necessary conforming changes pursuant to section 100 of title 16 of the California Code of Regulations.

The Board otherwise declines to delay the rulemaking. Section 1399.361 provides needed clarification regarding the respiratory tasks and services LVNs may perform in exempt settings.

Comment 7: **Rosemarie Fejerang**
Email Dated September 28, 2026

The commenter requests clarification regarding how proposed section 1399.361 will be revised to align with the statutory changes enacted through SB 1304.

Recommended Response to Comment:

The Board agrees that section 1399.361 should accurately reference the applicable provisions of Business and Professions Code section 3765 as amended by SB 1304. The Board intends to address the necessary conforming changes pursuant to section 100 of title 16 of the California Code of Regulations.

No change to the proposed text is necessary in response to this comment.

Comment 8: Rosemarie Fejerang
Email Dated September 28, 2026

The commenter requests that the Board clearly identify which provisions of the proposed regulations apply, and which do not apply, to skilled nursing facilities and subacute ventilator units.

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to make amendments to the proposed text based on this comment.

Section 1399.361 applies only when an LVN is performing respiratory care under one of the statutory exemptions identified in Business and Professions Code sections 3765(i) and (j). Section 1399.361 does not expand those statutory exemptions to settings that are not identified by the Legislature.

No change to the proposed text is necessary in response to this comment.

Comment 9: Rosemarie Fejerang
Email Dated September 28, 2026

The commenter requests that the Board define the distinction between tracheostomy-tube suctioning that remains within the tracheostomy tube and deep suctioning.

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to add a separate definition to section 1399.361.

As part of SB 1304, the Vocational Nursing Practice Act was amended to identify tracheostomy tube suctioning that remains within the tracheostomy tube as part of the practice of vocational nursing. Section 1399.361 identifies additional respiratory tasks and services an LVN may perform when working under an applicable statutory exemption, including suctioning as specified in the regulation.

The Board believes the proposed language, read together with the applicable statutory provisions, sufficiently identifies the activities authorized in exempt settings.

No change to the proposed text is necessary in response to this comment.

Comment 10: Rosemarie Fejerang
Email Dated September 28, 2026

The commenter requests that the regulations require documented trainer qualifications, return demonstration, and competency validation for LVNs performing respiratory care.

Recommended Response to Comment:

The Board agrees that appropriate training and competency are important to the safe performance of respiratory care by LVNs in exempt settings. However, the Board declines to add these requirements to section 1399.361.

Section 1399.361 identifies the respiratory tasks and services an LVN may perform in an applicable exempt setting. SB 1304 establishes patient-specific and task-specific training requirements for LVNs performing respiratory care in exempt settings. The Board is developing separate regulations to implement those requirements, including requirements related to training and competency.

Because those requirements will be addressed through the Board's regulations implementing SB 1304, the Board does not believe it is necessary to add them to section 1399.361.

No change to the proposed text is necessary in response to this comment.

Comment 11: **Rosemarie Fejerang**
Email Dated September 28, 2026

The commenter requests clarification regarding escalation requirements when an LVN encounters a ventilator alarm, secretion problem, desaturation, or suspected ventilator malfunction.

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to add additional escalation procedures to section 1399.361.

Section 1399.361 identifies the respiratory tasks and services an LVN may perform in an exempt setting. Patient-specific escalation procedures may vary based on the patient's condition, respiratory equipment, orders, care plan, and the circumstances requiring escalation.

SB 1304 establishes patient-specific and task-specific training requirements for LVNs performing respiratory care in exempt settings. The Board's regulations implementing those requirements will further address training related to the safe performance of authorized respiratory care, including appropriate response and escalation when issues arise.

No change to the proposed text is necessary in response to this comment.

Comment 12: **Los Angeles Unified School District, California School Nurses Organization, Association of California School Administrators, SELPA Administrators of California, Alameda County Office of Education, Office of the Riverside County Superintendent of Schools, and Santa Clara County Office of Education**
Email Dated September 28, 2026

The commenters state that SB 1304 amended and renumbered Business and Professions Code section 3765 and recommend replacing references to former subdivisions (i) and (j) in section 1399.361 with the corresponding references in the newly amended statute.

Recommended Response to Comment:

The Board agrees that section 1399.361 should accurately reference the applicable provisions of Business and Professions Code section 3765 as amended by SB 1304. The Board intends to address the necessary conforming changes pursuant to section 100 of title 16 of the California Code of Regulations.

No change to the proposed text is necessary in response to this comment.

Comment 13: **Los Angeles Unified School District, California School Nurses Organization, Association of California School Administrators, SELPA Administrators of California, Alameda County Office of Education, Office of the Riverside County Superintendent of Schools, and Santa Clara County Office of Education**
Email Dated September 28, 2026

The commenters recommend section 1399.361 also reference paragraph (10) of subdivision (a) of Business and Professions Code section 3765. The commenters state that including paragraph (a)(10) is necessary to avoid conflict with Education Code section 49423.5, which authorizes an LVN under the supervision of a credentialed school nurse to provide basic respiratory services authorized by Business and Professions Code section 3765(a)(10).

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to add Business and Professions Code section 3765(a)(10) to section 1399.361.

Business and Professions Code section 3765(a)(10) authorizes LVNs to perform suctioning and other basic respiratory tasks and services identified by the Board through section 1399.365. Section 3765(a)(10) does not provide the broader exemption applicable to LVNs working in the exempt settings addressed by section 1399.361. Education Code section 49423.5 similarly authorizes an LVN, under the supervision of a credentialed school nurse, to provide the basic respiratory services authorized by

Business and Professions Code section 3765(a)(10). It does not expand those services to include the additional respiratory tasks and services authorized under section 1399.361.

Section 1399.361 is intended to implement the statutory exemptions applicable to the settings identified by the Legislature. Adding section 3765(a)(10) would therefore expand the application of section 1399.361 beyond the exemptions it is intended to implement.

No change to the proposed text is necessary in response to this comment.

Comment 14: **Sara M. Granda**
Email Dated September 28, 2026

The commenter requests clarification regarding how to determine which statutory exemption applies to a particular care arrangement, including arrangements involving individually employed nurses, agency-employed nurses, and registry nurses. The commenter also requests clarification regarding applicable operative dates and states that a residential address or payment authorization alone should not establish that the requirements of an exemption have been met.

Recommended Response to Comment:

The Board agrees that an individual care arrangement must meet the applicable statutory requirements in Business and Professions Code sections 3765(i) and (j) in order to qualify for an exemption. The location where care is provided, the source of payment, or the manner in which an LVN is employed does not, by itself, establish that the requirements of a statutory exemption have been met.

However, the Board declines to add separate criteria to section 1399.361 for individually employed, agency-employed, or registry nurses. Whether a particular arrangement qualifies for an exemption depends on whether the conditions established in Business and Professions Code section 3765 are met. Section 1399.361 does not establish eligibility for those exemptions. Rather, it identifies the respiratory tasks and services an LVN may perform when the applicable statutory exemption and its conditions have been satisfied.

No change to the proposed text is necessary in response to this comment.

Comment 15: **Sara M. Granda**
Email Dated September 28, 2026

The commenter requests clarification regarding how the reconnection and transfer provisions in section 1399.361(a)(1) apply to a patient who cannot breathe independently at any time. The commenter also requests guidance regarding continuity

of ventilation during equipment transfers or failures and the patient-specific preparation and competency needed before an LVN accepts an independent assignment.

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to make amendments to section 1399.361 based on this comment.

Section 1399.361 identifies the respiratory tasks and services an LVN may perform in an exempt setting. The tasks authorized by the regulation do not change based on whether a patient is continuously dependent on mechanical ventilation.

The Board recognizes that safely performing these tasks for a patient who is continuously ventilator dependent may require patient-specific preparation and training. SB 1304 establishes patient-specific and task-specific training requirements for LVNs performing respiratory care in exempt settings. The Board's regulations implementing those requirements will further address the training needed to safely perform authorized tasks based on the needs of the individual patient.

Section 1399.361 is not intended to establish patient-specific procedures for equipment transfers, equipment failures, or continuity of ventilation. Those procedures will depend on the patient's needs, equipment, orders, care plan, and applicable emergency procedures.

No change to the proposed text is necessary in response to this comment.

Comment 16: **Sara M. Granda**
Email Dated September 28, 2026

The commenter requests clarification regarding the reference to a "supervising provider" in section 1399.361(a)(2)(A)2, particularly when an LVN provides care in a home without a home health agency structure. The commenter asks how the supervising provider is designated, what availability is required, how the LVN contacts that person, and what the LVN should do if that person is unavailable.

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to add these requirements to section 1399.361.

Business and Professions Code section 2859 provides that vocational nursing is performed under the direction of a licensed physician and surgeon or registered nurse. This requirement does not depend on the LVN working within a home health agency or other specific organizational structure.

Section 1399.361(a)(2)(A)(2) allows an LVN responding to a ventilator alarm to take corrective action when that action is within the LVN's training and competency or to escalate the issue to the supervising provider.

The specific arrangements for contacting the appropriate provider, availability and backup contacts, and actions to take when additional clinical assistance is needed may vary depending on the patient and care arrangement and are not appropriately established as a single procedure in section 1399.361.

SB 1304 establishes patient-specific and task-specific training requirements for LVNs performing respiratory care in exempt settings. The Board will consider appropriate response and escalation as part of the regulations implementing those training requirements.

No change to the proposed text is necessary in response to this comment.

Comment 17: **Sara M. Granda**
Email Dated September 28, 2026

The commenter requests clarification regarding how training and competency should account for a patient's specific tracheostomy configuration and baseline. The commenter also requests clarification regarding documentation of prescribed options and escalation instructions.

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to add these requirements to section 1399.361.

Section 1399.361 identifies the respiratory tasks and services an LVN may perform in an exempt setting and the limitations on those activities. It is not intended to establish patient-specific training or competency requirements for each individual patient.

The Board agrees that an LVN's preparation to provide respiratory care should take into account the needs of the individual patient and the equipment and respiratory care used by that patient. SB 1304 establishes patient-specific and task-specific training requirements for LVNs performing respiratory care in exempt settings. The Board's regulations implementing those requirements will further address the training and competency needed to safely perform authorized respiratory care for an individual patient.

No change to the proposed text is necessary in response to this comment.

Comment 18: **Sara M. Granda**
Email Dated September 28, 2026

The commenter requests clarification regarding maintaining necessary patient-specific ventilation while emergency assistance is being summoned, while assistance is arriving, and during handoff. The commenter also requests that the regulatory framework support an individualized emergency response plan.

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to add these requirements to section 1399.361.

Section 1399.361 identifies the respiratory tasks and services an LVN may perform in an exempt setting. It is not intended to establish patient-specific emergency response procedures.

The Board agrees that emergency preparation for a patient receiving respiratory care should take into account the needs of the individual patient, including the patient's respiratory equipment and care needs. SB 1304 establishes patient-specific and task-specific training requirements for LVNs performing respiratory care in exempt settings. The Board's regulations implementing those requirements will further address the training needed to safely provide care to an individual patient, including appropriate preparation for emergencies and escalation when necessary.

No change to the proposed text is necessary in response to this comment.

Comment 19: **Sara M. Granda**
Email Dated September 28, 2026

The commenter requests clarification regarding who validates and documents patient-specific competency, who maintains competency records when there is no home health agency employer, how competency should be reassessed following equipment or care-plan changes, and the distinction between patient instruction regarding personal routines and professional validation of an LVN's competency.

Recommended Response to Comment:

The Board agrees that patient-specific competency, documentation, and training responsibilities are important considerations when LVNs provide respiratory care in exempt settings. However, the Board declines to add these requirements to section 1399.361.

The purpose of section 1399.361 is to identify the respiratory tasks and services an LVN may perform in an exempt setting, rather than establish the requirements for training, competency validation, or maintenance of training records.

SB 1304 establishes patient-specific and task-specific training requirements for LVNs performing respiratory care in exempt settings. The Board will consider issues related to competency validation, documentation and recordkeeping, changes that may require additional training, and the roles of individuals involved in patient-specific training as part of the regulations implementing those requirements.

No change to the proposed text is necessary in response to this comment.

Comment 20: **Sara M. Granda**
Email Dated September 28, 2026

The commenter requests clarification regarding how a patient and prospective LVN can identify the clinical support necessary before an assignment is accepted, including responsibility for assessment, supervision, and escalation. The commenter also requests clarification regarding which responsibilities are governed by the Board's regulations and which are governed by other authorities.

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to add additional requirements to section 1399.361.

Section 1399.361 identifies the respiratory tasks and services an LVN may perform in an exempt setting. It does not establish or replace the supervision and other requirements applicable to the practice of vocational nursing.

Business and Professions Code section 2859 provides that vocational nursing is performed under the direction of a licensed physician and surgeon or registered nurse. Section 1399.361 does not eliminate or modify that requirement when an LVN performs respiratory care under an applicable exemption.

The Board recognizes that patients and LVNs also need to understand the patient-specific training and clinical support necessary to safely provide respiratory care. SB 1304 establishes patient-specific and task-specific training requirements for LVNs performing respiratory care in exempt settings. The Board will consider these implementation issues, including appropriate escalation and clinical support, as part of the regulations implementing those training requirements.

Other requirements applicable to a particular care arrangement may arise under laws or regulations administered by other agencies or licensing boards and are outside the scope of this rulemaking.

No change to the proposed text is necessary in response to this comment.

Comment 21: **Sara M. Granda**
Email Dated September 28, 2026

The commenter requests that the Board consider the implementation burden on patients and provide practical guidance, such as a checklist, addressing the applicable statutory exemption, orders, patient-specific training, competency validation, clinical contacts, documentation, and escalation procedures.

Recommended Response to Comment:

The Board appreciates the comment and recognizes the value of clear and accessible information for patients, LVNs, employers, and others implementing the respiratory care requirements. However, the Board declines to add these items to section 1399.361.

The purpose of section 1399.361 is to identify the respiratory tasks and services an LVN may perform in an exempt setting. Several of the items identified by the commenter relate to the patient-specific and task-specific training requirements established by SB 1304. The Board is developing regulations to implement those requirements and will consider the need for additional implementation guidance as that regulatory framework is developed.

No change to the proposed text is necessary in response to this comment.

Comment 22: **California Hospital Association (CHA)**
Email Dated September 28, 2026

The commenter states that SB 1304 makes statutory changes, including identifying suctioning tasks LVNs may perform across settings, and recommends that the Board aligns section 1399.361 with the statutory framework established by SB 1304.

Recommended Response to Comment:

The Board agrees that section 1399.361 should accurately reference the applicable provisions of Business and Professions Code section 3765 as amended by SB 1304. The Board intends to address the necessary conforming changes pursuant to section 100 of title 16 of the California Code of Regulations.

No change to the proposed text is necessary in response to this comment.

Comment 23: **California Hospital Association (CHA)**
Email Dated September 28, 2026

The commenter requests that the Board clarify that LVNs in any setting may place a non-invasive oxygen delivery mask on a patient when directed by a physician or registered nurse.

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to make amendments to section 1399.361 based on this comment.

Section 1399.361 already authorizes LVNs working under the applicable exemptions in Business and Professions Code sections 3765(i) and (j) to perform the oxygen-related tasks identified in the regulation, including placement of an oxygen delivery device pursuant to an order. Therefore, no additional amendment to section 1399.361 is necessary to address this activity in exempt settings.

To the extent the commenter requests clarification that LVNs may perform this activity in any setting, that issue is addressed through the Board's rulemaking concerning basic respiratory tasks and services under section 1399.365 and will be addressed in response to the commenter's comments on that rulemaking.

No change to the proposed text is necessary in response to this comment.

Comment 24: Pediatric Day Health Care Coalition (PDHCC)
Email Dated September 28, 2026

The commenter supports the proposed regulation and states that the respiratory tasks and services identified in section 1399.361 are consistent with the tasks previously reviewed by stakeholders and with which the commenter agrees.

Recommended Response to Comment:

The Board appreciates the commenter's support for the proposed regulation. No change to the proposed text is requested or necessary in response to this comment.

Comment 25: California Assisted Living Association (CALA)
Email Dated September 28, 2026

The commenter supports the overall direction of the proposed regulations but requests additional flexibility for LVNs employed by co-located continuing care retirement communities that operate both exempt and non-exempt settings. The commenter requests that LVNs be permitted to provide respiratory care across the campus when exempt and non-exempt settings are co-located.

Recommended Response to Comment:

The Board has reviewed and considered the comment and declines to make amendments to the proposed text based on this comment.

Business and Professions Code sections 3765(i) and (j) identifies the specific settings and circumstances that are exempt. Co-location of an exempt setting with a non-exempt setting does not extend the statutory exemption to the non-exempt setting.

The Board does not have authority through this rulemaking to expand the statutory exemptions established by the Legislature. Such a change would require an amendment to the statute.

No change to the proposed text is necessary in response to this comment.

Comment 26: California Assisted Living Association (CALA)
Email Dated September 28, 2026

The commenter requests that section 1399.361 be revised to align with amendments to Business and Professions Code section 3765 enacted through SB 1304.

Recommended Response to Comment:

The Board agrees that section 1399.361 should accurately reference the applicable provisions of Business and Professions Code section 3765 as amended by SB 1304. The Board intends to address the necessary conforming changes pursuant to section 100 of title 16 of the California Code of Regulations.

No change to the proposed text is necessary in response to this comment.

1399.361 clarification request

From Jenny McLelland <jennymccllland@mac.com>

Date Sun 08/16/26 3:15 PM

To rcbinfo@DCA <rcbinfo@dca.ca.gov>; Molina, Christine@DCA <Christine.Molina@dca.ca.gov>; Pitt, Kathryn@DCA <Kathryn.Plitt@dca.ca.gov>

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I have a point of clarification about § 1399.361 Sections (1) and (2):

- (1) Ventilator Reconnection, Change-Out, and Circuit Management Tasks and Services
- (2) Ventilator Alarm Management Tasks and Services

Do Sections (1) and (2) apply to non-invasive CPAP/BiPAP machines when used by patients in exempt settings?

My understanding from being involved in this regulatory process is that the word “ventilator” used in the statute includes the entire spectrum of positive pressure breathing machines including CPAPs and BiPAPs in addition to breathing machines that are commonly referred to as ventilators. I just want to make sure that understanding is correct.

Patients and LVNs working in exempt settings are going to read §1399.361 and ask “can I take care of patient who is using a non-invasive CPAP / BiPAP machine?”

I don't think the wording of the statute needs to be changed, but when the FAQ comes out for the intermediate tasks regulations, making sure that patients, LVNs, and exempt locations understand that LVNs are allowed to do all the same tasks for a CPAP/BiPAP dependent patient that they are allowed to do for a ventilator dependent patient would be important.

The FAQs for the basic tasks specifically say that LVNs who are restricted to basic tasks cannot provide care related to CPAPs/BiPAPs.

Thanks much!



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Cassie Dunham
CEO/President

September 24, 2026

Ricardo Guzman, MA, RRT, RCP
President
Respiratory Care Board
3750 Rosin Court, Suite 100
Sacramento, CA 95834

Re: Respiratory Care Board of California (RCB) Proposed Addition of Section 1399.361, Title 16, California Code of Regulations Exemption for Licensed Vocational Nurses to Perform Specified Respiratory Care Tasks and Services

Submitted via email to: rcbinfo@dca.ca.gov

Dear Mr. Guzman:

The California Association of Health Facilities (CAHF) is submitting this letter regarding the proposal to add California Code of Regulations, Title 16, §1399.361. The Respiratory Care Board (RCB) and the Legislature's efforts to address the significant patient care, workforce, and implementation challenges that have arisen following adoption of Section 1399.365 through the passage of Senate Bill (SB) 1304 (Wahab, 2026) and additional guidance issued by the RCB have resulted in some improvement and adoption of additional regulations to specify LVN activities in exempt home and community settings is a logical next step. CAHF supports a coherent regulatory framework that will minimize confusion among stakeholders, reduce compliance burdens, promote consistent enforcement, and ultimately support the timely delivery of safe and effective respiratory care services to Californians across all care settings.

Existing statute, regulation and interpretive guidance from the RCB and the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) has created a complex set of authorities that providers, employers, educators, LVNs, surveyors, consumers, and enforcement agencies must navigate to determine the tasks related to respiratory care that LVNs can perform and in which settings LVNs may perform those tasks. When combined with various effective and sunset dates of emergency regulations and statute and varying rules for different settings, it becomes even more challenging to identify the LVN tasks with regard to respiratory care that are compliant with the law.

Ultimately, the regulations should be organized in a manner that clearly identifies which respiratory tasks may be performed in all settings, which tasks may be performed only in exempt settings by Licensed Vocational Nurses, and which respiratory tasks that must be performed by a licensed Respiratory Care Practitioner (RCP) or another provider authorized by law, such as a Registered Nurse (RN) in each setting.

To that end, CAHF's comments address:

- Issues related to the timing of the effective date of the regulations and how that will impact the regulations provisions; and
- An improved framework for Section 1399.361 in which the provisions specify the respiratory care tasks that LVNs can perform in exempt settings that are in addition to vocational nursing tasks that are already allowable in all settings.

Timing. CAHF has concerns with the timeline for promulgating Section 1399.361, especially in light of the effective date of SB 1304 and the expiration date of the Section 1399.365 emergency regulations. It would be helpful for the RCB to clarify whether Section 1399.361 is expected to go into effect prior to or after January 1, 2027. Section 1399.361 includes statutory references that will be obsolete, effective January 1, 2027 when SB 1304 goes into effect. SB 1304 represent a significant policy determination by the Legislature and should be reflected consistently throughout the Board's regulatory framework. Failure to fully align the regulations with the forthcoming statutory language may create confusion regarding which activities are authorized under the Vocational Nursing Practice Act versus those activities that constitute respiratory care requiring licensed RCP or another provider authorized by law, such as a RN in each setting. To reduce confusion among providers as they train their staff on permitted LVN tasks based on setting type, CAHF recommends that the RCB clarify that Section 1399.361 will have an effective date after January 1, 2027, at which time SB 1304 will be in effect. As such, Section 1399.361 should be revised to be apply in conjunction with the provisions of SB 1304.

Regulatory Framework. CAHF also has concerns with the structure of the proposed section 1399.361. As proposed, Section 1399.361 lists respiratory care tasks that may be performed by LVNs in exempt settings. In addition to tasks that cannot be performed by LVNs in non-exempt settings pursuant to section 1399.365, the list also includes activities that are already within the practice of vocational nursing, can be performed in all settings and are not subject to regulation by the RCB.

To improve clarity, CAHF recommends that Section 1399.365 be established as the foundational respiratory care framework upon which Section 1399.361 is built. Section 1399.361 should expressly reference and incorporate the authorities, limitations, and definitions contained within Section 1399.365 and identify only those additional respiratory care tasks, services, restrictions, or exceptions that apply specifically within the exempt settings identified in Business and Professions Code Section 3765. This approach would significantly reduce the potential for conflicting interpretations and provide stakeholders with a more logical and user-friendly regulatory structure. Similarly, activities that are already within the practice of vocational nursing or not otherwise prohibited to be performed by LVNs should not be delineated in the list of specific allowable tasks in section 1399.365. For example, the Legislature expressly clarified that vocational nursing includes oral suctioning performed within the oral cavity, nasal suctioning performed within the nasal cavity, tracheostomy tube suctioning that remains within the tracheostomy tube, and removal and replacement of an external speaking valve for suctioning purposes.

The authority to allow LVNs to perform vocational nursing tasks is not within the oversight scope of the Respiratory Care Board and it is inappropriate to delineate these tasks in this section. As drafted, section 1399.361 creates confusion by giving the impression that LVNs can only perform all these tasks in exempt settings, when LVNs are authorized to perform some of these tasks in non-exempt settings as well.

CAHF requests consideration of the attached proposed amendments to the proposed 1399.361 would clarify the tasks that LVNs may perform in the exempt settings include:

- Activities within the practice of vocational nursing as authorized in Chapter 6.5 of the Business and Professions Code;
- Activities that are not prohibited by subdivision (a) of section 3765 of the Business and Professions Code;
- Activities that are not considered the practice of respiratory care pursuant to section 3762 of the Business and Professions Code;
- Basic respiratory tasks and services as permitted to be performed by non-respiratory care professionals pursuant to §1399.365; and
- Additional respiratory tasks as defined in section 1399.365.

CAHF encourages the RCB to focus on simplicity, consistency, and practical implementation. Providers, educators, employers, surveyors, consumers, and licensees should not be required to reconcile multiple overlapping lists of authorized and prohibited respiratory care activities. Rather, the regulations should clearly identify what LVNs may do in all settings, what additional respiratory services may be performed in exempt settings, and what services remain restricted to licensed RCP or another provider authorized by law, such as a RN. Such a framework would be consistent with the intent of SB 1304, improve regulatory clarity, support workforce utilization, and help ensure that patients continue to receive timely access to needed respiratory care services throughout California. CAHF suggests that the RCB, working in collaboration with the BVNPT, consider developing regulations similar to Section 1399.361 in specificity that describe the tasks that LVNs may perform in non-exempt settings.

Thank you for the opportunity to provide comments on these proposed regulations. We urge the RCB to add this item to the next Board meeting and include an opportunity for verbal public comment so the RCB can hear testimony from the many providers impacted by these regulations. If you have questions, please contact Patti Owens, Director of Regulatory Affairs at powens@cahf.org.

Sincerely,



Patti Owens
Director of Regulatory Affairs

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

PROPOSED REGULATORY LANGUAGE
Home and Community-Based Respiratory Tasks and Services

Legend: Added text is indicated with an underline.
Omitted text is indicated by (****)
Deleted text is indicated by ~~strikeout~~.

ADD SECTION 1399.361 of Division 13.6 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.361. Exemption for Licensed Vocational Nurses to Perform Specified Respiratory Care Tasks and Services

(a) For the purposes of subdivisions ~~(i) and (j)~~(a)(9) of section 3765 of the Business and Professions Code, a licensed vocational nurse may perform activities within the practice of vocational nursing as authorized in Chapter 6.5 of the Business and Professions Code, the activities that are not prohibited by subdivision (a) of section 3765 of the Business and Professions Code, activities that are not considered the practice of respiratory care pursuant to section 3762 of the Business and Professions Code, and basic respiratory tasks and services as permitted by §1399.365 and the following respiratory care tasks and services:

(i) Ventilator Reconnection, Change-Out, and Circuit Management Tasks and Services

(A) Authorized tasks and services include:

1. Connecting a patient to a ventilator who may breathe independently at other times of the day.
2. Transferring a patient from a stationary ventilator to a travel ventilator that has been preprogrammed by a physician or respiratory care practitioner.
3. Changing out to a backup ventilator that has been preprogrammed by a physician or respiratory care practitioner when necessary.
4. Reassembling or reattaching a ventilator circuit using standardized components as directed by the manufacturer or as prescribed by a physician, after cleaning, replacement, ventilator change-out, or in response to an emergency.
5. Connecting or disconnecting the ventilator circuit as needed.
6. Changing to an alternative ventilator setting that has been preprogrammed by a physician or respiratory care practitioner.
7. Reconnection, change out or replacement of heat moisture exchanger (HME) or other humidification device.
8. Filling, refilling, or cleaning a heater humidifier water chamber.

Commented [YC1]: Proposed amendments clarify that LVNs in exempt home and community based settings can perform tasks

- 1) That are defined as the practice of vocational nursing (ex. oral, nasal and tracheal suctioning that does not extend into the airway) or not considered the practice of respiratory care
- 2) That are not expressly prohibited by Section 1399.365; and
- 3) The specific *additional* tasks in Section 1399.61

- 9 Using a manual resuscitation device (bag-valve mask) for a ventilated patient during an emergency.
- Ⓔ Tasks and services not authorized include:
 - 1 Programming or configuring a ventilator pursuant to prescription for initial use by a home care provider.

- 2 Initiating or modifying any ventilator setting.
- 3 Performing the initial build or configuration of a ventilator circuit.
- ② Ventilator Alarm Management Tasks and Services
 - (A) Authorized tasks and services include:
 - 1 Verifying and testing ventilator alarms prior to patient connection.
 - 2 Responding to ventilator alarms by identifying the cause and either taking corrective action within the LVN's training and competency or escalating to the supervising provider.
 - 3 Silencing alarms temporarily when the cause has been or is being resolved within the LVN's training and competency.
 - (B) Tasks and services not authorized include:
 - 1 Programming or adjusting alarm parameters from a locked settings menu.
- ③ Non-Invasive Ventilation (NIV) Mask and Strap Management Tasks and Services
 - (A) Authorized tasks and services include:
 - 1 Applying the NIV mask to a patient for ventilator use, including securing straps to ensure proper fit and seal.
- ④ Ventilator Oxygen Concentration Management Tasks and Services
 - (A) Authorized tasks and services include:
 - 1 Adjusting the oxygen concentration delivered through a ventilator, provided it does not involve changing the ventilator's programmed settings.
- ⑤ Aerosol Treatment Administration Tasks and Services
 - (A) Authorized tasks and services include:
 - 1 Configuring and applying tracheostomy masks, face masks, and inline ventilator circuits for the purpose of administering nebulized medications.
 - 2 Connecting and disconnecting aerosol delivery circuits as needed.
 - 3 Performing pre-treatment assessments.
 - 4 Administering preoxygenation.
 - 5 Using prescribed medical gas mixtures during treatments.
 - 6 Conducting post-treatment assessments.
 - 7 Activating ventilator controls (e.g., pushing nebulizer delivery buttons) when applicable to provide aerosol treatments.
 - 8 Aerosolized Medication Delivery, for example:
 - a Metered dose inhalers (both independent devices and those connected to ventilator or tracheostomy tubes).
 - b Medication delivery via ventilators.
 - c Specialized medication delivery for antibiotics.

- d Treatments delivered via Continuous Positive Airway Pressure (CPAP) and Non-invasive Positive Pressure Ventilation (NiPPV) devices.
- 6 Ventilator Weaning Tasks and Services
 - A Authorized tasks and services include:
 - 1 Performing "sprints" off the ventilator for progressively increasing periods of time.
 - B Tasks and services not authorized include:
 - 1 Independently managing or directing the ventilator weaning process.
- 7 Oxygen Management Tasks and Services
 - A Authorized tasks and services include:
 - 1 Reconnection, change-out, or replacement of the oxygen circuit or tubing.
 - 2 Adjustment of oxygen liter flow or oxygen concentration from oxygen tanks.
 - 3 Applying, adjusting, or maintaining tracheostomy oxygen interfaces.
- 8 Tracheostomy Care Tasks and Services
 - A Authorized tasks and services include:
 - 1 Inflating and deflating the tracheostomy cuff.
 - 2 Placement or removal of an external speaking valve or tracheostomy cap as prescribed by a physician.
 - 3 Removal or replacement of the tracheostomy tube, including inner and outer cannula.
 - 4 Reconnection, change out or replacement of heat moisture exchanger (HME) or other humidification device from a tracheostomy tube.
 - 5 Filling, refilling, or cleaning a heater humidifier water chamber.
 - 6 Using a manual resuscitation device (bag-valve mask) to provide emergency ventilation for a patient with a tracheostomy.
 - 7 Hygiene care including replacement of tracheostomy ties and gauze and cleaning of the stoma sites.
 - B Tasks and services not authorized include:
 - 1 Clinical assessment of whether a speaking valve or tracheostomy cap is appropriate for use.
- 9 Troubleshooting Artificial Airway Management Tasks and Services
 - A Authorized tasks and services include:
 - 1 Checking that the tracheostomy tube is correctly positioned and clear.
 - 2 Identifying and correcting common airway issues such as blockages or dislodgement.

- 3 Making selections or adjustments only within the options explicitly prescribed by a physician.

Tasks and services not authorized include:

- 1 Making clinical decisions regarding the type, size, or style of tracheostomy tube beyond the options prescribed by a physician.

~~(10) Assessment and Response to Patient Respiratory Status Tasks and~~

~~(11) Services~~

~~(12) _____~~

~~(13) _____~~

~~(14) _____~~

~~(15) _____~~

~~(16) respiratory distress.~~

~~(17)(11) Respiratory Treatments, Therapies, and Device Management Tasks and Services~~

(A) Authorized tasks and services include:

- 1 Instruction, assistance, assembly, operation, connection, disconnection, and troubleshooting of the following respiratory treatments and devices as applicable:
- 2 Lung Inflation Techniques, for example:
 - a Intrapulmonary Percussive Ventilator (IPV) treatments and percussive vest therapy.
- 3 Bronchial Hygiene, for example:
 - a Manual chest percussion therapy.
 - b Cough assist machines, including activating ventilator cough assist functions when applicable.
- 4 Humidification Techniques, for example:
 - a Air compressors for cool mist, heater, and humidifier functions.
- 5 Respiratory Monitors, for example:
 - a Apnea monitors.
 - b Pulse oximetry.
- 6 Oxygen Delivery, for example:
 - a Nasal cannula.
 - b Oxygen mask.
 - c Direct tracheostomy interfaces (high flow oxygen/humidifier devices).
- 7 Device power supply management.

~~(18)(12) Suctioning Tasks and Services~~

(A) Authorized tasks and services include:

- 1 ~~N~~Deep nasal tracheal suctioning, including deep suctioning.
- 2 ~~D~~Suctioning via tracheostomy, including surface and deep
- 3 suctioning.

Commented [YC2]: These tasks are considered to be part of the practice of vocational nursing and it is unnecessary to specify the tasks in regulation.

~~43~~ Suctioning via stoma, including surface and deep suctioning.

~~54~~ Oral suctioning:

~~(19)~~ Documentation Tasks and Services

~~(21)~~ Authorized tasks and services include:

~~(24)~~ Documenting all care provided.

~~(22)(3)~~ Recording observations of patients' status and responses.

~~(23)~~ Education and Instruction Tasks and Services

~~(24)~~ Authorized tasks and services include:

~~(25)~~ Providing instruction on the proper operation or application of

~~(26)~~ _____

~~(27)~~ _____ has received training.

~~(28)~~ Offering advice or instruction regarding safety hazards related

~~(29)~~ to respiratory care.

Commented [YC3]: These tasks are considered to be part of the practice of vocational nursing and it is unnecessary to specify the tasks in regulation.

Note: Authority cited: Sections 3722 and 3765, Business and Professions Code.
Reference: Section 3765, Business and Professions Code.



Outlook

Proposed Regulations Comments

From Amber King <aking@leadingageca.org>

Date Thu 09/24/26 12:44 PM

To rcbinfo@DCA <rcbinfo@dca.ca.gov>

📎 1 attachment (239 KB)

LeadingAge California Comments RCB Regulations 9.24.26.pdf;

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Good afternoon,

Please find LeadingAge California's comments on the following proposed Respiratory Care Board regulations:

16 CCR 1399.365 Basic Respiratory Tasks and Services

16 CCR 1399.361 Home and Community-Based Respiratory Tasks and Services

Thank you,
Amber King

Amber King | Vice President, Legislative Affairs | LeadingAge California | P [\(916\) 469-3376](tel:(916)469-3376) | C [\(916\) 801-5207](tel:(916)801-5207)

1315 I Street, Suite 100, Sacramento, CA 95814 | leadingageca.org | aking@leadingageca.org



CAHF Comments - RCB Proposed Regulations - Section 1399.361 - Home and Community-Based Respiratory Tasks and Services

From Yvonne Choong <ychoong@cahf.org>

Date Thu 09/24/26 11:43 AM

To rcbinfo@DCA <rcbinfo@dca.ca.gov>

Cc Patti Owens <powens@cahf.org>; Cassie Dunham <cdunham@cahf.org>; Molina, Christine@DCA <Christine.Molina@dca.ca.gov>; Pitt, Kathryn@DCA <Kathryn.Plitt@dca.ca.gov>

 1 attachment (426 KB)

CAHF Comments - 1399.361.pdf;

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Attached are comments from the California Association of Health Facilities on the proposed regulatory package from the Respiratory Care Board (RCB) to add Section 1399.361 - Home and Community-Based Respiratory Tasks and Services.

Please direct questions to Patti Owens at powens@cahf.org.

Yvonne Choong, MPP

(She/Her/Hers)

Vice President for Policy

ychoong@cahf.org

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September 24, 2026

Ricardo Guzman, MA, RRT, RCP
President
Respiratory Care Board of California
3750 Rosin Court, Suite 100
Sacramento, CA 95834

Submitted via email to the Respiratory Care Board at rcbinfo@dca.ca.gov

**Re: 16 CCR 1399.365 Basic Respiratory Tasks and Services
16 CCR 1399.361 Home and Community-Based Respiratory Tasks and Services**

Dear President Guzman and Members of the Respiratory Care Board:

LeadingAge California thanks you for the opportunity to provide comments on the Respiratory Care Board's (RCB) proposal to make permanent the amendment to Section 1399.365 of Title 16 of California Code of Regulations, and the proposal to add Section 1399.361 of Division 13.6 of Title 16 of the California Code of Regulations.

LeadingAge California is the state's leading advocate for quality, nonprofit senior living, and care. Our more than 800 members across the state include providers of affordable senior housing, residential care facilities for the elderly (assisted living), life plan communities, skilled nursing care, home and community-based services, home health and hospice care.

We appreciate the efforts of the RCB and the Legislature to address the patient care, workforce, and implementation challenges associated with Section 1399.365 through the enactment of SB 1304 (Wahab) and subsequent guidance issued by the RCB. While these actions have provided increased clarity, we believe additional alignment is needed to create a clear and consistent regulatory framework that supports providers and ensures older adults have timely access to high-quality respiratory care services across all care settings. Additionally, we remain significantly concerned that the current scope of practice for licensed vocational nurses (LVNs) is not applied consistently across all settings.

Proposed Amendments to Section 1399.365

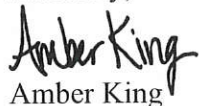
LeadingAge California is concerned that the language included in Section 1399.365 will create confusion for providers and licensees seeking to determine which respiratory care services may be performed by LVNs in various care settings. As currently drafted, Section 1399.365 references Business and Professions Code section 3765 to define exempt settings; however, it does not take into consideration amendments made through Senate Bill 1304. This regulation will not align with statute as of January 1, 2027. LeadingAge California recommends that the RCB update these regulations to accurately reflect the changes enacted through SB 1304 to ensure clarity for LVNs and providers.

Proposed Addition of Section 1399.361

LeadingAge California supports the proposed clarification of respiratory care services that LVNs may perform in exempt settings and generally agrees that the services identified in proposed Section 1399.361 reflect an appropriate LVN scope of practice. However, because SB 1304 establishes additional statutory authority for certain respiratory care services, including specific suctioning tasks that may be performed by LVNs across care settings, finalizing these regulations before they are aligned with the new statutory framework risks creating further confusion for providers and licensees. LeadingAge California encourages the RCB to delay final adoption of this amendment until the language is updated to fully incorporate and align with the changes enacted through SB 1304.

Given the significant impact these regulations have on providers and the individuals they serve, LeadingAge California respectfully requests that the RCB delay the adoption of these regulations until further clarification can be provided. We appreciate the opportunity to provide comments on this important issue. If you have any questions, please do not hesitate to contact me at aking@leadingageca.org.

Sincerely,

A handwritten signature in black ink that reads "Amber King". The signature is written in a cursive, flowing style.

Amber King
Vice President, Legislative Affairs

Proposed Regulations Comments

From Amber King <aking@leadingageca.org>

Date Thu 09/24/26 12:44 PM

To rcbinfo@DCA <rcbinfo@dca.ca.gov>

 1 attachment (239 KB)

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Good afternoon,

Please find LeadingAge California's comments on the following proposed Respiratory Care Board regulations:

16 CCR 1399.365 Basic Respiratory Tasks and Services

16 CCR 1399.361 Home and Community-Based Respiratory Tasks and Services

Thank you,

Amber King

Amber King | Vice President, Legislative Affairs | LeadingAge California | P [\(916\) 469-3376](tel:(916)469-3376) | C [\(916\) 801-5207](tel:(916)801-5207)

1315 I Street, Suite 100, Sacramento, CA 95814 | leadingageca.org | aking@leadingageca.org





Outlook

Public comment for proposed §§1399.361 and 1399.365

From Rose Fejerang <rosefejerang@gmail.com>

Date Mon 09/28/26 7:37 AM

To rcbinfo@DCA <rcbinfo@dca.ca.gov>

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Dear Respiratory Care Board,

I am writing to submit comments regarding proposed sections 1399.361 and 1399.365 prior to the close of the public-comment period today, September 28.

Please consider the following requests for clarification and revision:

- Alignment with Recent Legislation: Explain how the proposed regulations will be revised to align with newly enacted SB 1304.
- Scope of Application: State clearly which provisions apply—and which do not apply—to Skilled Nursing Facilities (SNFs) and subacute ventilator units.
- Definition of Terms: Define the distinction between limited tracheostomy-tube suctioning and deep suctioning.
- Training Standards: Require documented trainer qualifications, return demonstration, and competency validation.
- Escalation Protocols: Clarify escalation requirements when a Licensed Vocational Nurse (LVN) encounters an alarm, secretion problem, desaturation, or suspected ventilator malfunction.

Thank you for your consideration. I look forward to your response regarding next steps.

Sincerely,

Rosemarie Fejerang MS, RCP, RRT, RRT-AE-C
California Licensed Respiratory Care Practitioner #25456



September 28, 2026

Kathryn Pitt, Associate Governmental Program Analyst
Respiratory Care Board
3750 Rosin Court, Suite 100
Sacramento, CA 95834
Via email to rcbinfo@dca.ca.gov

Dear Ms. Pitt,

Thank you for the opportunity to comment on the updated regulations regarding **Home and Community-based Respiratory Tasks and Services (Add section 1399.361 to Title 16)** and **Basic Respiratory Tasks and Services (Amend section 1399.365 of Title 16)**. This public comment is provided on behalf of the undersigned organizations in response to both regulations packages.

Senate Bill 1304 (Wahab), which was signed by the Governor this week, creates substantive amendments to Business and Professions Code Section 3765, including renumbering the paragraphs and subdivisions. As of January 1, 2027, subdivisions (i) and (j) will no longer be operative.

In order to align with the newly renumbered statute, we respectfully recommend that references to subdivisions (i) and (j) be struck and instead reference paragraphs (9) and (10) of subdivision (a), which now incorporate the various exempted settings. The inclusion of (a)(10) (previously subdivision (l)) is necessary to avoid conflicts with the authority granted in Education Code 49423.5 to licensed vocational nurses under the supervision of a credentialed school nurse.

Draft language is included below for your review. Thank you for your attention to this matter.

Sincerely,

Anna Ioakimedes
Legislative Advocate
Los Angeles Unified School District

Katie Nilsson
President
California School Nurses Organization



Kordell Hampton
Legislative Advocate
Association of California School
Administrators



Dr. Amber Gallagher
Chair
SELPA Administrators of California



Lucy Salcido Carter
Director of Policy and Governance
Alameda County Office of Education



Leticia Garcia
Chief Governmental Relations Officer
Office of the Riverside County Superintendent
of Schools



Jessica Simpson
Chief of Staff and Strategic Initiatives
Santa Clara County Office of Education

Proposed Language

§ 1399.361. Exemption for Licensed Vocational Nurses to Perform Specified Respiratory Care Tasks and Services

(a) For the purposes of ~~subdivisions (i) and (j)~~ *paragraphs (9) and (10) of subdivision (a)* of section 3765 of the Business and Professions Code, a licensed vocational nurse may perform the following respiratory care tasks and services:...

§ 1399.365. Basic Respiratory Tasks and Services.

(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.~~ *in paragraphs (9) and (10) of subdivision (a) of section 3765 of the B&P.*

Public Comment: Add Section 1399.361 and Amend Section 1399.365

From Ioakimedes, Anna <anna.ioakimedes@lausd.net>

Date Mon 09/28/26 9:35 AM

To rcbinfo@DCA <rcbinfo@dca.ca.gov>

 1 attachment (1 MB)

RCB Public Comment_Education.pdf;

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September 28, 2026

Kathryn Pitt, Associate Governmental Program Analyst
Respiratory Care Board
3750 Rosin Court, Suite 100
Sacramento, CA 95834
Via email to rcbinfo@dca.ca.gov

Dear Ms. Pitt,

Thank you for the opportunity to comment on the updated regulations regarding **Home and Community-based Respiratory Tasks and Services (Add section 1399.361 to Title 16)** and **Basic Respiratory Tasks and Services (Amend section 1399.365 of Title 16)**. This public comment is provided on behalf of the undersigned organizations in response to both regulations packages.

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Anna Ioakimedes
Legislative Advocate
Los Angeles Unified School District



Katie Nilsson
President
California School Nurses Organization



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Legislative Advocate
Association of California School
Administrators



Dr. Amber Gallagher
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Superintendent
of Schools



Jessica Simpson
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Santa Clara County Office of Education

Proposed Language

§ 1399.361. Exemption for Licensed Vocational Nurses to Perform Specified Respiratory Care Tasks and Services

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(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.~~ *in paragraphs (9) and (10) of subdivision (a) of section 3765 of the B&P.*

Anna Ioakimedes, MPP

Legislative Advocate

Los Angeles Unified School District

[*anna.ioakimedes@lausd.net*](mailto:anna.ioakimedes@lausd.net)

(916) 443-4405



PUBLIC COMMENT — 16 CCR §§ 1399.361 and 1399.365 — September 28, 2026 — Individual-Nurse Home Implementation

From Sara Granda <smgranda@gmail.com>

Date Mon 09/28/26 10:17 AM

To rcbinfo@DCA <rcbinfo@dca.ca.gov>

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Attention: Kathryn Pitt; Christine Molina, backup contact
Respiratory Care Board of California

Please accept this timely written public comment for both rulemakings noticed August 14, 2026:

- Proposed addition of 16 CCR § 1399.361 — Home and Community-Based Respiratory Tasks and Services.
- Proposed amendment of 16 CCR § 1399.365 — Basic Respiratory Tasks and Services, including subdivision (d).

Please place this submission in both rulemaking files and acknowledge receipt for each.

I am a California resident with high cervical spinal cord injury who depends on continuous ventilation and licensed skilled nursing in my home. I am also a health-law attorney and former medical social worker. My comment concerns how the proposed framework will function when nurses work individually in a residential home without a conventional home health agency employer and clinical hierarchy.

I support clear rules that preserve access to qualified nurses while protecting patients. The rules and implementation materials must help patients and licensees identify who performs the necessary assessment, training, competency validation, clinical direction, documentation, and escalation functions.

My own care illustrates why generic ventilator or tracheostomy experience is insufficient. I use a cuffless, fenestrated tracheostomy, speak while continuously ventilated, and have not required routine suctioning for more than 25 years. I teach licensed nurses the patient-specific history and routines unique to my care. That teaching does not make me the professional competency evaluator or clinical supervisor.

Please address the following numbered comments:

1. Applicability and transition — §§ 1399.361(a) and 1399.365(d).

2. Provide a clear method for determining which statutory exemption applies to a particular arrangement under Business and Professions Code § 3765(i) or (j). Address individual nurses, agency-employed nurses, and registry arrangements separately where their legal conditions differ. Identify the applicable operative dates and the framework governing practice during any transition. A residential address or payment authorization should not be treated as proof that every exemption condition has been satisfied.
3. Continuous ventilator dependence — § 1399.361(a)(1).
4. Clarify how the reconnection and transfer provisions apply to a patient who cannot breathe independently at any time. Implementation materials should expressly address continuity of ventilation during equipment transfers and failures, including the patient-specific preparation and demonstrated competency needed before an independent assignment.
5. Supervising provider and alarm escalation — § 1399.361(a)(2)(A)2.
6. The reference to a supervising provider needs an operational explanation for homes without an HHA hierarchy. Identify how that professional is designated, what availability is required, how the nurse reaches that person, and what the nurse must do when the designated professional is unavailable. Please coordinate with the relevant licensing boards where the answer involves their authority.
7. Individualized airway care — § 1399.361(a)(8) and (9).
8. Clarify how training and competency must account for the actual prescribed tracheostomy configuration and patient baseline. Generic instruction should not substitute for demonstrated competence with an unfamiliar airway configuration. Explain how prescribed options, clinical decisions reserved to other professionals, and escalation instructions should be documented and communicated.
9. Immediate response and emergency continuity — § 1399.361(a)(10).
10. Clarify the relationship between summoning emergency assistance and maintaining necessary patient-specific ventilation while assistance is arriving and during handoff. Calling 911 does not itself supply immediate bedside ventilation or ensure that responding personnel understand an unusual airway configuration. The framework should support an individualized response plan within each professional's lawful scope.
11. Competency records and instruction — § 1399.361(a)(13) and (14).
12. Identify who validates and documents patient-specific competency, who retains the record when no HHA employer exists, and how competency is reassessed after equipment or care-plan changes. Distinguish patient instruction about personal routines from professional validation that a nurse is ready for an independent assignment.
13. Workforce continuity and responsibility.
14. Address how a patient and prospective nurse can identify the required clinical support before a shift is accepted. A list of permitted tasks cannot by itself resolve an unassigned assessment, supervision, or escalation function. Please explain which responsibilities arise under the Board's rules, which arise under other authorities, and how questions crossing those boundaries will be coordinated.
15. Implementation burden and accessible guidance.

Please consider the time and cost imposed when patients must repeatedly interpret regulatory boundaries, train replacement nurses, locate professional oversight, and reconstruct competency records. I request a practical implementation checklist or comparable guidance identifying the applicable exemption, orders, patient-specific training, competency evaluator, clinical contact, documentation custodian, and backup escalation route.

Please address these comments through regulatory text where appropriate and through explanations or coordinated guidance where another authority governs. I am seeking a workable framework for safe community respiratory care, not a determination of any payer dispute or individual disciplinary matter.

For tracking and continued participation, please:

- Confirm the date of receipt and inclusion in each of the two rulemaking files.
- Provide any assigned rulemaking, notice-file, or public-comment tracking number for each proceeding.
- If individual comments do not receive numbers, confirm that this submission is indexed under Sara M. Granda, September 28, 2026, for both §§ 1399.361 and 1399.365.
- Add me to the notification list for modified text and further comment opportunities.
- Provide the Final Statement of Reasons when available, including the Board's responses to these numbered comments.

Please communicate by email in accessible text.

Respectfully,

Sara M. Granda, Esq., MSW
Davis, California
smgranda@gmail.com



September 28, 2026

Kathryn Pitt
Assistant Executive Officer
Respiratory Care Board of California
3750 Rosin Court, Suite 100
Sacramento, CA 95834

Submitted via email to the Respiratory Care Board at rcbinfo@dca.ca.gov

Subject: 16 CCR 1399.365 Basic Respiratory Tasks and Services and 16 CCR 1399.361 Home and Community-Based Respiratory Tasks and Services

Dear Ms. Pitt:

On behalf of nearly 400 hospitals and health systems, including numerous skilled-nursing facilities, subacute care units, and home health agencies, the California Hospital Association writes to provide comments on two proposed regulations:

- Amendments to Section 1399.365 of Title 16, California Code of Regulations (CCR)
- The addition of Section 1399.361 of Title 16, CCR

While these proposed regulations provide additional clarity on the scope of practice for licensed vocational nurses (LVNs), hospitals and other facilities continue to have significant concerns that setting-based scope of practice regulations will increase health care costs, impede patients' access to medically necessary care, and hamper patients' ability to receive care in the setting of their choice.

Proposed Amendments to Section 1399.365

Previously, the Respiratory Care Board of California (RCB) adopted an amendment to CCR, Title 16, Section 1399.365 as an emergency regulation to clarify the provisions of Business and Professions Code (BPC) 3765 (i), which provides for an exemption for respiratory care and services provided by LVNs employed by a home health agency licensed by the state department of public health, and (j) which identifies additional exempt settings. The proposed regulation would permanently adopt this emergency regulation.

CHA supports the permanent adoption of this regulation as a necessary step to ensure that patients served in these settings do not experience harmful interruptions of care. However, the RCB's recently passed sunset review legislation — Senate Bill (SB) 1304, Statutes of 2026 — added additional settings to the list of exempted settings, effective Jan. 1, 2027. At that time, the proposed amendments will no longer align with statute, adding to the confusion LVNs and other health care providers face in understanding the LVN scope of practice. The RCB should promptly revise regulations to reflect the statutory changes included in SB 1304.

Further, hospitals continue to have significant concerns with the setting-specific scope of practice regulatory framework. Providers at all levels of the care continuum, particularly skilled-nursing facilities and subacute care units, have historically employed LVNs to perform many of these functions. Limits to the ability of qualified LVNs to

perform respiratory tasks for which they are trained and experienced have forced significant staffing reconfigurations in these settings, requiring hospitals, skilled-nursing facilities, and subacute units to increase registered nurse or respiratory therapist staffing to cover routine procedures formerly provided by LVNs. With more responsibilities falling on higher-paid staff, health care costs have increased. At the same time, nationwide workforce shortages challenge the ability of facilities to hire new staff leading to increased overtime, a greater reliance on agency staffing, or reduction of services. These factors can impede patient access to medically necessary care in the setting of their choice.

Notably, SB 1304 requires LVNs, in all exempted settings, to complete patient-specific training provided by the employer before Jan. 1, 2028, and receive task-specific training on respiratory tasks and services from specified organizations on or after that date. CHA would support a regulatory framework that allows LVNs to perform respiratory tasks and services in **any** setting, conditioned on receiving the training specified in SB 1304.

Proposed Addition of Section 1399.361

The proposed regulation identifies the specific respiratory care tasks and services that LVNs may perform in the exempted settings referenced in section 1399.365. In general, the services listed in the proposed Section 1399.361 represent an appropriate scope of services for LVNs.

This regulation is intended to provide clarity about the tasks an LVN can and cannot perform in these settings. However, SB 1304 makes statutory changes — including a list of suctioning tasks that can be performed by LVNs in all settings — that will soon add to the confusion surrounding the LVN scope of practice if not aligned in regulation. The RCB should consider delaying the finalization of this proposed regulation until it can promulgate regulations that are inclusive of the framework established by SB 1304.

When the RCB promulgates regulations that recognize the suctioning provisions of SB 1304, the RCB should also consider providing clarification that LVNs in any setting may place a noninvasive oxygen delivery mask on a patient when directed by a physician or RN. Similar to the allowable suctioning tasks, use of an oxygen mask does not require any insertion of a device into the patient's airway.

CHA supports the RCB's goal of ensuring that only appropriately qualified personnel provide specialized patient care. In developing regulations that are applied to LVNs in certain home and community-based settings, the RCB acknowledges that LVNs can provide this care when they receive appropriate training and demonstrate competency. LVNs, with appropriate supervision and training, are an essential part of the care team, particularly in long-term care settings such as skilled-nursing facilities and hospital subacute care units. Allowing all members of the clinical team, including LVNs, to work within their full scope of practice is critical to our shared goal of meeting the full range of patients' health care needs.

Sincerely,
/s/
Megan Howard
Vice President, Policy



Outlook

Submission: RCB Comment Letter from California Hospital Association

From Lisa Geraty <lgeraty@calhospital.org>
on behalf of
Megan Howard <mhoward@calhospital.org>
Date Mon 09/28/26 10:43 AM
To rcbinfo@DCA <rcbinfo@dca.ca.gov>

 1 attachment (86 KB)

CHA Comment Letter 16 CCR 1399.365 and 16 CCR 1399.361_Final.pdf;

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Hello,

Please find attached the California Hospital Association letter regarding 16 CCR 1399.365 Basic Respiratory Tasks and Services and 16 CCR 1399.361 Home and Community-Based Respiratory Tasks and Services. I can be reached via my contact information below as needed.

Thank you,

Megan Howard
Vice President, Policy
California Hospital Association
mhoward@calhospital.org
Cell: 530-680-8883
Office: 202-488-3742



Pediatric Day Health Care Coalition

September 28, 2026

Christine Molina, Executive Officer
Respiratory Care Board of California
3700 Rosin Court, Suite 100
Sacramento, CA 95834

Re: Public Comment for Proposed Regulation Package to add Section 1399.361 of Article 6 of Division 13.6 of Title 16, California Code of Regulations related to Exemption for Licensed Vocational Nurses to Perform Specified Respiratory Care Tasks and Services:

Dear Ms. Molina and Members of the Board:

On behalf of the Pediatric Day Health Care Coalition [PDHCC], I would like to thank you for the opportunity to provide public comments on the proposed language to add new §1399.361.

We would like to go on record as supporting this regulations package to clarify those respiratory care and services that can and cannot be provided by LVNs if working in an exempt setting. The specific tasks and services included in this new section are consistent with those tasks stakeholders have previously-reviewed, and with which we are in agreement.

Thank you again for your courtesies and welcoming our participation in this process.

Sincerely,

Michael Lyman, President & CEO
Ridgeline Pediatrics and
PDHCC President
MLyman@ridgelinepediatrics.com

cc. Peter Kellison, Clear Advocacy
peter@clearadvocacy.com



Outlook

Public Comment on Regulations Package Adding 1399.361

From Brenda Klutz <Brenda@brklutzconsultingllc.com>

Date Mon 09/28/26 11:44 AM

To Molina, Christine@DCA <Christine.Molina@dca.ca.gov>; Pitt, Kathryn@DCA <Kathryn.Plitt@dca.ca.gov>

Cc Brenda Klutz <Brenda@brklutzconsultingllc.com>; mlyman@ridgelinepediatric.com
<mlyman@ridgelinepediatric.com>

 1 attachment (72 KB)

PDHCC Letter to RCB Support New 1299361 9-28-26.pdf;

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Good morning –

Sending the attached letter of support for the new regulations section 1299.361.

Thanks so much!

Brenda G. Klutz | B & R Klutz Consulting, LLC | C: 916.807.0652
9 Sand River Court, Sacramento, CA 95831 | Brenda@brklutzconsultingllc.com

September 28, 2026

Kathryn Pitt
Respiratory Care Board
3750 Rosin Court, Suite 100
Sacramento, CA 95834
Via Email: rcbinfo@dca.ca.gov

Re: Home and Community-Based Respiratory Tasks and Services

Dear Kathryn Pitt:

The California Assisted Living Association (CALA), representing Residential Care Facilities for the Elderly (RCFEs) and Continuing Care Retirement Communities (CCRCs) statewide, appreciates the Board's efforts to provide greater clarity and consistency regarding the respiratory care services LVNs may perform in home and community-based settings under Business and Professions Code section 3765.

Prior to the October 1, 2025 implementation of the Board's regulations defining basic respiratory care tasks, LVNs had safely and effectively assisted residents with CPAP and BiPAP systems and with oxygen in Assisted Living communities. Although RCFEs are not required to employ nurses, many do so to provide these essential services and medication administration, allowing residents to remain in less restrictive community-based settings rather than unnecessarily transitioning to skilled nursing facilities. The regulatory changes created access and continuity-of-care challenges for current and prospective residents unable to independently manage these systems.

CALA appreciates the Board's continued efforts to address concerns raised by affected Californians and preserve access to essential LVN-provided services. While we support the overall direction of the proposed regulations, we respectfully request additional flexibility for LVNs employed by co-located CCRCs operating both exempt and non-exempt settings, allowing them to provide care across the campus. We also request that § 1399.361(a) be revised to align with SB 1304.

Thank you for the opportunity to comment on these proposed regulations pertaining to **respiratory tasks and services** in home and community-based settings. If you have any questions, please contact me at selena@CAassistedliving.org.

Sincerely,



Selena Coppi-Hornback
Vice President of Regulatory Affairs

CALA Comments on the RCB Home and Community-Based Respiratory Tasks and Services

From Selena Coppi Hornback <selena@caassistedliving.org>

Date Mon 09/28/26 5:11 PM

To rcbinfo@DCA <rcbinfo@dca.ca.gov>

 1 attachment (113 KB)

CALA Comments_RCB Home and Community-Based Respiratory Tasks and Services- 9.28.26.pdf;

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Please find attached CALA's comments on the Respiratory Care Board's proposed regulations on Home and Community-Based Tasks and Services.

Selena Coppi Hornback
Vice President of Regulatory Affairs



California Assisted Living Association

455 Capitol Mall, Suite 520

Sacramento, CA 95814

(916) 448-1900

CAassistedliving.org

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Fall Conference | Palm Springs | November 1-3, 2027



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