

**State of California
Office of Administrative Law**

In re:
Respiratory Care Board

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections: 1399.365

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

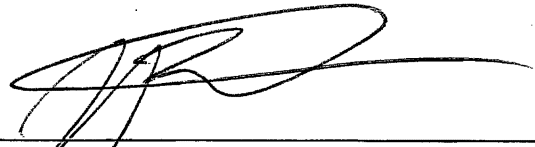
OAL Matter Number: 2025-0512-01

OAL Matter Type: Regular (S)

This regular rulemaking by the Department of Consumer Affairs' Respiratory Care Board proposes to adopt section 1399.365 within title 16 of the California Code of Regulations to implement Senate Bill 1436 (Chapter 624, Statutes of 2022) in part by identifying, through enumerated tasks, what is and is not meant by "basic respiratory tasks and services."

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 10/1/2025.

Date: June 5, 2025



Jason W. Falina
Attorney

For: Kenneth J. Pogue
Director

Original: Christine Molina, Executive
Officer

Copy: Stephanie Nunez

NOTICE PUBLICATION/REGULATIONS SUBMITTAL

STD. 400 (REV. 10/2019)

REGULAR

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z- 2024-0605-02	2025-0512-015	
For use by Office of Administrative Law (OAL) only			
OFFICE OF ADMINISTRATIVE LAW		OFFICE OF ADMIN. LAW	
Electronic Submission		2025 MAY 12 AM 11:51	
RECEIVED DATE	PUBLICATION DATE		
6/05/2023	6/21/2024		
NOTICE		REGULATIONS	

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

JUN 05 2025
1:47 PM AB

AGENCY WITH RULEMAKING AUTHORITY
Department of Consumer Affairs, Respiratory Care Board

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
Basic Respiratory Tasks and Services		16	1399.365	June 21, 2024
3. NOTICE TYPE		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
<input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		Stephanie Nunez	916.999.2212	
OAL USE ONLY	ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER	PUBLICATION DATE
	<input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		2024, 23-2	6/21/24

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
Basic Respiratory Tasks and Services			
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT		
	1399.365		
TITLE(S)	AMEND		
16	REPEAL		
3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))			
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____			
<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
October 15, 2024 - October 31, 2024			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal			
<input checked="" type="checkbox"/> Other (Specify) <u>Kimberly Kirchmeyer, Director, Department of Consumer Affairs</u>			
7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
Stephanie Nunez	916.999.2212		stephanie.nunez@dca.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Christine Molina

DATE

Mar 27, 2025

TYPED NAME AND TITLE OF SIGNATORY

Christine Molina, Executive Officer

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUN 05 2025

Office of Administrative Law

**California Code of Regulations
Title 16. Professional and Vocational Regulations
Division 13.6. Respiratory Care Board
Article 6. Scope of Practice**

ORDER OF ADOPTION

Adopt section 1399.365 as follows:

1399.365. Basic Respiratory Tasks and Services.

(a) For purposes of this section, "assessment" means making an analysis or judgment and making recommendations concerning the management, diagnosis, treatment, or care of a patient or as a means to perform any task in regard to the care of a patient. Assessment as used in this section is beyond documenting observations, and gathering and reporting data to a licensed respiratory care practitioner, registered nurse, or physician.

(b) For purposes of subdivision (a) of section 3702.5 of the B&P, basic respiratory tasks and services do not require a respiratory assessment and include the following:

- (1) Patient data collection.
- (2) Application and monitoring of a pulse oximeter.
- (3) Medication administration by aerosol that does not require manipulation of an invasive or non-invasive mechanical ventilator.
- (4) Heat moisture exchanger (HME) and oxygen tank replacement for patients who are using non-invasive mechanical ventilation.
- (5) Hygiene care including replacement of tracheostomy ties and gauze and cleaning of the stoma sites.
- (6) Use of a manual resuscitation device and other cardio-pulmonary resuscitation technical skills (basic life support level) in the event of an emergency.
- (7) Documentation of care provided, which includes data retrieved from performing a breath count or transcribing data from an invasive or non-invasive ventilator interface.
- (8) Observing and gathering data from chest auscultation, palpation, and percussion.

(c) For purposes of subdivision (a) of section 3702.5 of the B&P, basic respiratory tasks and services do not include the following:

- (1) Manipulation of an invasive or non-invasive ventilator.

(2) Assessment or evaluation of observed and gathered data from chest auscultation, palpation, and percussion.

(3) Pre-treatment or post-treatment assessment.

(4) Use of medical gas mixtures other than oxygen.

(5) Preoxygenation, or endotracheal or nasal suctioning.

(6) Initial setup, change out, or replacement of a breathing circuit or adjustment of oxygen liter flow or oxygen concentration.

(7) Tracheal suctioning, cuff inflation/deflation, use or removal of an external speaking valve, or removal and replacement of the tracheostomy tube or inner cannula.

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