

CHAPTER 44F**STATE BOARD OF RESPIRATORY CARE****Authority**

N.J.S.A. 45:14E-7, 45:14E-9, 45:14E-10 and 45:14E-14.

Source and Effective Date

R.1997 d.260, effective May 23, 1997.
See: 29 N.J.R. 1253(b), 29 N.J.R. 2665(b).

Executive Order No. 66(1978) Expiration Date

Chapter 44F, State Board of Respiratory Care, expires on May 23, 2002.

Chapter Historical Note

Chapter 44F, State Board of Respiratory Care, consisting of Subchapter 8, Fees, was adopted as R.1992 d.248, effective June 15, 1992. See: 24 N.J.R. 52(a), 24 N.J.R. 2285(b). Subchapter 1, Purpose and Scope; Definitions; Subchapter 2, Agency Organization; Subchapter 3, Authorized Practice; Subchapter 4, Applicant Qualifications; Board-Approved Examination; Subchapter 5, Temporary Licensure; Subchapter 6, Licensure by Endorsement; Subchapter 7, License Renewals; and Subchapter 9, Unlicensed Practice, were adopted and Subchapter 8, Fees, was renamed General Provisions, by R.1993 d.7, effective January 4, 1993. See: 24 N.J.R. 2336(a), 25 N.J.R. 185(a).

Pursuant to Executive Order No. 66(1978), Chapter 44F, State Board of Respiratory Care, was readopted as R.1997 d.260, effective May 23, 1997. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. PURPOSE AND SCOPE;
DEFINITIONS****13:44F-1.1 Purpose and scope**

(a) This chapter, as effective January 4, 1993, is promulgated by the Director of the Division of Consumer Affairs. The rules contained in this chapter implement the provisions of the Respiratory Care Practitioner Licensing Act, P.L. 1991, c.31, and regulate the practice of respiratory care within the State of New Jersey.

(b) This chapter shall apply to all individuals who render respiratory care, as hereinafter defined, under the direction or supervision of a plenary licensed physician and to anyone within the jurisdiction of the Board of Respiratory Care.

(c) This chapter shall not apply to persons and health care providers licensed by appropriate agencies of the State of New Jersey, provided such duties are consistent with the accepted standards of the member's profession and the member does not present himself or herself as a respiratory care practitioner.

13:44F-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Board" means the State Board of Respiratory Care.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Respiratory care" means the health specialty involving the treatment, management, control, and care of patients with deficiencies and abnormalities of the cardio-respiratory system, as further defined in N.J.S.A. 45:14E-3(c).

"Trainee" means a student enrolled in a Board-approved respiratory care training program.

Amended by R.1997 d.260, effective June 16, 1997.
See: 29 N.J.R. 1253(b), 29 N.J.R. 2665(b).
Added "Trainee".

SUBCHAPTER 2. AGENCY ORGANIZATION AND ADMINISTRATION

13:44F-2.1 Description of Board

The State Board of Respiratory Care, created in the Division of Consumer Affairs of the Department of Law and Public Safety pursuant to P.L. 1991, c.31, shall consist of 11 members appointed by the Governor. Six board members shall be licensed respiratory care practitioners who have been actively engaged in the practice of respiratory care in this State for at least five years immediately preceding their appointment; one board member shall be an administrator of a hospital licensed pursuant to P.L. 1971, c.136; one board member shall be a physician licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes; two board members shall be public members; and one board member shall be a State executive department member appointed pursuant to P.L. 1971, c.60.

13:44F-2.2 Office location

The offices of the Board are located at 124 Halsey Street, Newark, New Jersey 07102.

13:44F-2.3 Meetings of the Board

The Board shall meet twice per year and may hold additional meetings as necessary to discharge its duties.

13:44F-2.4 Election of officers

The Board shall annually elect from among its members a chairman and a vice-chairman.

13:44F-2.5 Notification of change of address

A licensee of the State Board of Respiratory Care shall notify the Board in writing of any change of address from that which the Board maintains in its records and which the licensee's current license displays. The licensee shall forward the notice to the Board by certified mail, return receipt requested, no later than 30 days following the change of address.

New Rule, R.1997 d.260, effective June 16, 1997.
See: 29 N.J.R. 1253(b), 29 N.J.R. 2665(b).

13:44F-2.6 Change of name

(a) Any licensee whose name has been legally changed shall forward to the Board by certified mail, return receipt requested, no later than 30 days following the change of name the following:

1. Legal evidence of such change;
2. A copy of the licensee's original license with satisfactory evidence that the licensee is the same person to whom the Board issued the license; and
3. The appropriate duplicate license fee as set forth in N.J.A.C. 13:44F-8.1.

(b) Upon receipt of the items set forth in (a) above, the Board shall issue a new license to the licensee.

(c) Upon receipt of the new license as set forth in (b) above, the licensee shall remit the original license to the Board.

New Rule, R.1997 d.260, effective June 16, 1997.
See: 29 N.J.R. 1253(b), 29 N.J.R. 2665(b).

13:44F-2.7 Duplicate licenses

(a) Any licensee seeking a duplicate license shall forward to the Board the following:

1. A notarized statement that the license has been lost or destroyed; and
2. The appropriate duplicate license fee as set forth in N.J.A.C. 13:44F-8.1.

(b) Upon receipt of the items outlined in (a) above, the Board shall forward a duplicate license to the licensee.

New Rule, R.1997 d.260, effective June 16, 1997.
See: 29 N.J.R. 1253(b), 29 N.J.R. 2665(b).

SUBCHAPTER 3. AUTHORIZED PRACTICE

13:44F-3.1 Scope of practice

(a) For the purposes of treating, managing, controlling and caring for patients with deficiencies and abnormalities of the cardio-respiratory system, a respiratory care practitioner may perform the following duties under the direction or supervision of a physician:

1. Use of medical gases, air and oxygen-administering apparatus;
2. Use of environmental control systems;
3. Use of humidification and aerosols;
4. Administration of drugs and medications;

3. The passing score required in order to be licensed shall be the same as the passing score identified by the National Board for Respiratory Care or, if a substantially equivalent examination is used, the passing score is identified by the body administering that examination.

Amended by R.1997 d.260, effective June 16, 1997.

See: 29 N.J.R. 1253(b), 29 N.J.R. 2665(b).

Deleted (b), relating to non-Board exams taken prior to August 20, 1991.

13:44F-4.3 Refusal to issue, suspension or revocation of license

The Board may refuse to issue or may suspend or revoke any license issued by the Board, after an opportunity for a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., for any of the reasons set forth in N.J.S.A. 45:1-21.

SUBCHAPTER 5. TEMPORARY LICENSURE

13:44F-5.1 Temporary license

(a) Any person deemed eligible to sit for the licensure examination by virtue of completion of an accredited training program may apply for the issuance of a temporary license which is effective for no more than six months.

(b) All temporary license holders under this section shall be required to work under the direct supervision of a physician or licensed respiratory care practitioner. For purposes of this section, "direct supervision" means continuous on-site presence of a supervising licensed respiratory care practitioner or supervising physician either of whom is constantly accessible through electronic communication and available to render immediate physical assistance as required.

(c) The temporary license holder shall advise the Board, in writing, of the name and permanent license number of the licensee(s) under whose direct supervision the temporary licensee is or will be working. The temporary licensee shall keep the Board advised, in writing, of any subsequent change in supervising licensee(s).

(d) Except in the case of undue hardship, as determined by the Board, the holder of a temporary license shall be required to take the next scheduled examination. The temporary licensee shall submit a request to the National Board for Respiratory Care to inform the Board of the temporary licensee's test results. The temporary license shall automatically expire 45 days subsequent to the next examination following issuance of the candidate's temporary license, except that if the candidate fails the examination, the provisions of (d)2 and 3 below shall apply.

1. If a temporary licensee passes the examination and intends to practice respiratory care in the State of New Jersey, he or she shall immediately apply for permanent licensure in the State of New Jersey by submitting a completed application to the Board together with the appropriate initial license fee as set forth in N.J.A.C. 13:44F-8.1 no later than 10 days following the temporary licensee's receipt of test results.

2. If a temporary licensee fails the examination for the first time, the temporary license shall automatically expire upon notification to the temporary licensee of the test results by the National Board for Respiratory Care. The temporary licensee may reapply for the next examination, and if he or she intends to continue the practice of respiratory care, he or she shall, within 10 days of the issuance of test results:

i. Apply to the Board for a one-time temporary license renewal; and

ii. Forward to the Board the temporary license renewal fee as set forth in N.J.A.C. 13:44F-8.1.

3. If a temporary licensee fails the examination for the second time, the temporary license shall expire automatically upon notification to the temporary licensee of the test results by the National Board for Respiratory Care, and he or she shall surrender the license to the Board.

(e) Except in the case of undue hardship, as determined by the Board, if the temporary license holder fails to appear on the scheduled date of the second examination, the temporary license shall automatically expire.

Amended by R.1997 d.260, effective June 16, 1997.

See: 29 N.J.R. 1253(b), 29 N.J.R. 2665(b).

In (a), added "which is effective for no more than six months"; in (b), inserted reference to physician supervision and inserted "immediate" preceding "physical assistance"; substantially amended (d); deleted (e) and (g), relating to renewals and expirations of temporary licenses, respectively; and recodified former (f) as (e).

13:44F-5.2 (Reserved)

Repealed by R.1997 d.260, effective June 16, 1997.

See: 29 N.J.R. 1253(b), 29 N.J.R. 2665(b).

Section was "Temporary licensure of individuals practicing respiratory care as of August 20, 1991".

SUBCHAPTER 6. LICENSURE BY ENDORSEMENT

13:44F-6.1 Eligibility for licensure by endorsement

(a) An applicant possessing a valid license issued by another state or possession of the United States or the District of Columbia shall be issued a license to practice respiratory care in New Jersey provided that:

1. The requirements for licensure in that state or possession of the United States or the District of Columbia are substantially equivalent to the requirements of this chapter; and

2. The applicant has not previously failed the Board-approved examination.

(b) Nothing herein shall preclude the Board, in its discretion, from deeming an applicant who possesses a license issued by another jurisdiction but who has failed the examination to be eligible for licensure.

13:44F-6.2 Application requirements for licensure by endorsement

(a) An applicant seeking licensure by endorsement shall submit the following to the Board:

1. An application form together with the required fee;
2. Proof satisfactory to the Board that the applicant is currently licensed in another state or possession of the United States or the District of Columbia and that the license is in good standing; and
3. An affidavit that the applicant has not failed the Board-approved examination.

SUBCHAPTER 7. LICENSE RENEWALS

13:44F-7.1 Biennial license renewal

(a) Prior to the expiration of the current biennial license period, the licensee shall submit an application for license renewal together with the biennial license renewal fee.

(b) If the licensee fails to renew his or her license on or before the date specified in the license renewal notice, the license shall automatically expire.

13:44F-7.2 Reinstatement

(a) If a license expires due to nonpayment of the biennial renewal fee, it may be reinstated within two years upon application to the Board and payment of the current and any past due biennial renewal fee together with the pertinent late fee or reinstatement fee as set forth in N.J.A.C. 13:44F-8.

(b) The Board will not renew a license if the renewal application is submitted to the Board more than two years after the date of license expiration. In such event, the individual shall be required to apply for an initial license and to take the next scheduled examination.

SUBCHAPTER 8. GENERAL PROVISIONS

13:44F-8.1 Fees

(a) State Board of Respiratory Care charges for licensure and other services as follows:

1. Application fee	\$125.00
2. Initial license fee	
i. During the first year of a biennial renewal period	160.00
ii. During the second year of a biennial renewal period	80.00
3. License renewal fee, biennial	160.00
4. Late renewal fee (within 30 days)	100.00
5. Duplicate license fee	50.00
6. Six-month temporary license	40.00
i. Temporary license renewal	40.00
7. Temporary visiting license	80.00
i. Temporary visiting license renewal	80.00
8. Reinstatement fee (after 60 days)	175.00
9. Duplicate wall certificate	50.00
10. Verification of licensure	25.00

Amended by R.1996 d.111, effective February 20, 1996.

See: 27 N.J.R. 4497(a), 28 N.J.R. 1221(b).

Decreased fees and eliminated the fee for 18 month temporary licenses.

13:44F-8.2 Patient records

(a) Respiratory care practitioners shall prepare contemporaneous, permanent treatment records. Every patient record shall be kept for at least seven years from the date of the most recent entry, except that if a patient is a minor, the records shall be kept for an additional two years beyond the age of 18. Such records shall include:

1. The dates and times of all treatments including adverse effects, if any;
2. Findings of patient assessment;
3. A patient care plan which includes treatment goals;
4. The chief complaint and diagnosis;
5. Progress notes;
6. Written prescription for care or a care plan signed by a physician, or a verbal order or prescription memorialized by the prescriber in writing pursuant to the provisions of N.J.A.C. 13:44F-3.1(b)3. The licensee shall document verbal prescriptions in the patient record contemporaneously with administration of treatment;
7. Results of appropriate tests;
8. In an outpatient setting, a discharge summary which includes the outcome of respiratory care treatment and the status of the patient at the time of discharge; and
9. The signature or initials of the licensee who rendered the care. If the licensee chooses to sign by means of initials, his or her complete signature must appear at least once in the records.

(b) Respiratory care practitioners shall document any addenda or corrections to a patient's medical record in a separately dated, signed and timed note.

(c) In addition to the requirements of (a) above, a licensee employed in a setting regulated by the Department of Health and Senior Services shall comply with all applicable Department of Health and Senior Services rules.

(d) In an outpatient setting, access to patient treatment records by patients or duly authorized representatives shall be in accordance with the following:

1. Reports of all care and/or tests performed by respiratory care practitioners shall be provided no later than 30 days from the receipt of a written request from the patient or authorized representative. To the extent that the record is illegible or prepared in a language other than English, the licensee shall provide a typed transcription and/or translation at no cost to the patient.

2. Except where the complete record is required by applicable law, the licensee may elect to provide a summary of the record, as long as that summary adequately reflects the patient's history and treatment, where the written request comes from an insurance carrier or its agent with whom the patient has a contract which provides that the carrier be given access to records to assess a claim for monetary benefits or reimbursement.

3. A licensee shall provide copies of records in a timely manner to a patient or another designated health care provider where the patient's continued care is contingent upon their receipt. The licensee shall not refuse to provide a patient record on the grounds that the patient owes an unpaid balance if the record is needed by another health care professional for the purpose of rendering care.

4. The licensee may charge a reasonable fee for the reproduction of records, which shall be no greater than an amount reasonably calculated to recoup the cost of copying or transcription.

Amended by R.1997 d.260, effective June 16, 1997.
See: 29 N.J.R. 1253(b), 29 N.J.R. 2665(b).

In (a), provided additional requirements for maintaining records of minors; inserted new (b); and recodified former (b) and (c) as (c) and (d).

SUBCHAPTER 9. UNLICENSED PRACTICE

13:44F-9.1 Acts amounting to unlicensed practice

(a) The following acts or practices shall be deemed to be the unlicensed practice of respiratory care:

1. Offering or performance of any respiratory care services by any person other than a licensed respiratory care practitioner, an M.D., a D.O., or by any other health care provider not exempt from the provisions of this chapter pursuant to N.J.S.A. 45:14E-9(c);

2. The use of the words respiratory care, respiratory therapy or other such similar words or their related abbreviations in connection with the offering of measures or services which are utilized in the rendition of respiratory care by any person who does not hold a license to render respiratory care services or is not otherwise exempt from the licensure requirement;

3. The use of the designation respiratory care practitioner, respiratory therapist, or other such similar terms and their related abbreviations in connection with the offering of measures or services which are utilized in the rendition of respiratory care by any person who does not hold a license to render respiratory care services or is not otherwise exempt from licensure; or

4. Billing any patient or third party payor for "respiratory care" or "respiratory therapy," in connection with the use of respiratory care agents, measures or services, if the individual providing the services does not hold a license to practice respiratory care, is not a licensed physician or is not otherwise exempt from the licensure requirement.

Amended by R.1997 d.260, effective June 16, 1997.
See: 29 N.J.R. 1253(b), 29 N.J.R. 2665(b).

In (a)1, inserted reference to performance of respiratory services; in (a)2, deleted reference to respiratory care practitioner and respiratory therapist and substituted "to render respiratory . . . from the licensure requirements;" for "as a respiratory care practitioner, an M.D. or a D.O. or"; inserted new (a)3; recodified former (a)3 as (a)4; and in (a)4, added "or is otherwise exempt from the licensure requirement".

13:44F-9.2 Aiding and abetting unlicensed practice

It shall be unlawful for a licensee to aid or assist any person engaging in any of the practices identified at N.J.A.C. 13:44F-9.1.