

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

N.J.S.A. 45:1-15.1 and 45:14E-7.

Source and Effective Date

Effective: March 4, 2015.
See: 47 N.J.R. 727(b).

Chapter Expiration Date

Chapter 44F, State Board of Respiratory Care, expires on March 4, 2022.

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

Chapter 44F, State Board of Respiratory Care, was readopted as R.2002 d.398, effective November 14, 2002. As a part of R.2002 d.398, Subchapter 2, Agency Organization and Administration, was repealed, effective December 16, 2002. See: 34 N.J.R. 1625(a), 34 N.J.R. 4469(a).

Subchapter 10, Continuing Education, was adopted as new rules by R.2007 d.80, effective March 5, 2007. See: 38 N.J.R. 4633(a), 39 N.J.R. 784(b).

Chapter 44F, State Board of Respiratory Care, was readopted as R.2008 d.114, effective April 4, 2008. See: 39 N.J.R. 4543(a), 40 N.J.R. 2284(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 44F, State Board of Respiratory Care, was scheduled to expire on April 4, 2015. See: 43 N.J.R. 1203(a).

Chapter 44F, State Board of Respiratory Care, was readopted, effective March 4, 2015. See: Source and Effective Date.

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

(a) This chapter 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 defined in N.J.A.C. 13:44F-1.2, 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 ac-

cepted standards of the member's profession and the member does not present himself or herself as a respiratory care practitioner.

Amended by R.2002 d.398, effective December 16, 2002.
See: 34 N.J.R. 1625(a), 34 N.J.R. 4469(a).

In (a), deleted "as effective January 4, 1993" in the first sentence; in (b), deleted "hereinafter" preceding "defined" and inserted "in N.J.A.C. 13:44F-1.2" preceding "under the direction".

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, disease management, control, and care of patients with deficiencies and abnormalities of the cardiac and pulmonary system, as further defined in N.J.S.A. 45:14E-3(c).

"Trainee" means a student enrolled in a respiratory care training program accredited by the Committee on Accreditation for Respiratory Care (CoARC), or its successor.

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".

Amended by R.2002 d.398, effective December 16, 2002.
See: 34 N.J.R. 1625(a), 34 N.J.R. 4469(a).

Rewrote "Trainee".

Amended by R.2007 d.80, effective March 5, 2007.
See: 38 N.J.R. 4633(a), 39 N.J.R. 784(b).

In definition "Respiratory care", substituted "cardiopulmonary" for "cardio-respiratory".

Amended by R.2008 d.114, effective May 5, 2008.
See: 39 N.J.R. 4543(a), 40 N.J.R. 2284(a).

In definition "Respiratory care", inserted "disease" and substituted "cardiac and pulmonary" for "cardiopulmonary".

SUBCHAPTER 2. (RESERVED)

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 cardiac and pulmonary 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;
5. Use of apparatus for cardiopulmonary support and control;
6. Bronchial hygiene techniques such as:
 - i. Postural drainage;
 - ii. Chest percussion; and
 - iii. Vibration;
7. Breathing exercises;
8. Cardio and/or pulmonary rehabilitation;
9. Performance of cardio-pulmonary resuscitation;
10. Maintenance of natural and mechanical airways;
11. Insertion and maintenance of artificial airways and insertion and maintenance of peripheral arterial and peripheral venous catheters;
12. Testing techniques to assist in diagnosis, monitoring, treatment and research including, but not limited to:
 - i. Measurement of cardiopulmonary volumes, pressure and flow; and
 - ii. Drawing and analyzing of samples of arterial, capillary and venous blood; and
13. Hyperbaric oxygenation.

(b) For purposes of this subchapter, "under the direction of a physician" means that respiratory care shall not be rendered unless one of the following conditions is met:

1. The licensee has obtained a written order or prescription from a plenary licensed physician or from such other health care practitioner authorized by law to prescribe or order respiratory care;
 2. The licensee has documented the physician's clearance for treatment of the patient, which may include the physician's countersigning of the respiratory care practitioner's proposed plan of treatment; or
 3. The licensee has received a verbal order or prescription, in person or by telephone. In an outpatient setting, the verbal order or prescription shall be memorialized by the prescriber in writing within two weeks. In an inpatient setting, the verbal order or prescription shall be memorialized by the prescriber within 24 hours.
- (c) In no case will physician direction be construed to have been provided on the basis of a patient's representation that he or she has obtained a physician's clearance.

(d) For the purposes of this subchapter, "under the supervision of a physician" means that respiratory care shall not be rendered unless a physician is constantly accessible, either on-site or through electronic communication, and available to render physical assistance when required.

Amended by R.2002 d.398, effective December 16, 2002.
See: 34 N.J.R. 1625(a), 34 N.J.R. 4469(a).

Rewrote (a).

Public Notice: Pulmonary function testing.

See: 35 N.J.R. 1740(b), 1963(a).

Public Notice: Polysomnographic Testing.

See: 35 N.J.R. 1963(a).

Amended by R.2008 d.114, effective May 5, 2008.

See: 39 N.J.R. 4543(a), 40 N.J.R. 2284(a).

In the introductory paragraph of (a), substituted "cardiac and pulmonary" for "cardio-respiratory"; in (a)5, substituted "cardiopulmonary" for "cardio-respiratory"; in (a)11, deleted the semicolon following "airways" and inserted "insertion and maintenance of peripheral arterial and peripheral venous catheters;"; in (a)12i, substituted "cardiopulmonary" for "cardio-respiratory" and inserted "and" at the end; and deleted (a)12iii.

13:44F-3.2 Practice by trainees

(a) A trainee may perform those duties essential for completion of his or her clinical service, without having to obtain a license, provided the duties are performed under the direction of a physician, as defined in N.J.A.C. 13:44F-3.1(b)1 and 2, and the supervision of a physician as defined in N.J.A.C. 13:44F-3.1(d), or under the direct supervision of a licensed respiratory care practitioner, as defined in N.J.A.C. 13:44F-5.1.

(b) The trainee shall, when performing duties pursuant to (a) above, wear a badge which identifies the person as a trainee. Additionally, the supervising licensee or physician shall inform the patient that the person rendering care is a trainee.

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), substituted "trainee" for "person enrolled in a Board-approved respiratory care training program" and amended N.J.A.C. references; and in (b), inserted reference to physician in second sentence.

13:44F-3.3 Delegation by a respiratory care practitioner to unlicensed persons

(a) For the purposes of this section, the following words shall have the following meanings unless the context clearly indicates otherwise and except as otherwise expressly provided:

"Assistant" means a respiratory assistant, respiratory aide, equipment technician or any other unlicensed person to whom a licensed respiratory care practitioner delegates tasks as set forth in (d) below.

"Inpatient setting" means residential care facilities, hospitals, subacute care facilities and skilled nursing care facilities.

"Outpatient setting" means assisted living facilities and home care.

(b) A licensed respiratory care practitioner may delegate the tasks set forth in (d) below to an individual employed as an assistant, provided the assistant has received a level of training necessary to ensure that the assistant can satisfactorily complete the outlined activities.

1. The licensed respiratory care practitioner shall ensure that training records are completed and kept in the assistant's file. The training records shall include the following:

- i. The dates upon which each training session occurred;
- ii. The length of each training session;
- iii. The topics addressed during each training session; and
- iv. Whether the assistant demonstrated satisfactory skill in each task.

2. The licensed respiratory care practitioner shall ensure that an assistant to whom the tasks set forth in (d) below are delegated is reevaluated on an annual basis to ensure continued competency to perform the outlined activities. Documentation related to such reevaluation shall be included in the assistant's file.

(c) A licensed respiratory care practitioner shall not authorize or permit an assistant to engage in direct patient care.

(d) Activities that a licensed respiratory care practitioner may delegate to assistants are limited to the following routine tasks:

1. In an in-patient and out-patient setting: disassembling, cleaning, disinfecting, sterilizing, assembling, and delivery of all respiratory equipment;

2. In an out-patient setting only: demonstrating basic respiratory, non-assisted ventilation and oxygen equipment. Demonstrating such equipment shall not include administration of medication, which would constitute direct patient care; and

3. In an in-patient and out-patient setting: maintaining and safe handling of oxygen and specialty gas cylinders and oxygen concentrators, including the performance of oxygen checks and charges.

(e) A licensed respiratory care practitioner shall be responsible for any activities which an assistant performs pursuant to (d) above.

(f) The licensed respiratory care practitioner who delegates tasks set forth in (d) above in an outpatient setting shall ensure that a follow-up visit from a licensee or a person exempt from respiratory care licensure pursuant to N.J.S.A. 45:14E-9(c) takes place within 24 hours of the delivery of the equipment to the patient for the purpose of conducting an in-person assessment of the equipment. The follow-up visit shall be documented in writing.

1. The documentation of the follow-up visit shall be maintained for all patients during the course of respiratory care, and for a period of one year following the termination of respiratory care services.

2. The documentation of the follow-up visit shall be available for the Board's inspection on the business premises of the licensee or person exempt from licensure who conducts the follow-up visit, within 12 business hours of the Board's request. For the purposes of this section, "business hours" is defined as the hours between 9:00 A.M. and 5:00 P.M. Monday through Friday.

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

Inserted new (a) and (c); recodified former (a) and (c) as (b) and (d); deleted former (b), relating to use of titles "respiratory aide" and "equipment technician"; in (b), deleted reference to respiratory aide and equipment technician, and added 5i and 5ii; and added (e) through (g).

Amended by R.1998 d.384, effective August 3, 1998.

See: 29 N.J.R. 4656(a), 30 N.J.R. 2929(a).

In (g)lii, substituted a reference to business hours for a reference to hours in the first sentence, and added a second sentence.

Amended by R.2002 d.398, effective December 16, 2002.

See: 34 N.J.R. 1625(a), 34 N.J.R. 4469(a).

In (g), inserted "respiratory care" preceding "licensure", inserted "pursuant to N.J.S.A. 45:14E-9(c)" preceding "takes place", recodified i. and ii. as 1 and 2, inserting "of the follow up visit" following "documentation".

Amended by R.2008 d.114, effective May 5, 2008.

See: 39 N.J.R. 4543(a), 40 N.J.R. 2284(a).

In (a), in definition "Assistant", substituted "(d)" for "(b)"; deleted former (b); recodified former (c) as (b); rewrote the introductory paragraph of (b); in the introductory paragraph of (b)1, substituted "assistant's" for "employee's"; in (b)liv, substituted "assistant" for "employee"; added (b)2; recodified former (d) as (c); in (c), substituted "assistant" for "unlicensed person"; added new (d); in (e), substituted "(d)" for "(b)"; deleted former (f); recodified former (g) as (f); and in the introductory paragraph of (f), substituted "(d)" for "(b)".

Amended by R.2015 d.040, effective March 16, 2015.

See: 46 N.J.R. 1548(a), 47 N.J.R. 658(a).

Rewrote (d).

SUBCHAPTER 4. APPLICANT QUALIFICATIONS; BOARD-APPROVED EXAMINATION

13:44F-4.1 Eligibility for licensure

(a) Applications for licensure may be obtained from the office of the Board of Respiratory Care.

(b) An applicant shall submit, with the completed application form and the required fee, satisfactory proof that the applicant:

1. Has a high school diploma or its educational equivalent;

2. Has successfully completed a training program accredited by the Committee on Accreditation for Respiratory Care (CoARC) or its successor;

i. If an applicant for licensure is applying more than three years following completion of the training program, the applicant shall submit proof of having completed a refresher course approved by the Board. The refresher course shall not be required if the applicant submits proof that he or she has been engaged in the

practice of respiratory care in another state or jurisdiction since the completion of the training program; and

3. Has passed the examination specified in N.J.A.C. 13:44F-4.2 within the five years preceding the date of application for licensure.

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

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

In (b)1, added "as approved by the Board:"; and in (b)3, deleted examination exception for persons pursuing licensure under N.J.A.C. 13:44F-5.

Amended by R.2002 d.398, effective December 16, 2002.

See: 34 N.J.R. 1625(a), 34 N.J.R. 4469(a).

In (b), rewrote 1 and 2.

Amended by R.2007 d.80, effective March 5, 2007.

See: 38 N.J.R. 4633(a), 39 N.J.R. 784(b).

In (b)3, inserted "within the five years preceding the date of application for licensure".

Amended by R.2008 d.114, effective May 5, 2008.

See: 39 N.J.R. 4543(a), 40 N.J.R. 2284(a).

In introductory paragraph of (b)2, deleted "and" from the end; and added (b)2i.

13:44F-4.2 Nature of examination; passing grade

(a) The respiratory care examination shall be the National Board for Respiratory Care Entry Level Examination.

1. Applications for examination should be obtained from the National Board for Respiratory Care. Examinations may be taken at such times and places designated by the National Board for Respiratory Care.

2. The passing score required in order to be licensed shall be the passing score identified by the National Board for Respiratory Care.

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.

Amended by R.2002 d.398, effective December 16, 2002.

See: 34 N.J.R. 1625(a), 34 N.J.R. 4469(a).

Rewrote (a).

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) The holder of a temporary license shall take the examination administered by the National Board of Respiratory

Care or its successor organization within six months of issuance of the temporary license unless the temporary license holder can demonstrate undue hardship to the Board. The temporary licensee shall submit a request to the National Board of Respiratory Care to inform the Board of the temporary licensee's test results. The temporary license shall expire six months from the date of issuance.

1. Upon notification that he or she has passed the examination, the temporary licensee shall submit the initial license fee as set forth in N.J.A.C. 13:44-8.1 within 10 days if the temporary licensee intends to practice respiratory care in the State of New Jersey.

2. Upon expiration of the temporary license, the temporary license shall be surrendered to the Board.