

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

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

Source and Effective Date

R.2008 d.114, effective April 4, 2008.
See: 39 N.J.R. 4543(a), 40 N.J.R. 2284(a).

Chapter Expiration Date

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

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 As a part of R.2002 d.398, Subchapter 2, Agency Organization and Administration, was repealed, effective December 16, 2002.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: 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 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 accepted 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.

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

13:44F-8.7 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.2002 d.398, effective December 16, 2002.
See: 34 N.J.R. 1625(a), 34 N.J.R. 4469(a).

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

(a) 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.

(b) A licensee who supervises or manages the provision of services by licensed respiratory care practitioners shall ensure that all persons providing such services hold a valid, current license issued by the Board. Failure on the part of a licensee to ensure that a respiratory care practitioner working under his or her supervisory or management capacity holds a valid, current license to practice respiratory care shall be considered the aiding and abetting of unlicensed respiratory care practice.

Amended by R.2008 d.114, effective May 5, 2008.
See: 39 N.J.R. 4543(a), 40 N.J.R. 2284(a).
Inserted designation (a); and added (b).

SUBCHAPTER 10. CONTINUING EDUCATION

13:44F-10.1 Continuing education requirements for biennial renewal

(a) A licensee applying for biennial license renewal shall complete, during the preceding biennial period, 30 continuing education (CE) credits as specified in (c) below. Applicants for initial licensure are exempt from the continuing education requirements of this section for the initial biennial period of licensure.

1. A licensee shall be required to complete 15 CE credits, 10 CE credits in respiratory care clinical practices and five CE credits in any health care related field, for the biennial renewal period beginning on April 1, 2006, if this section becomes effective on or before April 1, 2007.

2. A licensee shall be exempt from the CE requirements for the biennial renewal period beginning on April 1, 2006, if this section becomes effective after April 1, 2007.

(b) Each licensee shall confirm on the application for biennial licensure renewal that he or she has completed 30 continuing education credits.

(c) A licensee shall complete a minimum of 30 continuing education credits, in programs permitted under N.J.A.C. 13:44F-10.2, as follows:

1. At least one CE credit in infection control;
2. At least one CE credit in patient safety/medical errors;
3. At least one CE credit in ethics;
4. At least 20 CE credits in other respiratory care clinical practices; and
5. Any remaining credits in any health care related field.

(d) A licensee who completes credit hours in excess of the 30 credits required may apply no more than five of those credits to the continuing education requirement for the following biennial period only, so long as those additional credits were completed within one year prior to the end of the biennial licensing period.

(e) The Board may direct a licensee to complete continuing education credits to correct a deficiency in the licensee's continuing education requirement.

(f) A licensee who is required to complete remedial continuing education pursuant to Board action shall not receive credit for such imposed continuing education toward the mandatory 30 credits of biennial licensure period.

13:44F-10.2 Approval of continuing education programs, courses, seminars and articles; determination of credits

(a) The following are acceptable sources of continuing education programs, courses, seminars and articles, as long as the programs, courses, seminars or articles fall within the content areas set forth in N.J.A.C. 13:44F-10.1(c):

1. Successful completion of programs, courses or seminars offered or approved by the New Jersey Society for Respiratory Care or the American Association for Respiratory Care: one continuing education credit for each course credit awarded;
2. Successful completion of courses related to any health care related field at colleges and universities accredited by the Middle States Association of Colleges and Schools, Commission on Higher Education or any other regional accrediting agency with standards that are substantially similar to the standards utilized by the Middle States Association of Colleges and Schools, Commission on Higher Education: one continuing education credit for each course credit awarded;
3. Successful completion of any certification or recertification course approved by the American Heart Association in Pediatric Advanced Cardiac Life Support (PALS) or Advanced Cardiac Life Support (ACLS) or approved by the American Academy of Pediatrics in Neonatal Resuscitation Protocol (NRP): one continuing education credit for each instructional hour awarded, with a maximum of 12 credits per biennial licensure period;

4. Authorship of published peer-reviewed textbooks, articles or manuals directly related to respiratory care: three credits for each textbook, article or manual; and

5. Successful completion of videotaped, Internet, and other distance learning courses, approved by one of the organizations listed in (a)1 above, with verification by the course provider that the course was monitored and successfully completed by the licensee: one continuing education credit for each course credit awarded with a maximum of 15 credits per biennial licensure period.

(b) A licensee shall receive one continuing education credit for each hour of attendance at programs, courses and seminars approved by one of the organizations listed in (a)1 above. Credit shall not be granted for courses that are less than one instructional hour long. For purposes of this subchapter, an "instructional hour" represents a 60-minute clock hour with no less than 50 minutes of content within the hour. Programs may include one 10-minute break for each instructional hour.

13:44F-10.3 Licensee certification of compliance; recordkeeping; audit

(a) A licensee shall:

1. Certify completion of the required number of continuing education credits on the application for biennial renewal. Falsification of any information submitted on the renewal application shall be cause for disciplinary action;
2. Maintain all evidence of verification of continuing education requirements for two full biennial licensing periods after completion of the credits and submit such documentation to the Board upon request; and
3. Provide to the Board upon request, documentation of the licensees completion of continuing education requirements as follows:
 - i. For programs, courses and seminars: the course provider's written verification of attendance;
 - ii. For college courses: an official transcript;
 - iii. For articles published in a peer-reviewed professional journal: the published article;
 - iv. For authored textbooks or manuals: the textbook or manual; and
 - v. Videotaped, Internet and other distance learning courses: written verification from the course provider.

(b) The Board shall conduct random audits to determine licensee compliance with continuing education requirements.

13:44F-10.4 Waiver or modification of continuing education requirements

(a) The Board may extend, waive or otherwise modify continuing education requirements, including the time period

for completion or the number of continuing education credits, on an individual basis for reasons of hardship, such as severe illness, disability or military service.

(b) A licensee seeking an extension, waiver or other modification of the continuing education requirements shall apply to the Board in writing and set forth in specific detail the reasons for the request. The licensee shall submit to the Board

all documentation in support of the request for extension, waiver or other modification.

(c) A licensee shall apply for an extension, waiver or other modification no later than 60 days prior to the end of the biennial licensing period. All requests shall be sent to the offices of the Board, as provided in N.J.A.C. 13:44F-2.2, by certified mail, return receipt requested.