

CHAPTER 44F
STATE BOARD OF RESPIRATORY CARE

Authority

N.J.S.A. 45:14E-7(f) and (g).

Source and Effective Date

R.1992 d.248, effective June 15, 1992.
See: 24 N.J.R. 52(a), 24 N.J.R. 2285(b).

Executive Order No. 66(1978) Expiration Date

Chapter 44F, Board of Respiratory Care, expires on June 15, 1997.

Chapter Historical Note

Chapter 44F, State Board of Respiratory Care, became effective with Subchapter 8, Fees, adopted as R.1992 d.248. See: Source and Effective Date. Subchapters 1 through 7 and 9, concerning the practice of respiratory care, were adopted as R.1993 d.7, and Subchapter 8 was amended and redesignated General Provisions, effective January 4, 1993. See: 24 N.J.R. 2336(a), 25 N.J.R. 185(a).

CHAPTER TABLE OF CONTENTS

**SUBCHAPTER 1. PURPOSE AND SCOPE;
DEFINITIONS**

- 13:44F-1.1 Purpose and scope
13:44F-1.2 Definitions

**SUBCHAPTER 2. AGENCY ORGANIZATION AND
ADMINISTRATION**

- 13:44F-2.1 Description of Board
13:44F-2.2 Office location
13:44F-2.3 Meetings of the Board
13:44F-2.4 Election of officers

SUBCHAPTER 3. AUTHORIZED PRACTICE

- 13:44F-3.1 Scope of practice
13:44F-3.2 Practice by individuals enrolled in a Board-approved training program
13:44F-3.3 Delegation by a respiratory care practitioner to unlicensed persons

**SUBCHAPTER 4. APPLICANT QUALIFICATIONS;
BOARD-APPROVED EXAMINATION**

- 13:44F-4.1 Eligibility for licensure
13:44F-4.2 Nature of examination; passing grade
13:44F-4.3 Refusal to issue, suspension or revocation of license

SUBCHAPTER 5. TEMPORARY LICENSURE

- 13:44F-5.1 Temporary six-month license
13:44F-5.2 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
13:44F-6.2 Application requirements for licensure by endorsement

SUBCHAPTER 7. LICENSE RENEWALS

- 13:44F-7.1 Biennial license renewal
13:44F-7.2 Reinstatement

SUBCHAPTER 8. GENERAL PROVISIONS

- 13:44F-8.1 Fees
13:44F-8.2 Patient records

SUBCHAPTER 9. UNLICENSED PRACTICE

- 13:44F-9.1 Acts amounting to unlicensed practice
13:44F-9.2 Aiding and abetting unlicensed practice

**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).

**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.

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;
5. Use of apparatus for cardio-respiratory support and control;
6. Postural drainage;
7. Chest percussion;
8. Vibration;
9. Breathing exercises;
10. Respiratory rehabilitation;
11. Performance of cardio-pulmonary resuscitation;

12. Maintenance of natural and mechanical airways;
13. Insertion and maintenance of artificial airways; and

14. Testing techniques to assist in diagnosis, monitoring, treatment and research including, but not limited to:

- i. Measurement of cardio-respiratory volumes, pressure and flow;
- ii. Drawing and analyzing of samples of arterial, capillary and venous blood; and

iii. Establishment and maintenance of arterial lines, provided the licensee is appropriately trained in this procedure.

(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.

13:44F-3.2 Practice by individuals enrolled in a Board-approved training program

(a) A person enrolled in a Board-approved respiratory care training program may perform those duties essential for completion of the trainee's clinical service, without having to obtain a license, provided the duties are performed under the supervision and direction of a physician, as defined in N.J.A.C. 13:44F-3.1, 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 shall inform the patient that the person rendering care is a trainee.

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

(a) Activities which a licensed respiratory care practitioner may delegate to individuals employed as respiratory assistants, respiratory aides or equipment technicians are limited to the following routine tasks relating to the cleanliness and maintenance of equipment:

1. Disassembling equipment;
2. Cleaning equipment;
3. Preparing equipment for sterilization;
4. Maintaining oxygen cylinder and other specialty gas cylinders; and
5. Making oxygen checks and charges.

(b) Individuals engaged in the activities set forth in (a) above may use titles such as "respiratory aide" and "equipment technician."

(c) A licensee shall not authorize or permit an unlicensed person to engage in direct patient care.

**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 equivalent;
2. Has successfully completed a training program accredited by the Joint Review Committee for Respiratory Care Education (JRCRCE) of the Council on Allied Health Education and Accreditation, or its successor; and
3. Has passed the examination specified in N.J.A.C. 13:44F-4.2, unless the applicant is pursuing one of the alternative pathways to licensure set forth in N.J.A.C. 13:44F-5.

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

(a) The examination shall be the National Board for Respiratory Care Entry Level Examination or the substantially equivalent thereof.

1. Applications for examination should be obtained from the National Board for Respiratory Care.

2. Examinations shall be held within the State at least twice per year at a time and place to be determined by the Board. The Board shall give adequate written notice of the examination to applicants for licensure and examination.

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 score identified by the body administering that examination.

(b) An applicant who submits satisfactory proof that he or she passed, prior to August 20, 1991, the National Board for Respiratory Care Entry Level Examination, or its equivalent, shall be deemed to satisfy the requirement of N.J.A.C. 13:44F-4.1(b)3. The burden of proof is on the applicant to show that an examination other than that administered by the National Board for Respiratory Care is equivalent to the National Board for Respiratory Care examination.

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 six-month 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 six-month license.

(b) All temporary license holders under this section shall be required to work under the direct supervision of a licensed respiratory care practitioner. For purposes of this section, "direct supervision" means continuous on-site presence of a licensed respiratory care practitioner or physician who is constantly accessible through electronic communication and available to render 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 license shall automatically expire upon the earlier of six months or notification to the temporary licensee by the Board that he or she has failed the examination.

(e) The temporary licensee may file for and pay the fee for a one-time renewal of the temporary license for an additional six-month period or until the date of the next examination.

(f) 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.

(g) The temporary license shall automatically expire upon notice to the temporary license holder that he or she has failed the second examination, and the temporary licensee shall surrender the license to the Board.

13:44F-5.2 Temporary licensure of individuals practicing respiratory care as of August 20, 1991

(a) The Board shall issue a temporary license to perform respiratory care to an applicant who has not passed the National Board of Respiratory Care Entry Level Examination, or its equivalent, as of August 20, 1991 but who presents proof satisfactory to the Board that he or she is presently functioning as a respiratory care practitioner. For purposes of this subsection, "presently functioning" means that the individual was employed on August 20, 1991 as a respiratory care practitioner performing the services set forth in N.J.A.C. 13:44F-3.1, in fact delivered services prior to August 20, 1991, and continues to deliver services.

(b) All temporary licenses under this section shall expire on February 20, 1993, and shall not be renewable.

(c) In order to be eligible for a permanent license to practice respiratory care, a temporary license holder under this section shall be required to successfully complete the National Board of Respiratory Care Entry Level Examination or its substantial equivalent.

(d) A temporary license holder under this section who has been practicing as a respiratory care practitioner for fewer than 24 months prior to August 20, 1991, shall be subject to the direct supervision requirement set forth in N.J.A.C. 13:44F-5.1(b).

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 are as follows:

1. Application fee	\$125.00
2. Initial license fee	
i. During the first year of a biennial renewal period	180.00
ii. During the second year of a biennial renewal period	90.00
3. License renewal fee, biennial	180.00
4. Late renewal fee (within 30 days)	100.00
5. Duplicate license fee	75.00
6. Six-month temporary license	45.00
i. Temporary license renewal	45.00
7. Eighteen-month temporary license	135.00
8. Temporary visiting license	90.00
i. Temporary visiting license renewal	90.00
9. Reinstatement fee (after 60 days)	175.00
10. Duplicate wall certificate	50.00
11. Verification of licensure	50.00

13:44F-8.2 Patient records

(a) Respiratory care practitioners shall prepare contemporaneous, permanent treatment records which shall be maintained for a period of seven years from the date of the most recent entry. Such records shall include:

1. The dates and times of all treatments;
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) In addition to the requirements of (a) above, a licensee employed in a setting regulated by the Department of Health shall comply with all applicable Department of Health rules.

(c) 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 the licensee 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.

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 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, respiratory care practitioner, respiratory therapist, or 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 as a respiratory care practitioner, an M.D. or a D.O.; or

3. 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 or is not a licensed physician.

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.