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RULE ADOPTIONS
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
State Board of Respiratory Care

Readoption with Amendments: N.J.A.C. 13:44F

Rules

Proposed: November 5, 2007 at 39 N.J.R. 4543(a).

Adopted: February 5, 2008 by the State Board of Respiratory Care, Kenneth Capek, Chairman.

Filed: April 4, 2008 as R.2008 d.114, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3), **with the proposed amendment to N.J.A.C. 13:44F-3.2 not adopted.**

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

Effective Dates: April 4, 2008, Readoption; May 5, 2008, Amendments.

Expiration Date: April 4, 2013.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments are governed by N.J.S.A. 45:14E-1 et seq., and, therefore, are not subject to any Federal standards or requirements.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:44F.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

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.

...

"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).

...

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.-4. (No change.)

5. Use of apparatus for cardiopulmonary support and control;

6.-10. (No change.)

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. (No change.)

13. (No change.)

(b)-(d) (No change.)

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), *[and/]or under the direct supervision of a licensed respiratory care practitioner, as defined in N.J.A.C. 13:44F-5.1.

(b) (No change.)

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.

...

(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.-iii. (No change.)

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 *[which]* ***that*** a licensed respiratory care practitioner may delegate to assistants are limited to the following routine tasks:

1. Processing, cleaning and sterilizing basic respiratory equipment;

2. Maintaining and safe handling of oxygen and specialty gas cylinders and oxygen concentrators; and

3. Setting up, testing, exchanging and demonstrating equipment relating to basic respiratory delivery systems.

i. An assistant shall not be permitted to set up, test, exchange or demonstrate mechanical ventilators or positive pressure equipment, such as continuous positive airway pressure and bi-level positive airway pressure devices, with or without artificial airways, in use continuously or intermittently. ***For purposes of this section, the term "exchange" does not mean delivery, and this section shall not preclude an unlicensed assistant from delivering such equipment to a patient's home.***

(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.-2. (No change.)

13:44F-4.1 Eligibility for licensure

(a) (No change.)

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

1. (No change.)

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. (No change.)

13:44F-8.4 Office location; Board information

(a) The offices of the Board are located at 124 Halsey Street, PO Box 45031, Newark, New Jersey 07102.

(b) Information related to Board operations may be obtained at the following website:

www.state.nj.us/lps/ca/medical/respcare.htm.

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.

