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# State Board of Respiratory Care Law

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## 45:14E-1. Short title

This act shall be known and may be cited as the "Respiratory Care Practitioner Licensing Act."

L.1991,c.31,s.1.

## 45:14E-2. Findings, declarations

The Legislature finds and declares that the public interest requires the regulation of the practice of respiratory care and the establishment of clear licensure standards for respiratory care practitioners; and that the health and welfare of the citizens of this State will be protected by identifying to the public those individuals who are qualified and legally authorized to practice respiratory care.

L.1991,c.31,s.2.

## 45:14E-3 Definitions.

As used in this act:

- a. "Board" means the State Board of Respiratory Care established pursuant to section 4 of this act.
- b. "Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.
- c. "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. The care shall include the use of medical gases, air and oxygen-administering apparatus, environmental control systems, humidification and aerosols, drugs and medications, apparatus for cardiopulmonary support and control, postural drainage, chest percussion and vibration and breathing exercise, pulmonary rehabilitation, performance of cardiopulmonary resuscitation, maintenance of natural and mechanical airways, insertion and maintenance of artificial airways and insertion and maintenance of peripheral arterial and peripheral venous catheters. The care shall also include testing techniques to assist in diagnosis, monitoring, treatment and research, including but not necessarily limited to, the measurement of cardiopulmonary volumes, pressure and flow, and the drawing and analyzing of samples of arterial, capillary and venous blood.
- d. "Respiratory care practitioner" means a person licensed by the board to practice respiratory care under the direction or supervision of a physician.

L.1991,c.31,s.3; amended 2004, c.167, s.1.

## 45:14E-4. State Board of Respiratory Care created

There is created within the Division of Consumer Affairs in the Department of Law and Public Safety the State Board of Respiratory Care. The board shall consist of 11 members who are residents of the State, two of whom shall be public members and one of whom shall be a State executive department

member appointed pursuant to the provisions of P.L.1971, c.60 (C.45:1-2.1 et seq.). Of the remaining eight members six 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 shall be the administrator of a hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and one shall be a physician licensed to practice medicine and surgery pursuant to chapter 9 of Title 45 of the Revised Statutes. The six respiratory care practitioners initially appointed need not be licensed in this State.

The Governor shall appoint members to the board with the advice and consent of the Senate. The Governor shall appoint each member for a term of three years, except that of the respiratory care practitioner members first appointed, two shall serve for terms of three years, two shall serve for terms of two years and two shall serve for a term of one year. Each member shall hold office until his successor has been qualified. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. No member of the board shall serve more than two successive terms in addition to any unexpired term to which he has been appointed.

L.1991,c.31,s.4.

#### **45:14E-5. Compensation for board members**

Members of the board shall be compensated and reimbursed for expenses and provided with office and meeting facilities pursuant to section 2 of P.L.1977, c.285 (C.45:1-2.5).

L.1991,c.31,s.5.

#### **45:14E-6. Election of officers, meetings.**

The board shall annually elect from among its members a chairman and a vice-chairman. The board shall meet quarterly and may hold additional meetings as necessary to discharge its duties.

L.1991,c.31,s.6; amended 2004, c.167, s.2.

#### **45:14E-7. Duties of the board**

The board shall:

- a. Review the qualifications of applicants for licensure
- b. Insure the proper conduct and standards of examinations;
- c. Issue and renew licenses to respiratory care practitioners pursuant to this act;
- d. Suspend, revoke or fail to renew the license of a respiratory care practitioner pursuant to the provisions of P.L.1978, c.73 (C.45:1-14 et seq.);
- e. Maintain a record of every respiratory care practitioner licensed in this State, his place of business, his place of residence, and the date and number of his license;

f. Promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the provisions of this act, except that the initial rules and regulations shall be promulgated by the director; and

g. Establish fees for applications for licensure, examinations, initial licensure, renewals, late renewals, temporary licenses and for duplication of lost licenses, pursuant to section 2 of P.L.1974, c.46 (C.45:1-3.2).

L.1991,c.31,s.7.

#### **45:14E-8. Appointment of Executive Director**

The Executive Director of the board shall be appointed by the director and shall serve at the director's pleasure. The salary of the Executive Director shall be determined by the director within the limits of available funds. The director shall be empowered within the limits of available funds to hire any assistants as are necessary to administer this act.

L.1991,c.31,s.8.

#### **45:14E-9. Licensing for respiratory care practitioners required.**

a. No person shall practice, nor present himself as able to practice, respiratory care unless he possesses a valid license as a respiratory care practitioner in accordance with the provisions of P.L.1991, c.31 (C.45:14E-1 et seq.).

b. This section shall not be construed to prohibit a person enrolled in a bona fide respiratory care training program from performing those duties essential for completion of a trainee's clinical service, provided the duties are performed under the supervision and direction of a physician or licensed respiratory care practitioner.

c. Nothing in P.L.1991, c.31 (C.45:14E-1 et seq.) is intended to limit the provision of respiratory care services rendered in the course of an emergency by a certified emergency medical technician or paramedic or other person licensed to practice medicine, dentistry, podiatry or other health care professional trained to render emergency services.

d. Nothing in P.L.1991, c.31 (C.45:14E-1 et seq.) shall confer the authority of a person licensed under that act to perform or operate any apparatus used in the performance of extracorporeal circulation or oxygenation.

e. Nothing in P.L.1991, c.31 (C.45:14E-1 et seq.) is intended to limit, preclude or otherwise interfere with the practices of other persons and health providers licensed by appropriate agencies of the State of New Jersey, so long as those duties are consistent with the accepted standards of the member's profession and the member does not present himself as a respiratory care practitioner.

f. Nothing in P.L.1991, c.31 (C.45:14E-1 et seq.) shall confer the authority to a person licensed to practice respiratory care to practice another health profession as currently defined in Title 45 of the Revised Statutes.

L.1991,c.31,s.9; amended 2004, c.167, s.3.

**45:14E-10. Licensing of qualified applicants**

The board shall license as a respiratory care practitioner any applicant whom the board determines to be qualified to perform the duties of a respiratory care practitioner. In making a determination, the board shall require evidence that the applicant has successfully completed a respiratory care training program which meets the board's approval and that he successfully completes an examination prescribed by the board. The fee prescribed by the board shall accompany the application.

L.1991,c.31,s.10.

**45:14E-11. Issuance of license, renewal**

Licenses shall be issued for a period of two years, except in the case of a temporary license issued pursuant to section 14 or 15 of this act, and may be renewed upon submission of a renewal application provided by the board and payment of a fee. If the renewal fee is not paid by the expiration date, the license shall automatically expire, but may be renewed within two years of its expiration date on payment to the board of a sum determined by it for each year or part thereof during which the license was expired and an additional restoration fee. After a two-year period, a license may only be renewed by complying with the provisions of this act regarding initial licensure.

L.1991,c.31,s.11.

**45:14E-12. Written examination required for licensure.**

The written examination provided for in section 10 of this act shall test the applicant's knowledge of basic and clinical sciences as they relate to respiratory care and respiratory care theory and procedures and any other subjects the board may deem useful to test the applicant's fitness to practice respiratory care or act as a respiratory care practitioner.

L.1991,c.31,s.12; amended 2004, c.167, s.4.

**45:14E-13. Licensing of out-of-State license holders**

Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board shall issue without examination a license to a respiratory care practitioner who holds a valid license issued by another state or possession of the United States or the District of Columbia which has education and experience requirements substantially equivalent to the requirements of this act; provided, that, the applicant has not previously failed the board exam referred to in section 15 of this act, in which case licensing shall be at the discretion of the board.

L.1991,c.31,s.13.

**45:14E-14. Issuance of temporary license.**

a. Upon submission of a written application on forms provided by it, the board shall issue a temporary license to a person who has applied for licensure pursuant to this act and who, in the judgment of the board, is eligible for examination. A temporary license shall be available to an applicant with his initial application for examination and he may practice only under the direct supervision of a licensed respiratory care practitioner. A temporary license shall expire automatically at the end of a six-month period at which time it shall be surrendered to the board.

b. Upon payment to the board of a fee and the submission of a written application on forms provided by it, the board may issue without examination a temporary license to practice respiratory care in this State to a person who provides evidence that he is in the State on a temporary basis to assist in a medical emergency or to engage in a special project or teaching assignment relating to respiratory care practice. A temporary license shall expire one year from its date of issue, however, it may be renewed by the board for an additional one-year period. A temporary license shall be surrendered to the board upon its expiration.

L.1991,c.31,s.14; amended 2004, c.167, s.5.

**45:14E-15. Issuance of license to applicants who have passed certain examinations, or currently function as respiratory care practitioners**

The board shall issue a license to perform respiratory care to an applicant, who, at the time of the effective date of this act, has passed the administered Entry Level or Advanced Practitioner examination offered by the National Board for Respiratory Care, or their equivalent. Other applicants who have not passed either of these examinations or their equivalent at the time of the effective date of the act, and who, through written evidence, verified by oath, demonstrate that they are presently functioning in the capacity of a respiratory care practitioner as defined by this act, shall be given a temporary license to continue their practice as a respiratory care practitioner for a period of 18 months from the effective date of the act. Those applicants must pass the licensure examination administered by the board during the 18-month period in order to be issued a license to practice respiratory care.

L.1991,c.31,s.15.

**45:14E-16. Continuing education requirements, duties of board.**

a. The board shall require each respiratory care practitioner, as a condition of biennial license renewal pursuant to section 1 of P.L.1972, c.108 (C.45:1-7), to complete any continuing education requirements imposed by the board pursuant to this section.

b. The board shall:

(1) Promulgate rules and regulations for implementing continuing education requirements as a condition of license renewal for licenses issued under its jurisdiction;

(2) Establish standards for continuing education, including the subject matter and content of courses of study, competency assessments and the number and type of

continuing education credits required of a licensee as a condition of biennial license renewal;

(3) Recognize the New Jersey Society for Respiratory Care, the American Association for Respiratory Care and other entities or persons approved by the board as providers of continuing education, and accredit educational programs, including, but not limited to, lectures, seminars, examinations, papers, publications, presentations, teaching and research appointments, and shall establish procedures for the issuance of credit upon satisfactory proof of the completion of these programs. In the case of education courses or programs, each hour of instruction shall be equivalent to one credit; and

(4) Approve only those continuing education programs as are available to all respiratory care practitioners in this State on a reasonable, nondiscriminatory basis.

L.2004,c.167,s.6.

#### **45:14E-17. Discretionary waiver of requirements.**

The board may, in its discretion, waive requirements for continuing education on an individual basis for reasons of hardship, such as health or other good cause.

L.2004,c.167,s.7.

#### **45:14E-18. Continuing education credits not required in certain cases; transition requirements.**

The board shall not require completion of continuing education credits for initial registrations. The board shall not require completion of continuing education credits for any registration periods commencing within 12 months of the effective date of P.L.2004, c.167 (C. 45:14E-16 et al.). The board shall require completion of continuing education credits on a pro rata basis for any registration periods commencing more than 12 but less than 24 months following the effective date of P.L.2004, c.167 (C.45:14E-16 et al.).

L.2004,c.167,s.8.