
NEW JERSEY ADMINISTRATIVE CODE
TITLE 13
LAW AND PUBLIC SAFETY
CHAPTER 44F
STATE BOARD OF RESPIRATORY CARE

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SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS

13:44F-1.1 PURPOSE AND SCOPE; DEFINITIONS

- 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 P.L. 2017, c. 120, 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, physician assistant, or advanced practice nurse, 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 disease prevention, the treatment, management, control, and care for patients with deficiencies and abnormalities of the cardiac and pulmonary system, as further defined in N.J.S.A. 45:14E-3.c.

"Respiratory care education program" means a program of respiratory care education accredited by the Commission on Accreditation for Respiratory Care (CoARC), or its predecessor, or successor organization.

“Respiratory care practitioner” means a person licensed by the Board to practice respiratory care under the direction or supervision of a licensed physician, physician assistant, or advanced practice nurse, and who may transcribe and implement written, verbal, and protocol orders for respiratory care.

“Respiratory care protocols” means policies and protocols developed by a licensed health care facility through collaboration, when appropriate, with administrators, physicians, registered nurses, physical therapists, respiratory care practitioners, and other licensed health care practitioners.

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

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, physician assistant, or advance practice nurse:
- 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 cardiopulmonary 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;
 - ii) Drawing and analyzing of samples of arterial, capillary, and venous blood; and
 - iii) Apnea testing and monitoring; and
 - 13) Hyperbaric oxygenation.
- b) A respiratory care practitioner may perform the following duties under the direction or supervision of a physician, physician assistant, or advance practice nurse:
- 1) Educate patients and caregivers about respiratory care procedures as part of a patient's disease management program; and
 - 2) Provide professional consultation services to health care, educational, and community organizations, and State and local agencies.

- c) For purposes of this subchapter, "under the direction of a physician, physician assistant, or advance practice nurse" 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, physician assistant, or advance practice nurse, or from such other health care practitioner authorized by law to prescribe or order respiratory care;
 - 2) The licensee has documented the physician, physician assistant, or advance practice nurse's clearance for treatment of the patient, which may include the physician, physician assistant, or advance practice nurse's countersigning of the respiratory care practitioner's proposed plan of treatment;
 - 3) The licensee has followed the respiratory care protocols established by the health care facility at which he or she practices; or
 - 4) 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.
- d) In no case will physician, physician assistant, or advance practice nurse direction be construed to have been provided on the basis of a patient's representation that he or she has obtained a physician, physician assistant, or advance practice nurse's clearance.
- e) For the purposes of this subchapter, "under the supervision of a physician, physician assistant, or advance practice nurse" means that respiratory care shall not be rendered unless a physician, physician assistant, or advance practice nurse is constantly accessible, either on-site or through electronic communication, and available to render physical assistance when required.

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, physician assistant, or advance practice nurse as defined in N.J.A.C. 13:44F-3.1(c)1 and 2, and the supervision of a physician, physician assistant, or advance practice nurse as defined in N.J.A.C. 13:44F-3.1(e), or under the direct supervision of a respiratory care practitioner.
- 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,

physician assistant, or advance practice nurse 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) 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) Activities that a licensed respiratory care practitioner may delegate to assistants are limited to the following routine tasks:
- 1) Disassembling, cleaning, disinfecting, sterilizing, assembling, and delivery of all respiratory equipment;
 - 2) Demonstrating and replacing basic respiratory, non-assisted ventilation and oxygen equipment. Demonstrating such equipment shall not include administration of medication; and
 - 3) Maintaining and safe handling of oxygen and specialty gas cylinders and oxygen concentrators, including the performance of oxygen checks and charges.
- d) A licensed respiratory care practitioner shall be responsible for any activities which an assistant performs pursuant to (d) above.
- e) 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 consistent with the following:
- 1) Except as provided in (f)2 below, within 24 hours of the delivery of the equipment, including compressors, concentrators, and cylinders that could be used in conjunction with an artificial airway, including transtracheal oxygen catheters, to the patient for the purpose of conducting an in-person assessment of the equipment and patient.
 - 2) Within 72 hours of the delivery of compressors, concentrators, and cylinders, except for those that could be used in conjunction with an artificial airway, including transtracheal oxygen catheters.
 - 3) The follow-up visit shall be documented in writing.
 - i) 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.
 - ii) 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.

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.
 - i) If an applicant is unable to produce a copy of his or her high school diploma, the Board shall accept as evidence of having obtained a high school diploma or its educational equivalent, an associate's degree or higher from an accredited educational institution of higher learning.
 - 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.
- c) An applicant shall submit, with the completed application form and the required fee, a Certification and Authorization Form for a Criminal History Background Check.

13:44F-4.2 NATURE OF EXAMINATION; PASSING GRADE

- a) The respiratory care examination shall be the Registered Respiratory Therapist examination offered by the National Board for Respiratory Care or its successor organization.
 - 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.

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.

13:44F-4.4 CREDIT TOWARDS LICENSURE FOR EDUCATION, TRAINING, AND EXPERIENCE RECEIVED WHILE SERVING AS A MEMBER OF THE ARMED FORCES

- a) An applicant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for licensure under N.J.A.C. 13:44F-4.1 may apply to the Board for recognition of the applicant's training, education, or experience received while serving as a member of the Armed Forces, which the Board shall consider, together with any training, education, and experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for licensure.
- b) The Board shall issue a license to the applicant if the applicant presents evidence to the Board that:
 - 1) The applicant has been honorably discharged from active military service;
 - 2) The relevant training, experience, and education the applicant has received in the military, together with any training, experience, and education obtained outside of the Armed Forces, is substantially equivalent in scope and character to the training, experience, and education required for licensure under N.J.A.C. 13:44F-4.1.

- i) An applicant seeking credit for military training and experience shall submit to the Board the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586 or a successor form, as amended and supplemented.
 - ii) An applicant seeking credit for education courses and/or training completed while in the military that are not part of a training program accredited by the Committee on Accreditation for Respiratory Care or its successor shall submit to the Board a Joint Services Transcript of his or her education/training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to the educational requirements under N.J.A.C. 13:44F-4.1. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Board shall consider only those education courses and/or training relevant to the practice of respiratory care that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula; and
- 3) The applicant complies with all other requirements for licensure, including successful completion of the Registered Respiratory Therapist examination offered by the National Board for Respiratory Care as set forth in N.J.A.C. 13:44F-4.1 and 4.2.
- c) It is the applicant's responsibility to provide timely and complete evidence of the education, training, and/or experience gained in the military for review and consideration.
 - d) If the applicant's military training, education, or experience, or a portion thereof, is not deemed to be substantially equivalent to that required for licensure, the Board shall credit whatever portion of the military training, education, or experience that is substantially equivalent towards meeting the requirements under N.J.A.C. 13:44F-4.1 for the issuance of the license.
 - e) Satisfactory evidence of such education, training, or experience shall be assessed on a case-by-case basis.

SUBCHAPTER 5. TEMPORARY LICENSURE

13:44F-5.1 TEMPORARY LICENSE

- a) In accordance with N.J.S.A. 45:14E-14, the Board may issue, without examination, a temporary license to practice respiratory care in this State provided that the person:
 - 1) Submits an application on the forms provided by the Board;

- 2) Pays the fee set forth at N.J.A.C. 13:44F-8.1;
 - 3) Provides evidence that he or she is qualified to engage in the practice of respiratory care; and
 - 4) 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.
- b) A temporary license shall expire one year from its date of issuance and may be renewed by the Board for an additional one-year period.

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 as set forth in N.J.A.C. 13:44F-8.1;
 - 2) Proof which establishes 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 LICENSE RENEWAL

- a) The Board shall send a notice of renewal to each licensee, at least 60 days prior to the expiration of the license. The notice of renewal shall explain inactive renewal and advise the licensee of the option to renew as inactive. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew provided that the license is renewed within 60 days from the date the notice is sent or within 30 days following the date of license expiration, whichever is later.
- b) A licensee shall renew his or her license for a period of two years from the last expiration date. The licensee shall submit a renewal application to the Board, along with the renewal fee set forth in N.J.A.C. 13:44F-8.1, prior to the date of license expiration.
- c) A licensee may renew his or her license by choosing inactive status. A licensee electing to renew his or her license as inactive shall not engage in the practice of respiratory care in New Jersey, or hold himself or herself out as eligible to engage in the practice of respiratory care in New Jersey, until such time as the license is returned to active status.
- d) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a renewal fee, and a late fee as set forth in N.J.A.C. 13:44F-8.1. During this 30-day period, the license shall be valid and the licensee shall not be deemed practicing without a license.
- e) A licensee who fails to submit a renewal application within 30 days of license expiration shall have his or her license suspended without a hearing.
- f) A licensee who continues to engage in the practice of respiratory care with a suspended license shall be deemed to be engaging in the unauthorized practice of respiratory care and shall be subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the individual.

13:44F-7.2 LICENSE REACTIVATION

- a) A licensee who holds an inactive license pursuant to N.J.A.C. 13:44F-7.1(c) may apply to the Board for reactivation of the inactive license. A licensee seeking reactivation of an inactive license shall submit:

- 1) A renewal application;
- 2) A certification of employment, listing each job held during the period the license was inactive, which includes the name, address, and telephone number of each employer;
- 3) The renewal fee for the biennial period for which reactivation is sought as set forth in N.J.A.C. 13:44F-8.1.
 - i) If the renewal application is sent during the first year of the biennial period, the applicant shall submit the renewal fee as set forth in N.J.A.C. 13:44F-8.1.
 - ii) If the renewal application is sent during the second year of the biennial period, the applicant shall submit one-half of the renewal fee as set forth in N.J.A.C. 13:44F-8.1; and
- 4) Evidence of having completed all continuing education credits that were required to be completed during the biennial period immediately prior to the renewal period for which reactivation is sought, consistent with the requirements set forth in N.J.A.C. 13:44F-10.1.
 - i) An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of respiratory care and submits proof of having satisfied that state's continuing education requirements for that license, shall be deemed to have satisfied the requirements of this paragraph. If the other state does not have any continuing education requirements, the requirements of this paragraph shall apply.
 - b) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board prior to reactivation of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant as a condition of reactivation of licensure to take and successfully complete any education or training or to submit to any supervision, monitoring, or limitations as the Board determines is necessary to assure that the applicant practices with reasonable skill and safety. The Board, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following non-exhaustive issues:
 - 1) Length of duration license was inactive;

- 2) Employment history;
- 3) Professional history;
- 4) Disciplinary history and any action taken against the applicant's license by any licensing board;
- 5) Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of respiratory care or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
- 6) Pending proceedings against a professional or occupational license issued to the licensee by a professional board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
- 7) Civil litigation related to the practice of respiratory care or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

13:44F-7.3 LICENSE REINSTATEMENT

- a) A licensee who has had his or her license suspended pursuant to N.J.A.C. 13:44F-7.1(e) may apply to the Board for reinstatement. A licensee applying for reinstatement shall submit:
 - 1) A reinstatement application;
 - 2) A certification of employment listing each job held during the period of suspended license, which includes the name, address, and telephone number of each employer;
 - 3) The renewal fee for the biennial period for which reinstatement is sought;
 - 4) The past due renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought;
 - 5) The reinstatement fee set forth in N.J.A.C. 13:44F-8.1; and
 - 6) Evidence of having completed all continuing education credits that were required to be completed during the biennial period immediately prior to the renewal period for which reinstatement is sought, consistent with the requirements set forth in N.J.A.C. 13:44F-10.1.

- i) An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of respiratory care and submits proof of having satisfied that state's continuing education requirements for that license, shall be deemed to have satisfied the requirements of this paragraph. If the other state does not have any continuing education requirements, the requirements of this paragraph shall apply.

- b) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant as a condition of reinstatement of licensure to take and successfully complete any education or training or to submit to any supervision, monitoring, or limitations as the Board determines is necessary to assure that the applicant practices with reasonable skill and safety. The Board, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following non-exhaustive issues:
 - 1) Length of duration license was suspended;
 - 2) Employment history;
 - 3) Professional history;
 - 4) Disciplinary history and any action taken against the applicant's license by any licensing board;
 - 5) Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of respiratory care or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
 - 6) Pending proceedings against a professional or occupational license or certificate issued to the licensee by a professional board in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
 - 7) Civil litigation related to the practice of respiratory care or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

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	160.00
ii) During the second year of a biennial renewal period	80.00
3) License renewal fee, biennial	160.00
4) Late renewal fee (within 30 days).....	100.00
5) Duplicate license fee	25.00
6) Six-month temporary license	40.00
7) Temporary visiting license	80.00
i. Temporary visiting license renewal.....	80.00
8) Reinstatement fee (after 30 days)	175.00
9) Duplicate wall certificate	50.00
10) Verification of licensure.....	25.00
11) Inactive license fee	(Reserved)

13:44F-8.2 PATIENT RECORDS

a) Respiratory care practitioners shall prepare contemporaneous, permanent treatment records. If custody of the patient records is within the responsibility of the licensee, the licensee shall ensure that every patient record shall be kept for at least seven years from

the date of the most recent entry, except that if a patient is a minor, the records shall be kept for an additional two years beyond the age of 18. Such records shall include:

- 1) The dates and times of all treatments including adverse effects, if any;
 - 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 such other health care practitioners authorized by law to prescribe, 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(c)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 shall appear at least once in the records.
- b) Respiratory care practitioners shall document any addenda or corrections to a patient's medical record in a separately dated, signed and timed note.
- c) 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.
- d) 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, 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, the licensee may elect to provide a summary of the record, as long as that summary adequately reflects the patient's history and treatment.
 - 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 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.

13:44F-8.3 SEXUAL MISCONDUCT

- a) By this section, the Board is identifying for its licensees conduct which it shall deem to be violative of law.
- b) As used in this section, the following terms have the following meanings unless the context indicates otherwise:
 - 1) "Licensee" means any person licensed or authorized to engage in the practice of respiratory care as regulated by the Board.
 - 2) "Patient" means any person who is the recipient of a professional service rendered by a licensee for purposes of diagnostic testing, treatment or a consultation relating to treatment. For purposes of this section, "patient" also means a person who is the subject of professional examination or assessment even if the purpose of that examination or assessment is unrelated to treatment.
 - 3) "Patient-respiratory care practitioner relationship" means an association between a respiratory care practitioner and a patient wherein the respiratory care practitioner performs any professional service consistent with his or her training and experience

- in accordance with N.J.A.C. 13:44F-3.1 or acts in a supervisory capacity for the patient.
- 4) "Sexual contact" means the knowing touching of a person's body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee's own prurient interest or for sexual arousal or gratification. "Sexual contact" includes, but is not limited to, the imposition of a part of the licensee's body upon a part of the patient's body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or patient's body into or near the genital, anal or other opening of the other person's body.
 - 5) "Sexual harassment" means solicitation of any sexual act, physical advances, or verbal or nonverbal conduct that is sexual in nature, and which occurs in connection with a licensee's activities or role as a provider of respiratory care services, and that either: is unwelcome, offensive to a reasonable person, or creates a hostile workplace environment, and the licensee knows, should know, or is told this; or is sufficiently severe or intense so as to be abusive to a reasonable person in that context. "Sexual harassment" may consist of a single extreme or severe act or multiple acts and may include, but is not limited to, conduct of a licensee with a patient, co-worker, employee, student, or supervisee, whether or not such individual is in a subordinate position to the licensee. "Sexual harassment" may also include conduct of a nonsexual nature if it is based on the sex of an individual.
 - 6) "Spouse" means either the husband or wife of the licensee or an individual in a long-term committed relationship with the licensee.
 - i) For purposes of this section, "a long-term committed relationship" is a relationship that has existed for greater than six months.
 - c) A licensee shall not engage in sexual contact with a patient with whom he or she has a patient-respiratory care practitioner relationship. The patient-respiratory care practitioner relationship is considered ongoing for purposes of this section unless:
 - 1) Actively terminated, by way of written notice to the patient and documentation in the patient record; or
 - 2) The last professional service was rendered more than three months earlier.

- d) A licensee shall not seek or solicit sexual contact with a patient with whom he or she has a patient-respiratory care practitioner relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.
- e) A licensee shall not engage in any discussion of an intimate sexual nature with a patient, unless that discussion is related to legitimate patient needs. Such discussion shall not include disclosure by the licensee of his or her own intimate sexual relationships.
- f) A licensee shall provide privacy and examination conditions which prevent the exposure of the unclothed body of the patient unless necessary to the professional services rendered.
- g) A licensee shall not engage in sexual harassment, whether in a professional setting, including, but not limited to, an office, hospital, residence or health care facility, or outside of the professional setting.
- h) A licensee shall not engage in any other activity, such as, but not limited to, voyeurism or exposure of the genitalia of the licensee which would lead a reasonable person to believe that the activity serves the licensee's personal prurient interest or is for the sexual arousal, the sexual gratification or the sexual abuse of the licensee or patient.
- i) Violation of any of the prohibitions or directives set forth at (c) through (h) above shall be deemed to constitute gross or repeated malpractice as proscribed by N.J.S.A. 45:1-21(c) or (d) or professional misconduct in violation of N.J.S.A. 45:1-21(e).
- j) Nothing in this section shall be construed to prevent a licensee from rendering professional services to a spouse, providing that the rendering of such services is consistent with accepted standards of respiratory care and that the performance of those services is not utilized to exploit the patient for the sexual arousal or sexual gratification of the licensee.
- k) It shall not be a defense to any action under this section that:
 - 1) The patient solicited or consented to sexual contact with the licensee; or
 - 2) The licensee was in love with or had affection for the patient.

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 07101.

- b) Information related to Board operations may be obtained at the following website:
www.njconsumeraffairs.gov/resp/Pages/regulations.aspx.

13:44F-8.5 NOTIFICATION OF BUSINESS ADDRESS AND CHANGE OF ADDRESS

- a) Licensees shall provide the State Board of Respiratory Care with their business address.
- b) A licensee, whether active or inactive, of the State Board of Respiratory Care shall notify the Board in writing of any change of residential address or business address from that which the Board maintains in its records and which the licensee's current license displays. The licensee shall forward the notice to the Board by certified mail, return receipt requested, no later than 30 days following the change of address.

13:44F-8.6 CHANGE OF NAME

- a) Any licensee whose name has been legally changed shall forward to the Board by certified mail, return receipt requested, no later than 30 days following the change of name the following:
- 1) Legal evidence of such change;
 - 2) A copy of the licensee's original license with satisfactory evidence that the licensee is the same person to whom the Board issued the license; and
 - 3) The appropriate duplicate license fee as set forth in N.J.A.C. 13:44F-8.1.
- 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.

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.

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 inhalation therapy, respiratory care, respiratory therapy, pulmonary therapy, or other such similar words or their related terms, letters, insignia, or abbreviations in connection with the offering of measures or services 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, respiratory therapy technician, pulmonary technician, or other such similar terms, letters, insignia, and their related abbreviations in connection with the offering of measures or services that 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.

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.

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.
- 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, provided the subject matter falls 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, the American Association for Respiratory Care, the American Medical Association, the American Nursing Association, the American Thoracic Society, or the American Academy of Sleep Medicine: one continuing education credit for each course credit awarded;
 - 2) Successful completion of an advanced credentialing examination listed below: ten continuing education credits for each examination completed:
 - i) Registered Respiratory Therapist (RRT) offered by the National Board for Respiratory Care;
 - ii) Registered Pulmonary Function Technologist (RPFT) offered by the National Board for Respiratory Care;
 - iii) Certified Pulmonary Function Technologist (CPFT) offered by the National Board for Respiratory Care;
 - iv) Neonatal / Pediatric Specialist (RRT/CRT – NPS) offered by the National Board for Respiratory Care;
 - v) Sleep Disorder Specialist (RRT/CRT – SDS) offered by the National Board for Respiratory Care;
 - vi) Acute Critical Care Specialist (RRT-ACCS) offered by the National Board for Respiratory Care;
 - vii) Asthma Educator – Certified (AE-C) offered by the National Asthma Educator Certification Board;
 - viii) Registered Polysomnographic Technologist (RPSGT) offered by the Board of Registered Polysomnographic Technologists; and

- ix) Certified Hyperbaric Technologist (CHT) offered by the National Board of Diving and Hyperbaric Medical Technology;
- 3) 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;
- 4) 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 Program (NRP): one continuing education credit for each instructional hour awarded, with a maximum of 12 credits per biennial licensure period;
- 5) Authorship of published peer-reviewed textbooks, articles, or manuals directly related to respiratory care: three credits for each textbook, article or manual;
- 6) 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; and
- 7) Participation in instructional activities, such as developing curriculum for and/or teaching a new program, course, lecture, or presentation, provided the program, course, lecture, or presentation is directly related to the practice of respiratory care in the State.
- i) As used in this paragraph, “new program, course, lecture, or presentation” means that the licensee has never taught or developed curriculum for that course or program in any educational setting: one credit per hour of program or course instruction with a maximum of six credits per biennial licensure period; and
- 8) Successful completion of an advanced credentialing examination, which does not meet the requirements of (a)2 above, and that is approved by the Board.
- i) The Board shall award licensees 10 credits per examination.
- ii) A list of Board-approved advanced credentialing examinations shall be posted on the Board’s website at <http://www.njconsumeraffairs.gov/resp/Pages/default.aspx>.

- iii) The Board shall approve for credit an advanced credentialing examination provided that it is nationally recognized and the subject matter falls within the content area set forth in N.J.A.C. 13:44F-10.1(c).

- 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. For purposes of this section, 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. The Board will accept partial credit after the first credit hour increment has been earned for the same program, course, and seminar offered by one of the organizations listed in (a)1 above. Credit shall not be granted for programs, courses, and seminars that are less than one instructional hour long.

13:44F-10.2A PERFORMANCE-BASED COMPETENCY ASSESSMENT; APPROVAL; DETERMINATION OF CREDITS

- a) A licensee may obtain continuing education credit for successful completion of a Board-approved performance-based competency assessment (PBCA) administered in a licensed healthcare facility, consistent with the following requirements:
 - 1) The PBCA shall include the presentation of materials and objectives, procedure(s) demonstration by licensee attendees and a written examination certified by the healthcare facility's director of respiratory care. For purposes of this section, a "director of respiratory care" means a respiratory care practitioner licensed in the State of New Jersey who is responsible for the activities of all respiratory care practitioners employed by the healthcare facility, including oversight for the policies and procedures that guide respiratory care practice in the healthcare facility;
 - 2) The PBCA shall include only clinical respiratory procedures within the scope of practice of the healthcare facility's department of respiratory care;
 - 3) The director of respiratory care shall submit an application for Board approval of the PBCA at least 60 days prior to the administration of the PBCA. The application shall include: the name of the healthcare facility, the name of the director of respiratory care, the name and qualifications of the PBCA presenter, a description of the competency covered and the objectives to be achieved by the PBCA, a copy of the written examination and a copy of the PBCA attendee evaluation form or its equivalent;
 - 4) The director of respiratory care shall provide licensee attendees of the PBCA with a certificate of completion, which shall include the title of the PBCA, the date the PBCA was completed and the number of continuing education credits awarded for completion of the PBCA; and

- 5) The PBCA shall be at least one instructional hour in length. For purposes of this section, an "instructional hour" means no less than 50 minutes of material presentation, procedure(s) demonstration and examination. One continuing education credit shall be awarded for each Board-approved PBCA to a maximum of six credits per biennial registration period;
 - i) The Board shall not approve a PBCA that is less than one instructional hour in length, except that when the presentation of materials and objectives, procedure(s) demonstration and written examination for a single topic is less than one instructional hour, two topics may be combined in one PBCA for Board approval. A Board-approved PBCA shall include no more than two topics.
- b) A PBCA may be administered by a healthcare entity, other than a licensed healthcare facility, that provides respiratory care services, provided the PBCA is certified by the healthcare entity's director of respiratory care. If the healthcare entity does not have a director of respiratory care, the entity's medical director shall certify the PBCA. The entity's director of respiratory care or medical director shall ensure compliance with all requirements of this section.
- c) The director of respiratory care or the medical director and all licensee attendees of the PBCA shall maintain documentation of successful completion of the PBCA for four years from the date of completion consistent with the requirements of N.J.A.C. 13:44F-10.3(a).
- d) Notwithstanding the provisions of (a), (b), (c) above, pursuant to N.J.S.A. 45:14E-16.b(3), the Board shall not grant credit for continuing education for any program of activities designed to fulfill assigned general employment responsibilities specific to the expectations of an employer.

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;
 - v) Videotaped, Internet, and other distance learning courses: written verification from the course provider; and
 - vi) For instructional activity: documentation, including a copy of the course content, location, date and time of course, duration of course by hour, and letter from provider confirming that the licensee taught the course or program or, if no provider, a copy of the attendance sheet.
- b) The Board shall conduct random audits to determine licensee compliance with continuing education requirements.
- c) Failure to complete continuing education requirements may result in the imposition of penalties and/or license suspension pursuant to N.J.S.A. 45:1-21.

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-8.4, by certified mail, return receipt requested.

SUBCHAPTER 11. TELEMEDICINE AND TELEHEALTH

13:44F-11.1 PURPOSE AND SCOPE

- a) The purpose of this subchapter is to implement the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-16 et seq.), which authorizes healthcare providers to engage in telemedicine and telehealth.
- b) This subchapter shall apply to all persons who are licensed by the Board.
- c) Pursuant to N.J.S.A. 45:1-62, a respiratory care practitioner must hold a license issued by the Board, if he or she:
 - 1) Is located in New Jersey and provides health care services to any patient located in or out of New Jersey by means of telemedicine or telehealth; or
 - 2) Is located outside of New Jersey and provides health care services to any patient located in New Jersey by means of telemedicine or telehealth.
- d) Notwithstanding N.J.S.A. 45:1-62 and (c) above, a healthcare provider located in another state who consults with a licensee in New Jersey through the use of information and communications technologies, but does not direct patient care, will not be considered as providing health care services to a patient in New Jersey consistent with N.J.S.A. 45:14E-1 et seq., and will not be required to obtain licensure in New Jersey in order to provide such consultation.

13:44F-11.2 DEFINITIONS

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Asynchronous store-and-forward" means the acquisition and transmission of images, diagnostics, data, and medical information either to or from an originating site, or to or from the licensee at a distant site, which allows for the patient to be evaluated without being physically present.

"Board" means the State Board of Respiratory Care.

"Cross-coverage" means a licensee engages in a remote medical evaluation of a patient, without in-person contact, at the request of another licensee who has established a proper licensee-patient relationship with the patient.

"Distant site" means a site at which a licensee is located while providing health care services by means of telemedicine or telehealth.

"Licensee" means an individual licensed by the Board.

"On-call" means a licensee is available, where necessary, to physically attend to the urgent and follow-up needs of a patient for whom the licensee [page=2051] has temporarily assumed responsibility, as designated by the patient's primary care licensee or other healthcare provider of record.

"Originating site" means a site at which a patient is located at the time that health care services are provided to the patient by means of telemedicine or telehealth.

"Proper licensee-patient relationship" means an association between a licensee and patient, wherein the licensee owes a duty to the patient to be available to render professional services consistent with his or her training and experience, which is established pursuant to the requirements at N.J.A.C. 13:44F-11.4.

"Telehealth" means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.).

"Telemedicine" means the delivery of a health care service, including supportive mental health services, using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care licensee who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening licensee, and in accordance with the provisions of P.L. 2017, c. 117 (N.J.S.A. 45:1-61 et seq.). "Telemedicine" does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.

13:44F-11.3 STANDARD OF CARE

- a) Prior to providing services through telemedicine or telehealth, a licensee shall determine whether providing those services through telemedicine or telehealth would be consistent with the standard of care applicable for those services when provided in-person.
- b) If a licensee determines, either before or during the provision of health care services, that services cannot be provided through telemedicine or telehealth in a manner that is consistent with in-person standards of care, the licensee shall not provide services through telemedicine or telehealth.
- c) A licensee who determines that services cannot be provided through telemedicine or telehealth pursuant to (b) above shall advise the patient to obtain services in-person.
- d) A licensee who provides a diagnosis, treatment, or consultation recommendation, including discussions regarding the risk and benefits of a patient's treatment options, through telemedicine or telehealth, shall be held to the same standard of care or practice standards as are applicable to in-person settings.

13:44F-11.4 LICENSEE-PATIENT RELATIONSHIP

- a) Prior to providing services through telemedicine or telehealth, a licensee shall establish a licensee-patient relationship by:
 - 1) Identifying the patient with, at a minimum, the patient's name, date of birth, phone number, and address. A licensee may also use a patient's assigned identification number, Social Security number, photo, health insurance policy number, or other identifier associated directly with the patient; and
 - 2) Disclosing and validating the licensee's identity, license, title, and, if applicable, specialty and board certifications.
- b) Prior to initiating contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, a licensee shall:
 - 1) Review the patient's medical history and any available medical records;
 - 2) Determine as to each unique patient encounter whether he or she will be able to provide the same standard of care using telemedicine or telehealth as would be provided if the services were provided in-person; and

- 3) Provide the patient the opportunity to sign a consent form that authorizes the licensee to release medical records of the encounter to the patient's primary care licensee or other healthcare provider identified by the patient.
- c) Notwithstanding (a) and (b) above, health care services may be provided through telemedicine or telehealth without a proper licensee-patient relationship if the provision of health care services is:
 - 1) For informal consultations with another healthcare provider performed by a licensee outside the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;
 - 2) During episodic consultations by a medical specialist located in another jurisdiction who provides consultation services, upon request, to a licensee in this State;
 - 3) Related to medical assistance provided in response to an emergency or disaster, provided that there is no charge for the medical assistance; or
 - 4) Provided by a substitute licensee acting on behalf, and at the designation, of an absent licensee in the same specialty on an on-call or cross-coverage basis.

13:44F-11.5 PROVISION OF HEALTH CARE SERVICES THROUGH TELEMEDICINE OR TELEHEALTH

- a) As long as a licensee has satisfied the requirements at N.J.A.C. 13:44F-11.4, a licensee may provide health care services to a patient through the use of telemedicine and may engage in telehealth to support and facilitate the provision of health care services to patients.
- b) Prior to providing services through telemedicine or telehealth, a licensee shall determine the patient's originating site and record this information in the patient's record.
- c) A licensee providing healthcare services through telemedicine shall use interactive, real-time, two-way communication technologies, which shall include, except as provided at (e) below, a video component which allows a licensee to see a patient and the patient to see the licensee during the provision of health care services.
- d) A licensee providing services through telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of:
 - 1) Images;

- 2) Diagnostics;
 - 3) Data; and
 - 4) Medical information.
- e) If, after accessing and reviewing the patient's medical records, a licensee determines that he or she is able to meet the standard of care for such services if they were being provided in-person without using the video component described at (c) above, the licensee may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without a video component.
- f) Prior to providing services through telemedicine or telehealth, a licensee shall review any medical history, or medical records provided by a patient as follows:
- 1) For an initial encounter with a patient, medical history and medical records shall be reviewed prior to the provision of health care services through telemedicine or telehealth; and
 - 2) For any subsequent interactions with a patient, medical history and medical records shall be reviewed either prior to the provision of health care services through telemedicine or telehealth or contemporaneously with the encounter with the patient.
- g) During and after the provision of health care services through telemedicine or telehealth, a licensee, or another designated licensee, shall provide his or her name, professional credentials, and contact information to the patient. Such contact information shall enable the patient to contact the licensee for at least 72 hours following the provision of services, or for a longer period if warranted by the patient's circumstances and accepted standards of care.
- h) After the provision of health care services through telemedicine or telehealth, a licensee shall provide the patient, upon request, with his or her medical records reflecting the services provided.
- i) A licensee shall provide, upon a patient's written request, the patient's medical information to the patient's primary care provider or to other healthcare providers.
- j) A licensee engaging in telemedicine or telehealth shall refer a patient for follow-up care when necessary.

13:44F-11.6 RECORDS

A licensee who provides services through telemedicine or telehealth shall maintain a record of the care provided to a patient. Such records shall comply with the requirements at N.J.A.C. 13:44F-8.2, and all other applicable State and Federal statutes, rules, and regulations for recordkeeping, confidentiality, and disclosure of a patient's medical record.

13:44F-11.7 PREVENTION OF FRAUD AND ABUSE

- a) In order to establish that a licensee has made a good faith effort to prevent fraud and abuse when providing services through telemedicine or telehealth, a licensee must establish written protocols that address:
- 1) Authentication and authorization of users;
 - 2) Authentication of the patient during the initial intake pursuant to N.J.A.C. 13:44F-11.4(a)1;
 - 3) Authentication of the origin of information;
 - 4) The prevention of unauthorized access to the system or information;
 - 5) System security, including the integrity of information that is collected, program integrity, and system integrity;
 - 6) Maintenance of documentation about system and information usage;
 - 7) Information storage, maintenance, and transmission; and
 - 8) Synchronization and verification of patient profile data.

13:44F-11.8 PRIVACY AND NOTICE TO PATIENTS

- a) Licensees who communicate with patients by electronic communications other than telephone or facsimile shall establish written privacy practices that are consistent with Federal standards pursuant to 45 CFR 160 and 164, which are incorporated herein by reference, relating to privacy of individually identifiable health information.
- b) Written privacy practices pursuant to (a) above shall include privacy and security measures that assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient email, prescriptions, and laboratory results must be

password protected, encrypted electronic prescriptions, or protected through substantially similar authentication techniques.

- c) A licensee who becomes aware of a breach in confidentiality of patient information, as defined at 45 CFR 164.402, shall comply with the reporting requirements at 45 CFR 164.
- d) Licensees, or their authorized representatives, shall provide a patient, prior to evaluation or treatment, with copies of written privacy practices and shall obtain the patient's written acknowledgement of receipt of the notice.
- e) Licensees who provide services through telemedicine or telehealth, or their authorized representatives, shall, prior to providing services, give patients notice regarding telemedicine and telehealth, including the risks and benefits of being treated through telemedicine or telehealth and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A licensee shall obtain a signed and dated statement indicating that the patient received this notice.
- f) When telemedicine or telehealth is unable to provide all pertinent clinical information that a licensee exercising ordinary skill and care would deem reasonably necessary to provide care to a patient, the licensee shall inform the patient of this prior to the conclusion of the provision of care through telemedicine or telehealth and shall advise the patient regarding the need for the patient to obtain an additional in-person medical evaluation reasonably able to meet the patient's needs.