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

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS.....	4
13:44F-1.1 Purpose and scope.....	4
13:44F-1.2 Definitions.....	4
SUBCHAPTER 2. (RESERVED).....	5
SUBCHAPTER 3. AUTHORIZED PRACTICE.....	5
13:44F-3.1 Scope of practice	5
13:44F-3.2 Practice by trainees	7
13:44F-3.3 Delegation by a respiratory care practitioner to unlicensed persons	7
SUBCHAPTER 4. APPLICANT QUALIFICATIONS; BOARD-APPROVED EXAMINATION	9
13:44F-4.1 Eligibility for licensure.....	9
13:44F-4.2 Nature of examination; passing grade.....	9
13:44F-4.3 Refusal to issue, suspension or revocation of license	10
13:44F-4.4 Credit towards licensure for education, training, and experience received while serving as a member of the Armed Forces.....	10
SUBCHAPTER 5. TEMPORARY LICENSURE	11
13:44F-5.1 Temporary license	11
13:44F-5.2 (Reserved).....	12
SUBCHAPTER 6. LICENSURE BY ENDORSEMENT	12
13:44F-6.1 Eligibility for licensure by endorsement	12
13:44F-6.2 Application requirements for licensure by endorsement	12
SUBCHAPTER 7. LICENSE RENEWALS.....	13
13:44F-7.1 Biennial license renewal; inactive status.....	13
13:44F-7.2 Change of license status: inactive to active.....	13
13:44F-7.3 Reinstatement of suspended license.....	14
SUBCHAPTER 8. GENERAL PROVISIONS	15
13:44F-8.1 Fees.....	15
13:44F-8.2 Patient records.....	15
13:44F-8.3 Sexual misconduct	17
13:44F-8.4 Office location; Board information.....	19
13:44F-8.5 Notification of change of address.....	20

13:44F-8.6 Change of name 20

13:44F-8.7 Duplicate licenses 20

SUBCHAPTER 9. UNLICENSED PRACTICE..... 21

13:44F-9.1 Acts amounting to unlicensed practice 21

13:44F-9.2 Aiding and abetting unlicensed practice 21

SUBCHAPTER 10. CONTINUING EDUCATION 22

13:44F-10.1 Continuing education requirements for biennial renewal 22

13:44F-10.2 Approval of continuing education programs, courses, seminars and articles; determination of credits 23

13:44F-10.2A Performance-based competency assessment; approval; determination of credits 24

13:44F-10.3 Licensee certification of compliance; recordkeeping; audit..... 25

13:44F-10.4 Waiver or modification of continuing education requirements..... 26

SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS

13:44F-1.1 PURPOSE AND SCOPE

- a) This chapter is promulgated by the Director of the Division of Consumer Affairs. The rules contained in this chapter implement the provisions of the Respiratory Care Practitioner Licensing Act, P.L. 1991, c.31, and regulate the practice of respiratory care within the State of New Jersey.
- b) This chapter shall apply to all individuals who render respiratory care, as defined in N.J.A.C. 13:44F-1.2, under the direction or supervision of a plenary licensed physician and to anyone within the jurisdiction of the Board of Respiratory Care.
- c) This chapter shall not apply to persons and health care providers licensed by appropriate agencies of the State of New Jersey, provided such duties are consistent with the accepted standards of the member's profession and the member does not present himself or herself as a respiratory care practitioner.

13:44F-1.2 DEFINITIONS

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

"Board" means the State Board of Respiratory Care.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Respiratory care" means the health specialty involving the treatment, disease management, control, and care of patients with deficiencies and abnormalities of the cardiac and pulmonary system, as further defined in N.J.S.A. 45:14E-3(c).

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

**SUBCHAPTER 2.
(RESERVED)**

**SUBCHAPTER 3.
AUTHORIZED PRACTICE**

13:44F-3.1 SCOPE OF PRACTICE

- a) For the purposes of treating, managing, controlling and caring for patients with deficiencies and abnormalities of the cardiac and pulmonary system, a respiratory care practitioner may perform the following duties under the direction or supervision of a physician:
- 1) Use of medical gases, air and oxygen-administering apparatus;
 - 2) Use of environmental control systems;
 - 3) Use of humidification and aerosols;
 - 4) Administration of drugs and medications;
 - 5) Use of apparatus for cardiopulmonary support and control;
 - 6) Bronchial hygiene techniques such as:
 - i) Postural drainage;
 - ii) Chest percussion; and
 - iii) Vibration;
 - 7) Breathing exercises;
 - 8) Cardio and/or pulmonary rehabilitation;
 - 9) Performance of cardio-pulmonary resuscitation;

- 10) Maintenance of natural and mechanical airways;
 - 11) Insertion and maintenance of artificial airways and insertion and maintenance of peripheral arterial and peripheral venous catheters;
 - 12) Testing techniques to assist in diagnosis, monitoring, treatment and research including, but not limited to:
 - i) Measurement of cardiopulmonary volumes, pressure and flow; and
 - ii) Drawing and analyzing of samples of arterial, capillary and venous blood; and
 - 13) Hyperbaric oxygenation.
- b) For purposes of this subchapter, "under the direction of a physician" means that respiratory care shall not be rendered unless one of the following conditions is met:
- 1) The licensee has obtained a written order or prescription from a plenary licensed physician or from such other health care practitioner authorized by law to prescribe or order respiratory care;
 - 2) The licensee has documented the physician's clearance for treatment of the patient, which may include the physician's countersigning of the respiratory care practitioner's proposed plan of treatment; or
 - 3) The licensee has received a verbal order or prescription, in person or by telephone. In an outpatient setting, the verbal order or prescription shall be memorialized by the prescriber in writing within two weeks. In an inpatient setting, the verbal order or prescription shall be memorialized by the prescriber within 24 hours.
- c) In no case will physician direction be construed to have been provided on the basis of a patient's representation that he or she has obtained a physician's clearance.
- d) For the purposes of this subchapter, "under the supervision of a physician" means that respiratory care shall not be rendered unless a physician is constantly accessible, either on-site or through electronic communication, and available to render physical assistance when required.

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), or under the direct supervision of a licensed respiratory care practitioner, as defined in N.J.A.C. 13:44F-5.1.
- b) The trainee shall, when performing duties pursuant to (a) above, wear a badge which identifies the person as a trainee. Additionally, the supervising licensee or physician 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) A licensed respiratory care practitioner shall not authorize or permit an assistant to engage in direct patient care.
 - d) Activities that a licensed respiratory care practitioner may delegate to assistants are limited to the following routine tasks:
 - 1) In an in-patient and out-patient setting: disassembling, cleaning, disinfecting, sterilizing, assembling, and delivery of all respiratory equipment;
 - 2) In an out-patient setting only: demonstrating basic respiratory, non-assisted ventilation and oxygen equipment. Demonstrating such equipment shall not include administration of medication, which would constitute direct patient care; and
 - 3) In an in-patient and out-patient setting: maintaining and safe handling of oxygen and specialty gas cylinders and oxygen concentrators, including the performance of oxygen checks and charges.
 - 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) 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.
 - 2) 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;

 - 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.

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

- a) The respiratory care examination shall be the National Board for Respiratory Care Entry Level Examination.
 - 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 National Board for Respiratory Care Entry Level Examination 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) Any person deemed eligible to sit for the licensure examination by virtue of completion of an accredited training program may apply for the issuance of a temporary license which is effective for no more than six months.
- b) All temporary license holders under this section shall be required to work under the direct supervision of a physician or licensed respiratory care practitioner. For purposes of this section, "direct supervision" means continuous on-site presence of a supervising licensed respiratory care practitioner or supervising physician either of whom is constantly accessible through electronic communication and available to render immediate physical assistance as required.
- c) The temporary license holder shall advise the Board, in writing, of the name and permanent license number of the licensee(s) under whose direct supervision the temporary licensee is or will be working. The temporary licensee shall keep the Board advised, in writing, of any subsequent change in supervising licensee(s).
- d) The holder of a temporary license shall take the examination administered by the National Board of Respiratory Care or its successor organization within six months of issuance of the temporary license unless the temporary license holder can demonstrate undue hardship to the Board. The temporary licensee shall submit a request to the

National Board of Respiratory Care to inform the Board of the temporary licensee's test results. The temporary license shall expire six months from the date of issuance.

- 1) Upon notification that he or she has passed the examination, the temporary licensee shall submit the initial license fee as set forth in N.J.A.C. 13:44-8.1 within 10 days if the temporary licensee intends to practice respiratory care in the State of New Jersey.
- 2) Upon expiration of the temporary license, the temporary license shall be surrendered to the Board.

13:44F-5.2 (RESERVED)

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 BIENNIAL LICENSE RENEWAL; INACTIVE STATUS

- a) All licenses issued by the Board shall be issued for a two-year biennial licensure period. A licensee who seeks renewal of the license shall submit a completed license renewal application on a form provided by the Board, a statement that the licensee has fulfilled the continuing education requirement set forth in N.J.A.C. 13:44F-10.1 and the license renewal fee set forth in N.J.A.C. 13:44F-8.1 prior to the expiration date of the license.
- b) Renewal applications shall provide the applicant with the option of either active or inactive status. A licensee electing inactive status shall pay the inactive license fee set forth in N.J.A.C. 13:44F-8.1, and shall not engage in the practice of respiratory care in this State.
- c) If the licensee does not renew the license prior to its expiration date, the licensee may renew it within 30 days of its expiration by submitting a renewal application, a statement that the licensee has fulfilled the continuing education requirement set forth in N.J.A.C. 13:44F-10.1, a license renewal fee and a late fee, as set forth in N.J.A.C. 13:44F-8.1.
- d) A license that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended license shall be deemed to be engaged in unlicensed practice. The Board shall send a notice of renewal to each licensee, at least 60 days prior to the expiration of the license. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalty or fines shall apply to the holder for any unlicensed practice during the period following the licensure expiration, not to exceed the number of days short of 60 before the renewals were issued.

13:44F-7.2 CHANGE OF LICENSE STATUS: INACTIVE TO ACTIVE

- a) A licensee who elected inactive status and has been on inactive status for five years or less may be reactivated by the Board upon submission of the following:
 - 1) A completed reinstatement application on a form provided by the Board;
 - 2) Payment of the reinstatement fee pursuant to N.J.A.C. 13:44F-8.1;

- 3) An affidavit of employment listing each job held during the period the license was on inactive status, which includes the name, address, and telephone number of each employer; and
 - 4) Proof of completion of the continuing education credits required for each biennial licensure period for which the licensee was on inactive status.
- b) In addition to fulfilling the requirements set forth in (a)1 through 3 above, a licensee whose license has been on inactive status for more than five years who wishes to return to active status shall successfully complete the examination required for initial licensure prior to reinstatement of his or her license as specified in N.J.A.C. 13:44F-4.2 within five years of the application for return to active status.

13:44F-7.3 REINSTATEMENT OF SUSPENDED LICENSE

- a) A licensee whose license has been automatically suspended for five years or less for failure to renew pursuant to N.J.A.C. 13:44F-7.1(d) may be reinstated by the Board upon submission of the following:
- 1) A completed reinstatement application on a form provided by the Board;
 - 2) Payment of the reinstatement fee and all past delinquent biennial renewal fees as set forth in N.J.A.C. 13:44F-8.1;
 - 3) An affidavit of employment listing each job held during the period of suspended license which includes the name, address, and telephone number of each employer; and
 - 4) Proof of completion of the continuing education credits required for each biennial licensure period for which the license was suspended.
- b) In addition to fulfilling the requirements set forth in (a)1 through 3 above, a licensee whose license has been automatically suspended for more than five years who wishes to return to practice shall successfully complete the examination required for initial licensure as specified in N.J.A.C. 13:44F-4.2 within five years of the application for return to active status.

SUBCHAPTER 8. GENERAL PROVISIONS

13:44F-8.1 FEES

a) State Board of Respiratory Care charges for licensure and other services 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..... | 50.00 |
| 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(b)3. The licensee shall document verbal prescriptions in the patient record contemporaneously with administration of treatment;
 - 7) Results of appropriate tests;
 - 8) In an outpatient setting, a discharge summary which includes the outcome of respiratory care treatment and the status of the patient at the time of discharge; and
 - 9) The signature or initials of the licensee who rendered the care. If the licensee chooses to sign by means of initials, his or her complete signature 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 and Senior Services shall comply with all applicable Department of Health and Senior Services 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 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-8.5 NOTIFICATION OF CHANGE OF ADDRESS

A licensee, whether active or inactive, of the State Board of Respiratory Care shall notify the Board in writing of any change of 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 respiratory care, respiratory therapy or other such similar words or their related abbreviations in connection with the offering of measures or services which are utilized in the rendition of respiratory care by any person who does not hold a license to render respiratory care services or is not otherwise exempt from the licensure requirement;
 - 3) The use of the designation respiratory care practitioner, respiratory therapist, or other such similar terms and their related abbreviations in connection with the offering of measures or services which are utilized in the rendition of respiratory care by any person who does not hold a license to render respiratory care services or is not otherwise exempt from licensure; or
 - 4) Billing any patient or third party payor for "respiratory care" or "respiratory therapy," in connection with the use of respiratory care agents, measures or services, if the individual providing the services does not hold a license to practice respiratory care, is not a licensed physician or is not otherwise exempt from the licensure requirement.

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.
 - 1) A licensee shall be required to complete 15 CE credits, 10 CE credits in respiratory care clinical practices and five CE credits in any health care related field, for the biennial renewal period beginning on April 1, 2006, if this section becomes effective on or before April 1, 2007.
 - 2) A licensee shall be exempt from the CE requirements for the biennial renewal period beginning on April 1, 2006, if this section becomes effective after April 1, 2007.
- b) Each licensee shall confirm on the application for biennial licensure renewal that he or she has completed 30 continuing education credits.
- c) A licensee shall complete a minimum of 30 continuing education credits, in programs permitted under N.J.A.C. 13:44F-10.2, as follows:
 - 1) At least one CE credit in infection control;
 - 2) At least one CE credit in patient safety/medical errors;
 - 3) At least one CE credit in ethics;
 - 4) At least 20 CE credits in other respiratory care clinical practices; and
 - 5) Any remaining credits in any health care related field.
- d) A licensee who completes credit hours in excess of the 30 credits required may apply no more than five of those credits to the continuing education requirement for the following biennial period only, so long as those additional credits were completed within one year prior to the end of the biennial licensing period.

- e) The Board may direct a licensee to complete continuing education credits to correct a deficiency in the licensee's continuing education requirement.
- f) A licensee who is required to complete remedial continuing education pursuant to Board action shall not receive credit for such imposed continuing education toward the mandatory 30 credits of biennial licensure period.

13:44F-10.2 APPROVAL OF CONTINUING EDUCATION PROGRAMS, COURSES, SEMINARS AND ARTICLES; DETERMINATION OF CREDITS

- a) The following are acceptable sources of continuing education, 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 or the American Nursing Association: one continuing education credit for each course credit awarded;
 - 2) Successful completion of an advanced credentialing examination approved for continuing education credit by the American Association for Respiratory Care: one continuing education credit for each examination credit awarded;
 - 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 Protocol (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; and
 - 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 with a maximum of 20 credits per biennial licensure period.

- b) A licensee shall receive one continuing education credit for each hour of attendance at programs, courses and seminars approved by one of the organizations listed in (a)1 above. Credit shall not be granted for courses that are less than one instructional hour long. For purposes of this subchapter, an "instructional hour" represents a 60-minute clock hour with no less than 50 minutes of content within the hour. Programs may include one 10-minute break for each instructional hour. One-half credit hour of continuing education may be earned for 25 minutes of instruction or participation after the first credit hour increment has been earned.

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).

13:44F-10.3 LICENSEE CERTIFICATION OF COMPLIANCE; RECORDKEEPING; AUDIT

- a) A licensee shall:
 - 1) Certify completion of the required number of continuing education credits on the application for biennial renewal. Falsification of any information submitted on the renewal application shall be cause for disciplinary action;
 - 2) Maintain all evidence of verification of continuing education requirements for two full biennial licensing periods after completion of the credits and submit such documentation to the Board upon request; and
 - 3) Provide to the Board upon request, documentation of the licensees completion of continuing education requirements as follows:
 - i) For programs, courses and seminars: the course provider's written verification of attendance;

- ii) For college courses: an official transcript;
 - iii) For articles published in a peer-reviewed professional journal: the published article;
 - iv) For authored textbooks or manuals: the textbook or manual; and
 - v) Videotaped, Internet and other distance learning courses: written verification from the course provider.
- b) The Board shall conduct random audits to determine licensee compliance with continuing education requirements.
 - 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-2.2, by certified mail, return receipt requested.