

261 CMR: BOARD OF RESPIRATORY CARE

261 CMR 3.00: DOCUMENTATION OF LICENSE

Section

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(3.01: Responsibilities of Licensee: Reserved)

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3.04: General Licensure Requirement

(1) No person may render respiratory care services other than those services listed in 261 CMR 3.05 unless he has been issued a license or limited license by the Board.

(2) Except as otherwise provided by law, no individual shall represent himself or herself to be a Licensed Respiratory Therapist or hold a limited license, or use any words, letters, abbreviations, or insignia indicating or implying the he or she is a Licensed Respiratory Therapist or holds a limited license, unless such person holds a current license or limited license issued by the Board pursuant to 261 CMR 3.00.

3.05: Exceptions to General Licensure Requirement

A respiratory care license is not required for performance of the following:

(1) private care in a home environment by a family member or friend so long as the provider does not hold him or herself out as a Licensed Respiratory Therapist or as being able to practice respiratory care or as being able to render respiratory services; provided that the services referred to in 261 CMR 3.05(1) are not rendered by any individual or entity incorporated or otherwise organized, or any employee thereof, to provide home medical services or durable medical equipment (DME);

(2) services performed by a person who holds a Certified Pulmonary Function Technician (CPFT) or Registered Pulmonary Function Technician (RPFT) credential from the NBRC; provided such services are included in the scope of practice of the profession or occupation for which such person is credentialed;

(3) pulmonary function testing, performed by a person deemed qualified by his or her employer and so authorized by such employer;

(4) arterial blood gas sampling and/or arterial blood gas analysis performed in conjunction with pulmonary function testing by an individual deemed qualified by his or her employer and so authorized by such employer;

(5) cleaning, sterilizing, disinfecting, assembling, and disassembling of respiratory care equipment;

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- (6) services performed in association with a Licensed Respiratory Therapist in the course of the interstate transport of a patient requiring respiratory care services by any person employed in the rendering of respiratory care services outside Massachusetts; provided such services may not be rendered for more than two calendar days in any calendar year;
- (7) emergency cardiopulmonary resuscitation (CPR) provided to a victim who requires such emergency measures;
- (8) the transportation or delivery of compressed gas cylinders and other respiratory care equipment to a home, hospital, or other location;
- (9) services performed by a person employed by the federal government or any agency of it, provided such person renders respiratory care services solely under the direction and control of the employing federal organization;
- (10) services performed by a person who is enrolled and participating in the clinical portion of a respiratory therapy program, provided such person is designated by a title which clearly indicates his status as a student and functions under the supervision of a Licensed Respiratory Therapist;
- (11) services performed by a person licensed in this Commonwealth by any other statute or credentialed by an organization which is a member of the National Commission for Health Certifying Agencies; provided such services are included in scope of practice of the profession or occupation for which such person is licensed or credentialed; and
- (12) an employee working for a durable medical equipment company in the Commonwealth and having a minimum of 500 hours of positive airway pressure equipment and supply training under the supervision of a licensed respiratory therapist performing the delivery, initial setup and maintenance of positive airway pressure equipment and supplies for home care patients with a diagnosis of obstructive sleep apnea. This exemption does not apply to clinical assessment, clinical evaluation or clinical intervention on home care patients.

3.06: Criteria and Application for Licensure

- (1) License by Examination. The Board may issue a license to practice respiratory care to any applicant who:
 - (a) is 18 years of age or older and of good moral character;
 - (b) has completed a Board approved respiratory therapy program;
 - (c) has received a passing score on the licensure examination; and
 - (d) has submitted the following to the Board:
 - 1. An accurate, complete and signed application for initial licensure, as specified by Board for that purpose;
 - 2. Verification of his or her successful completion of a respiratory care program approved by the Board;
 - 3. Verification of a passing score on the national licensing examination administered by a Board approved body;
 - 4. Verification of his or her certification as a Registered Respiratory Therapist (RRT) issued by the National Board for Respiratory Care (NBRC) or certification as a Certified Respiratory Therapist (CRT) issued by NBRC; and
 - 5. Payment of a fee determined by the Secretary of Administration and Finance, unless waived in accordance with M.G.L. c. 112, § 1B.
- (2) License by Reciprocity. The Board may issue a license to practice respiratory care to any applicant who:
 - (a) is 18 years of age or older and of good moral character;
 - (b) is licensed in another state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico;

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- (c) has submitted the following to the Board:
 - 1. An accurate, complete and signed application for a license by reciprocity, as specified by the Board for that purpose;
 - 2. Documentation satisfactory to the Board, as the Board may request, demonstrating that the requirements for licensure in the other jurisdiction are substantially the same as those in the Commonwealth;
 - 3. Documentation satisfactory to the Board that his or her license is in good standing in the other jurisdiction.
 - 4. Payment of a fee determined by the Secretary of Administration and Finance, unless waived in accordance with M.G.L. c. 112, § 1B.
- (3) License by Credential. The Board may issue a license to practice respiratory care to any applicant who:
 - (a) is 18 years of age or older and of good moral character; and
 - (b) has submitted the following to the Board:
 - 1. An accurate, complete and signed application for a license by reciprocity, as specified by the Board for that purpose;
 - 2. Documentation satisfactory to the Board that he or she has obtained a CRT or RRT credential from the NBRC.
 - 3. Payment of a fee determined by the Secretary of Administration and Finance, unless waived in accordance with M.G.L. c. 112, § 1B.

3.07: Limited License

- (1) The Board may issue a limited license to an applicant who:
 - (a) is 18 years of age or older and of good moral character;
 - (b) is either currently enrolled in, or a graduate of, a Board approved respiratory care educational program;
 - (c) is eligible to sit for the licensure examination; and
 - (d) has submitted the following to the Board:
 - 1. An accurate, complete and signed application for a limited license, as specified by the Board for that purpose;
 - 2. Verification of Education Form certified by the school seal that lists the curriculum components that the applicant has completed;
 - 3. Payment of a fee determined by the Secretary of Administration and Finance, unless waived in accordance with M.G.L. c. 112, § 1B.
- (2) Restrictions on Practice under a Limited License.
 - (a) A holder of a limited license may only perform respiratory care services under the supervision of a licensed Respiratory Therapist; and
 - (b) A holder of a limited license may only perform respiratory care services for which he or she has successfully completed the corresponding curriculum of the Board approved respiratory care educational program.
- (3) Expiration of a Limited License. A limited license shall expire on the earliest occurrence of the following events:
 - (a) The Board issues an initial license pursuant to 261 CMR 3.06 to the holder of the limited license;
 - (b) The holder of the limited license receives notice of a failing test score on the licensure examination;
 - (c) One year has passed since the holder of the limited license graduated from the Board approved respiratory care educational program.
- (4) Responsibility to Report. The holder of the limited license who receives notice of a failing test score on the licensure examination must immediately notify the Board in writing and cease practice.

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3.08: License Renewal

- (1) Each licensed Respiratory Therapist must renew his or her license every even numbered year. A licensed Respiratory Therapist who fails to renew his or her license before the expiration date shall not practice until he or she renews his or her license and may be subject to disciplinary action by the Board.
- (2) A licensed Respiratory Therapist who meets the continuing education requirements in 261 CMR 5.02: *Continuing Education Requirement for License Renewal* may apply to renew his or her license by submitting an application in the manner specified by the Board together with payment of the license renewal fees prescribed by the Executive Office of Administration and Finance pursuant to M.G.L. c. 7, § 3B, unless waived in accordance with M.G.L. c. 112, § 1B.
- (3) A limited license issued pursuant to 261 CMR 3.07 may not be renewed.

3.09: License Retirement

- (1) A licensee who meets the eligibility requirements in 261 CMR 3.09(2) may submit a petition to the Board to request that his or her license be placed on retired status. A retired status is a nondisciplinary license status. The Board may review any petition for reinstatement or return to current status from any licensee whose status has been changed to retired status.
- (2) A licensee will be eligible to submit a petition for retired status, if he or she:
 - (a) Has a license that is not surrendered, suspended or revoked at the time of the petition; and
 - (b) Demonstrates, to the Board's satisfaction, that he or she intends to permanently retire from active practice in the Commonwealth and in all other jurisdictions.
- (3) A licensee with a retired status may not practice.
- (4) Nothing in 261 CMR 3.09 shall prevent the Board from initiating, pursuing or taking a disciplinary action against a licensee whose license is in retired status, including an action that imposes discipline or changes the license status from retired to revoked or suspended, if the Board determines that such action is in the best interests of public health, safety or welfare.

3.10: Professional Standards of Conduct for Licensed Respiratory Therapists

For purposes of 261 CMR 3.07, Respiratory Therapist means both a Licensed Respiratory Therapist and a person that holds a limited license. The following Standards of Conduct apply to Respiratory Therapists:

- (1) Use of Title. A Respiratory Therapist shall only identify himself or herself as a Licensed Respiratory Therapist while in possession of a current license.
- (2) Misrepresentation of Credentials. A Respiratory Therapist shall not misrepresent his or her credentials related to the practice of respiratory care including, but not limited to, education, type of license, professional experience, or any other credential related to his or her work as a Respiratory Therapist.
- (3) Practice under a False or Different Name. A Respiratory Therapist shall engage in the practice of respiratory care only under the name in which such license has been issued.
- (4) Acts within Scope of Practice. A Respiratory Therapist shall only perform acts within the scope of practice as defined in M.G.L. c. 112, § 23R and 261 CMR 2.02: Respiratory Care. A holder of a limited license shall perform only acts within the scope of practice as restricted in 261 CMR 3.04(2).
- (5) Competency. A Respiratory Therapist shall only assume those duties and responsibilities within his or her scope of practice and for which he or she has acquired and maintained necessary knowledge, skills, and abilities.

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- (6) Responsibility and Accountability. A Respiratory Therapist shall be responsible and accountable for his or her judgments, actions, and competency in the course of performing his or her duties.
- (7) Documentation. A Respiratory Therapist shall make complete, accurate, and legible entries in all records required by federal, state and local laws and regulations.
- (8) Falsification of Information. A Respiratory Therapist shall not knowingly falsify, or attempt to falsify, any documentation or information related to any aspect of license as a Respiratory Therapist, the practice of respiratory care or the delivery of services.
- (9) Alteration or Destruction of Records. A Respiratory Therapist shall not inappropriately destroy or alter any record related to his or her work.
- (10) Discrimination. A Respiratory Therapist shall not withhold or deny care or services based on age, ancestry, marital status, sex, sexual orientation, gender identity, race, color, religious creed, national origin, diagnosis, or mental or physical disability.
- (11) Patient Abuse, Neglect, Mistreatment, or Other Harm. A Respiratory Therapist shall not abuse, neglect, mistreat, or otherwise harm a patient.
- (12) Infection Control. A Respiratory Therapist shall not place a patient, himself or herself, or others at undue risk for the transmission of infectious diseases.
- (13) Patient Dignity and Privacy. A Respiratory Therapist shall safeguard a patient's dignity and right to privacy.
- (14) Patient Confidential Information. A Respiratory Therapist shall safeguard patient information from any person or entity, not entitled to such information. A Respiratory Therapist shall share appropriate information only as required by law or authorized by the patient for the well-being or protection of the patient.
- (15) Sexual Contact. A Respiratory Therapist shall not have sexual contact with any patient with whom he or she has a current Respiratory Therapist/patient relationship or with any former patient who may be vulnerable by virtue of disability, age, illness, or cognitive ability.
- (16) Professional Boundaries. A Respiratory Therapist shall establish and observe professional boundaries with respect to any patient with whom he or she has a current Respiratory Therapist/relationship. A Respiratory Therapist shall continue to observe professional boundaries with his or her former patients who may be vulnerable by virtue of disability, age, illness, or cognitive ability.
- (17) Exercise of Undue Influence. A Respiratory Therapist shall not exercise undue influence on a patient, including the promotion or sale of services, goods, appliances or drugs, in such a manner as to exploit the patient for financial gain for the benefit of the Respiratory Therapist or a third party.
- (18) Borrowing from Patients. A Respiratory Therapist shall not borrow money, materials, or other property from any patient.
- (19) Undue Benefit or Gain. A Respiratory Therapist shall interact with patients without undue benefit or gain to the Respiratory Therapist or a third party.
- (20) Relationship Affecting Professional Judgment. A Respiratory Therapist shall not initiate or maintain a Respiratory Therapist/patient relationship that is likely to adversely affect the Respiratory Therapist's professional judgment.
- (21) Advertising. A Respiratory Therapist shall not engage in false, deceptive, or misleading advertising related to respiratory care.

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(22) Fraudulent Practices. A Respiratory Therapist shall not engage in any fraudulent practice including, but not limited to, billing for services not rendered or submitting false claims for reimbursement.

(23) Impersonation. A Respiratory Therapist shall not impersonate another Respiratory Therapist or other health care provider, or knowingly allow or enable another person to impersonate him or her.

(24) Aiding Unlawful Activity. A Respiratory Therapist shall not aid any person in performing any act prohibited by law or regulation.

(25) Circumvention of Law. A Respiratory Therapist shall not receive from, or offer, give, or promise anything of value or benefit to, any official to circumvent any federal, state and local laws and regulations.

(26) Practice While Impaired. A Respiratory Therapist shall not act as a Respiratory Therapist while impaired.

(27) Unlawful Acquisition and Possession of Controlled Substances. A Respiratory Therapist shall not unlawfully obtain or possess controlled substances.

(28) Duty to Report to the Board. A Respiratory Therapist has a duty to report to the Board if he or she directly observes another Respiratory Therapist or health care professional engaged in any of the following shall report that individual:

- (a) abuse a patient;
- (b) practice respiratory care while impaired by substance use; or
- (c) divert controlled substances.

(29) Violence. A Respiratory Therapist shall not endanger the safety of the public, patients, or coworkers by making actual or implied threats of violence, or carrying out an act of violence.

(30) Compliance with Agreements and Orders. A Respiratory Therapist shall comply with all provisions contained:

- (a) in any agreement he or she has entered into with the Board; or
- (b) in any order issued to him or her by the Board.

3.11: Responsibilities of Licensed Respiratory Therapists in Director Roles

A licensed Respiratory Therapist who is employed as the director of a respiratory therapy program shall notify the Board in writing within five days the name of any student who has been issued a limited license, has not completed the program and is no longer enrolled.

REGULATORY AUTHORITY

261 CMR 3.00: M.G.L. c. 112, §§ 23R through 23BB; c. 13, § 11B.