COMMONWEALTH OF MASSACHUSETTS
BOARD OF RESPIRATORY CARE

PRELIMINARY DENIAL OF LICENSURE

POLICY No. 09-01

[Adopted January 14, 2009]

I. Purpose

The Board of Respiratory Care may deny licensure to an applicant who does not meet the requirements identified in Board statutes governing licensure and regulations promulgated thereunder, and as otherwise provided by law. The Board adopts Policy 09-01 to identify its procedures in connection with denial of licensure.

II. Preliminary Denial of Licensure

The Board may preliminarily deny licensure if it determines that the applicant does not meet the requirements for licensure as set forth in applicable statutes and regulations.

Where the Board preliminarily denies licensure, it will notify the applicant in writing of the following:

- the grounds for the preliminary denial;
- the applicable statutes or regulations, or both; and
- the applicant's right to request a hearing in writing within 21 days of the applicant's notification of preliminary denial of licensure.

Upon timely receipt of an applicant's written request for a hearing, the Board may grant such request if:

- the applicant has adequately identified a specific area of factual dispute relevant to the preliminary denial and has submitted sufficient credible documentation to establish such dispute;
- the Board determines that a hearing is required to resolve the factual dispute identified by the applicant; and
- if, following a hearing, the factual dispute were to be resolved in the applicant's favor and the applicant would otherwise be eligible for licensure.

III. Notification of Board Decision

If, after the expiration of the time in which to request a hearing, or after the Board determines, based on the documentation before it, that a hearing is not required, or if, after a hearing, the Board determines that the applicant should not be licensed, the Board may vote to deny licensure. The Board shall notify the applicant in writing of such denial of licensure, the factual and legal grounds for such denial, and the applicant's appeal rights.

The Board, in its discretion, may also inform the applicant of any requirements that the applicant must satisfy before the applicant may reapply for licensure.

If, after a hearing, the applicant has demonstrated to the Board’s satisfaction that a license should be issued, and the applicant is otherwise eligible for licensure, the Board shall vote to grant licensure and shall notify the applicant in writing of its action.