

COMMONWEALTH OF MASSACHUSETTS

BOARD OF RESPIRATORY CARE

FREQUENTLY ASKED QUESTIONS ABOUT THE PRACTICE
OF RESPIRATORY CARE

(Replaces Interpretations of respiratory care services in the home and by unlicensed individuals, issued 1994)

Q What is the practice of respiratory care?

A The practice of respiratory care is defined in Massachusetts General Laws ("M.G.L.") 112, section ("§") 23R and in regulations of the Board of Respiratory Care at 261 Code of Massachusetts Regulations ("CMR") 2.02.

Board statutes at M.G.L. c. 112, § 23R, state:

"The following words as used in sections twenty-three R to twenty-three BB, inclusive, unless the context otherwise requires, shall have the following meanings:—

"Respiratory care", is a health profession that, under direction of a licensed physician, who has special expertise in respiratory care, utilizes the application of scientific principles for the identification, prevention, remediation, research, and rehabilitation of acute or chronic cardiopulmonary dysfunction thereby promoting optimum health and function. Respiratory care practice includes, but is not limited to, the therapeutic and diagnostic use of the following as ordered by a physician: medical gases, gas administering devices, humidification and aerosols, administration of aerosol medications, support services for mechanically ventilated patients, postural drainage, bronchopulmonary hygiene, breathing exercises, respiratory rehabilitation, cardiopulmonary resuscitation, maintaining natural and artificial airways, the understanding and reporting of tests as aids to diagnosis or the planning of treatment programs. Respiratory care shall also include the measuring ventilatory volumes, pressures and flows, collecting specimens of blood and other materials, pulmonary function testing, hemodynamic and other related physiologic monitoring of the cardiopulmonary system. Respiratory care shall also include teaching both patient and family respiratory care procedures as part of a patient's ongoing program; consultation services for the health educational and community agencies. Respiratory care shall also include teaching of the knowledge, skills, and attitudes necessary to perform the above mentioned activities."

Board regulations at 261 CMR 2.02 state:

"Respiratory Care: A health profession that, under direction of a licensed physician, who has special expertise in respiratory care, utilizes the application of scientific principles for the identification, prevention, remediation, research, and rehabilitation of acute or chronic cardiopulmonary dysfunction thereby producing optimum health and function. Respiratory care practice includes, but is not limited to, the therapeutic and diagnostic use of the following as ordered by a physician: medical gases; gas administering devices; humidification and aerosols; administration of aerosol medications; support services for mechanically ventilated patients; postural drainage; bronchopulmonary hygiene; breathing exercises; respiratory rehabilitation, cardiopulmonary resuscitation; maintaining natural and artificial airways; the understanding and reporting of tests as aids to diagnosis or the planning of treatment programs. Respiratory care shall also include the measuring of ventilatory volumes, pressures, and flows; collecting specimens of blood and other materials; pulmonary function testing; hemodynamic and other related physiologic monitoring of the cardiopulmonary system. Respiratory care shall also include teaching both patient and family respiratory care procedures as part of a patient's ongoing program; consultation services for health educational and community agencies. Respiratory care shall also include teaching of the knowledge, skills, and attitudes necessary to perform the above mentioned activities. Respiratory Care is a changing and evolving profession and shall also include procedures described by the Clinical Practice Guidelines of the AARC, and duties consistent with the training and education of respiratory care personnel or related to the practice of respiratory care, as approved by the Board."

Q May a person who is licensed in Massachusetts under another Massachusetts licensing law provide services that are included in the definition of "respiratory care" in M.G.L. c. 112, § 23R, and 261 CMR 2.02?

A A person who is licensed in Massachusetts under another Massachusetts licensing law may provide respiratory care services so long as such services are included in the licensed person's legal scope of practice and so long as the licensed person has met any required competencies for the provision of such services.

Board statutes at M.G.L. c. 112, § 23V, state,

"Nothing in [the Respiratory Care statutes] shall be construed as preventing or restricting the practice, services, or activities of: (a) any person licensed in the commonwealth by any other statute...from engaging in the profession for which he is licensed or credentialed;..."

Q What respiratory care services may be performed in Massachusetts by a person who is not licensed as a Respiratory Therapist in Massachusetts?

A A person who is not licensed as a Respiratory Therapist in Massachusetts may perform those services identified in M.G.L. c. 112, § 23V, and in Board regulations at 261 CMR 2.05, *Respiratory Care Services Not Requiring a License*.

Board statutes at M.G.L. c. 112, § 23V state:

"Section 23V. Nothing in sections twenty-three R to twenty-three BB, inclusive, shall be construed as preventing or restricting the practice, services, or activities of:

(a) any person licensed in the commonwealth by any other statute or credentialed by an organization which is a member of the National Commission for Health Certifying Agencies from engaging in the profession for which he is licensed or credentialed, or

(b) any person employed as a respiratory therapist by the federal government or any agency of it, if such person provides respiratory care solely under the direction or control of the organization by which he is employed , or

(c) any person pursuing a supervised course of study leading to a degree or certificate in respiratory care as part of an accredited and approved educational program, if the person is designated by a title which clearly indicates his status as a student or trainee, or otherwise as a student functioning under the supervision of a licensed respiratory therapist, provided however, that such activity does not exceed the student's education and training, or

(d) any person performing respiratory care services in the commonwealth, if these services are performed for no more than two calendar days in a calendar year in association with a respiratory therapist licensed under this section ."

Board regulations at 261 CMR 2.05 state:

"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 himself out as a 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 2.05(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 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 employer and so authorized by such employer;

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

(6) services performed in association with a 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 of this commonwealth; 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 respiratory therapist; and

(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 or its successor¹; provided such services are included in scope of practice of the profession or occupation for which such person is licensed or credentialed."

¹ With respect to the licensure exemption stated in M.G.L. c. 112, § 23V(a), the Board interprets the language, "any person...credentialed by an organization which is a member of the National Commission for Health Certifying Agencies [NCHCA]" to exempt any person who holds a certification granted through validated examinations administered by a credentialing organization accredited by a nationally recognized certifying agency such as the NCHCA. The successor agency to the NCHCA is the National Commission for Certifying Agencies ("NCCA"), which is an accrediting body that evaluates certification organization for compliance with NCCA Standards for the Accreditation of Certification Programs.

Q May someone who is licensed as a Respiratory Therapist in another state provide respiratory care services in Massachusetts?

A A person who is not licensed as a Respiratory Therapist in Massachusetts may perform those services identified in M.G.L. c. 112, § 23V, and in Board regulations at 261 CMR 2.05, *Respiratory Care Services Not Requiring a License*.

Board statutes at M.G.L. c. 112, § 23V state:

"(d) any person performing respiratory care services in the commonwealth, if these services are performed for no more than two calendar days in a calendar year in association with a respiratory therapist licensed under this section."

Board regulations at 261 CMR 2.05 state:

"(6) services performed in association with a 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 of this commonwealth; provided such services may not be rendered for more than two calendar days in any calendar year;...."

Q May a person who is not licensed as a Respiratory Therapist in Massachusetts perform pulmonary function testing?

A A person who is not licensed as a Respiratory Therapist in Massachusetts may perform those services identified in Board regulations at 261 CMR 2.05, *Respiratory Care Services Not Requiring a License*:

"(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 employer and so authorized by such employer;...."

Q May a person who holds a Limited Permit provide respiratory care services when his or her supervising licensed Respiratory Therapist is not on the premises where and when the services are being provided?

A Based on the Board's statutes and regulations cited below, a person who holds a Limited Permit may only provide respiratory care services when his or her supervising licensed Respiratory Therapist is on the premises where and when the services are provided.

Board statutes at M.G.L. c. 112, § 23V(c), state,

"(c) any person pursuing a supervised course of study leading to a degree or certificate in respiratory care as part of an accredited and approved educational program, if the person is designated by a title which clearly indicates his status as a student or trainee, or otherwise as *a student functioning under the supervision of a licensed respiratory therapist*, provided however, that such activity does not exceed the student's education and training];...." [emphasis added]

Similarly, Board regulations at 261 CMR 2.08(4) provide,

"The respiratory care services provided by the holder of a Limited Permit must be performed under the supervision of a respiratory therapist, as required by M.G.L. c. 112, § 23V(c)."

The definition of "supervision" in Board regulations at 261 CMR 2.02, *Definitions*, states,

"The director of the respiratory care department or his designee, provided such director or designee is a respiratory therapist, is on the premises and readily available to give aid, direction, and instruction to a person rendering respiratory care services pursuant to M.G.L. c. 112, §§ 23T [supervised respiratory care practice pending examination results] and 23V(c) [respiratory therapist license not required by a student functioning under the supervision of a licensed respiratory therapist] and 261 CMR 2.08 [governing Limited Permits]."

Q May a person who is not licensed clean, sterilize, disinfect, assemble, and disassemble respiratory care equipment?

A Board regulations at 261 CMR 2.05(5) specifically state, "A respiratory care license is not required for performance of the following:...(5) cleaning, sterilizing, disinfecting, assembling, and disassembling of respiratory care equipment...."

Q May a person who is not licensed transport or deliver compressed gas cylinders and other respiratory care devices to a home, hospital, or other location?

A Board regulations at 261 CMR 2.05(8) specifically state, "A respiratory care license is not required for performance of the following:...(8) the transportation or delivery of compressed gas cylinder and other respiratory care equipment to a home, hospital, or other location."

Q May a person who is not licensed as a Respiratory Therapist in Massachusetts set up and initiate oxygen therapy or other therapies such as CPAP, BiPAP, suction, or nebulizers with medications?

A A person who is not licensed as a Respiratory Therapist in Massachusetts cannot set up and initiate oxygen therapy or other therapies such as CPAP, BiPAP, suction, or nebulizers with medications, which are included in the statutory and regulatory definitions of "respiratory care" unless such set up and initiation is exempted under M.G.L. c. 112, § 23V.

Q May a person who is not licensed as a Respiratory Therapist in Massachusetts instruct a patient and/or the patient's family on the patient's respiratory therapy?

A A person who is not licensed as a Respiratory Therapist in Massachusetts cannot instruct a patient or the patient's family on the patient's respiratory therapy, which is encompassed under the definition of "respiratory care" at 261 CMR 2.02, unless such instruction is exempted under M.G.L. c. 112, § 23V.

Q May a person who is not licensed as a Respiratory Therapist in Massachusetts change the source of a patient's oxygen?

A A person who is not licensed as a Respiratory Therapist in Massachusetts may change the source of a patient's oxygen provided that such person has been properly trained to change the oxygen source. While the definition of "respiratory care" at 261 CMR 2.02 encompasses the therapeutic and diagnostic use of medical gases as ordered by a physician, the Board recognizes that oxygen therapy is unique because of the need for its continuous administration to a patient. A properly trained person may change the source of oxygen where:

- 1) documentation clearly shows that the patient tolerates the amount of oxygen prescribed for use at home;
 - 2) documentation shows that a licensed person has verified that the patient is receiving the prescribed amount of oxygen at the time of the patient's discharge;
 - 3) in transferring the patient from one source of oxygen to another, the liter flow and administration device in the home are comparable to the discharge amount and device; and
 - 4) a licensed person visits the patient within 24 to 48 hours after the patient arrives at home and such person documents that she or he has verified the prescribed therapy, instructed the patient and/or the patient's family, and evaluated the patient relative to the oxygen therapy.
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Q If I am a licensed Respiratory Therapist and allow an unlicensed person to provide respiratory care services, may my RT license be subject to disciplinary action by the Board?

A A licensed Respiratory Therapist who allows an unlicensed person to provide respiratory care services that may only be provided by a licensed person may be subject to Board disciplinary action up to, and including, license suspension or revocation.

The Board is empowered by M.G.L. c. 112, § 23X, and 261 CMR 4.04(5) to pursue discipline against a licensee who "has acted in a manner which is professionally unethical according to the ethical standards of the profession of respiratory care." Section 4.04(5) also identifies as grounds for complaint "knowingly permitting, aiding or abetting an unlicensed person to perform activities requiring a license." Allowing an unlicensed person to provide respiratory care services that may only be provided by a licensed person constitutes "aiding and abetting" the unlicensed practice of respiratory care and, as such, is clearly unethical according to professional ethical standards. If, after investigation, the Board has sufficient information to establish that a licensed Respiratory Therapist has allowed an unlicensed person to perform activities requiring a license, the Board may open a formal complaint and pursue disciplinary action against the licensee.

Where the Board's investigation of unlicensed practice establishes that a person licensed by another licensing board has "aided and abetted" the unlicensed practice, the Board may refer the matter to the appropriate licensing board.

The Board may also refer instances of unlicensed respiratory care practice to the Office of the Attorney General and/or other law enforcement entity, and to The Joint Commission for investigation and appropriate action.

Q Is a Respiratory Therapist licensed in Massachusetts required to inform the Board of any practice of respiratory care by a person who is not licensed by the Board or otherwise authorized to provide respiratory care services?

A Board statutes and regulations do not specifically require a licensee to inform the Board of respiratory care practice by a person who is not licensed by the Board and or otherwise authorized to provide respiratory care services under the exemptions at M.G.L. c. 112, § 23V. However, the Board provides the following guidance with respect to reporting any unauthorized practice of respiratory care:

- When promulgating its regulations at 261 CMR, the Board adopted the American Association for Respiratory Care (AARC) Code of Ethics as the official guide to ethical standards and professional conduct for its licensees. 261 CMR 4.06(7). The AARC's *Statement of Ethics and Professional Conduct* states, in part:

"In the conduct of professional activities the Respiratory Therapist shall be bound by the following ethical and professional principles. The Respiratory Therapist shall:

- Refuse to participate in illegal or unethical acts.
- Refuse to conceal, and will report, the illegal, unethical, fraudulent, or incompetent acts of others."

In explaining these principles, the AARC states,

"In the conduct of their professional activities, respiratory therapists will not engage in any illegal acts and shall adopt a zero tolerance approach to the illegal behavior of others. Knowing that when a minor infraction is tolerated, the door is open for further and more serious breaches, and any witnessed or suspected event must be promptly reported to an immediate supervisor and/or appropriate authority... Permitting illegal or unethical behavior to go unreported and uncorrected maligns the integrity of other respiratory therapists in the workplace and reflects badly on the profession at large."

- The AARC Position Statement on Home Respiratory Care Services, in part states,

"It is the position of the American Association for Respiratory Care (AARC) that the respiratory therapist—by virtue of education, training, and competency testing—is the most competent health care professional to provide prescribed home respiratory care. The complexities of the provision of home respiratory care are such that the public is placed at a significant risk of injury when respiratory care services

are provided by unqualified persons, either licensed or unlicensed, rather than by persons with appropriate education, training, credentials, and competency documentation.

Although access to home respiratory care is limited at this time by reimbursement for services, it is the position of the AARC that practitioners who are employed to provide home respiratory care possess the Certified Respiratory Therapist (CRT) or Registered Respiratory Therapist (RRT) credential awarded by the National Board for Respiratory Care, as well as state licensure or certification where applicable."

The AARC's *Statement of Ethics and Professional Conduct* may be at found at www.aarc.org.

Q Is the performance of Extracorporeal Membrane Oxygenation (ECMO) within the scope of practice of a Respiratory Therapist licensed in Massachusetts?

A It is the Board's position that the performance of ECMO by respiratory therapists is within the scope of practice of licensed respiratory therapists (RRTs). Board regulations at 261 CMR 2.02 define respiratory care as a "[A] health profession that, under direction of a licensed physician, who has special expertise in respiratory care, utilizes the application of scientific principles for the identification, prevention, remediation, research, and rehabilitation of acute or chronic cardiopulmonary dysfunction thereby producing optimum health and function." 261 CMR 2.02 further states that "Respiratory Care is a changing and evolving profession and shall also include procedures described by the Clinical Practice Guidelines of the American Association of Respiratory Care (AARC), and duties consistent with the training and education of respiratory care personnel or related to the practice of respiratory care, as approved by the Board."

Any respiratory therapist who performs ECMO must meet the education and training requirements identified in the AARC's Position Statement, Respiratory Therapists as Extracorporeal Membrane Oxygenation (ECMO) Specialist, issued in 1998 and revised in 2007, which endorses the use of qualified and appropriately educated respiratory therapists as ECMO specialists.

The AARC's *Position Statement: Respiratory Therapists as Extracorporeal Membrane Oxygenation (ECMO) Specialist* may be found at http://www.aarc.org/resources/position_statements/ecmo.html.
