

CHAPTER 97

RESPIRATORY CARE PRACTITIONERS

§9701. Declaration of purpose

In order to safeguard the public health, safety and welfare, to protect the public from incompetent and unauthorized persons; to assure the highest degree of professional conduct on the part of respiratory care practitioners; and to assure the availability of respiratory care services of high quality to persons in need of those services, it is the purpose of this chapter to provide for the regulation of persons offering respiratory care services. [PL 1985, c. 288, §3 (NEW).]

SECTION HISTORY

PL 1985, c. 288, §3 (NEW).

§9702. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1985, c. 288, §3 (NEW).]

1. Board. "Board" means the Board of Respiratory Care Practitioners established under this chapter.

[PL 1985, c. 288, §3 (NEW).]

2. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

[PL 1989, c. 450, §35 (AMD).]

3. Department. "Department" means the Department of Professional and Financial Regulation.

[PL 1989, c. 450, §35 (AMD).]

4. Person. "Person" means any individual, partnership, unincorporated organization or corporation.

[PL 1985, c. 288, §3 (NEW).]

5. Respiratory care. "Respiratory care" means the therapy, management, rehabilitation, diagnostic evaluation and care, administered on the order of a physician or surgeon, of patients with deficiencies and abnormalities affecting the cardiopulmonary system and associated aspects of other bodily systems, including, but not limited to, the following:

A. Direct and indirect pulmonary care services that are of comfort, safe, aseptic, preventative and restorative care to the patient; [PL 1985, c. 288, §3 (NEW).]

B. Direct and indirect respiratory care services including, but not limited to, the administration of pharmacological, diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative or diagnostic regimen prescribed by a physician; [PL 1985, c. 288, §3 (NEW).]

C. Observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether those signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics; [PL 1985, c. 288, §3 (NEW).]

D. Implementation based on observed abnormalities, appropriate reporting, referral, respiratory care protocols or changes in treatment, pursuant to a prescription by a person authorized to prescribe respiratory care or the initiation of emergency procedures; and [PL 1985, c. 288, §3 (NEW).]

E. Diagnostic and therapeutic use of the following:

- (1) Administration of medical gases, aerosols and humidification;
- (2) Environmental control mechanisms and hyperbaric therapy;
- (3) Pharmacological agents related to respiratory care procedures;
- (4) Mechanical or physiological ventilatory support;
- (5) Bronchopulmonary hygiene;
- (6) Cardiopulmonary resuscitation;
- (7) Maintenance of natural airways;
- (8) Insertion and maintenance of artificial airways;
- (9) Specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment and research of pulmonary abnormalities, including measurement of ventilatory volumes, pressures and flows, collection of specimens of blood and collection of specimens from the respiratory tract;
- (10) Analysis of blood gases and respiratory secretions and pulmonary function testing; and
- (11) Hemodynamic and physiologic measurement and monitoring of cardiac functions as it relates to cardiopulmonary pathophysiology. [PL 1989, c. 450, §36 (AMD).]

F. Initial and follow-up instruction and patient evaluation in a nonhospital setting for the diagnostic and therapeutic uses described in paragraph E. [PL 1985, c. 288, §3 (NEW).]

"Respiratory care" includes the terms "respiratory therapy" or "inhalation therapy."
[PL 1989, c. 450, §36 (AMD).]

6. Respiratory care practitioner. "Respiratory care practitioner" means a person licensed as a respiratory therapist or as a respiratory care technician under this chapter.
[PL 1985, c. 288, §3 (NEW).]

7. Respiratory care practitioner trainee. "Respiratory care practitioner trainee" means an employee of a health care facility who is enrolled in the clinical portion of an approved respiratory care educational program.
[PL 1989, c. 450, §37 (NEW).]

SECTION HISTORY

PL 1985, c. 288, §3 (NEW). PL 1989, c. 450, §§35-37 (AMD).

§9703. Board of respiratory care practitioners; establishment; compensation

1. Establishment and membership. There is established within the department, in accordance with Title 5, section 12004-A, subsection 35, a Board of Respiratory Care Practitioners. The board consists of 5 members appointed by the Governor as follows:

A. Three respiratory care practitioners who have been engaged in the practice of respiratory care for at least 2 years immediately preceding their appointments and who are holders of valid licenses for the practice of respiratory care in the State; and [PL 2007, c. 402, Pt. W, §1 (AMD).]

B. Two public members as defined in Title 5, section 12004-A. [PL 2007, c. 402, Pt. W, §1 (AMD).]

[PL 2007, c. 402, Pt. W, §1 (AMD).]

2. Terms of appointment. Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 8009. A member of the board may be removed from office for cause by the Governor.

[PL 2007, c. 402, Pt. W, §1 (AMD).]

3. Meetings; chair. The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members.

[PL 2013, c. 246, Pt. B, §18 (AMD).]

4. Compensation.

[PL 1995, c. 397, §89 (RP).]

SECTION HISTORY

PL 1985, c. 288, §3 (NEW). PL 1989, c. 450, §38 (AMD). PL 1989, c. 503, §B152 (AMD). PL 1993, c. 600, §A260 (AMD). PL 1995, c. 397, §89 (AMD). PL 2007, c. 402, Pt. W, §1 (AMD). PL 2013, c. 246, Pt. B, §18 (AMD).

§9704. Board of Respiratory Care Practitioners; powers and duties

1. Powers. The board shall administer and enforce this chapter and evaluate the qualifications of applicants for licensure.

[PL 2007, c. 402, Pt. W, §2 (AMD).]

2. Rules. The board may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, adopt rules to carry out the policy of this chapter, including, but not limited to, rules relating to professional licensure, professional conduct, continuing education, approval of continuing education programs and to the establishment of ethical standards of practice for persons holding a license to practice respiratory care in this State. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 402, Pt. W, §2 (AMD).]

3. Hearings.

[PL 2007, c. 402, Pt. W, §2 (RP).]

4. Records.

[PL 2007, c. 402, Pt. W, §2 (RP).]

5. Contracts.

[PL 1995, c. 397, §90 (RP).]

6. Reports.

[PL 2007, c. 402, Pt. W, §2 (RP).]

7. Employees.

[PL 1995, c. 397, §91 (RP).]

8. Budget.

[PL 1995, c. 397, §92 (RP).]

SECTION HISTORY

PL 1985, c. 288, §3 (NEW). PL 1985, c. 785, §B145 (AMD). PL 1989, c. 450, §39 (AMD). PL 1995, c. 397, §§90-92 (AMD). PL 2007, c. 402, Pt. W, §2 (AMD).

§9705. License required

1. License required. An individual may not practice or represent that individual as authorized to practice as a respiratory care practitioner in this State or use the words "respiratory care practitioner" or other words or letters to indicate that the person is a licensed respiratory care practitioner, unless that individual is licensed in accordance with this chapter. A respiratory therapist licensed in accordance with this chapter may use the initials "R.R.T." A respiratory care technician licensed in accordance with this chapter may use the initials "C.R.T." An individual who holds a temporary license in

accordance with this chapter may use the initials "G.R.T." until the individual has taken and passed the examination or until the term of the license has expired. A student or trainee may use the initials "S.R.T." while enrolled in the clinical portion of a respiratory care education program. [PL 1999, c. 386, Pt. S, §1 (AMD).]

2. Individual license. Only an individual may be licensed under this chapter. [PL 1985, c. 288, §3 (NEW).]

3. Unlicensed practice. A person who violates this section is subject to the provisions of Title 10, section 8003-C. [PL 2007, c. 402, Pt. W, §3 (AMD).]

SECTION HISTORY

PL 1985, c. 288, §3 (NEW). PL 1997, c. 210, §12 (AMD). PL 1999, c. 386, §S1 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2007, c. 402, Pt. W, §3 (AMD).

§9705-A. Associate license required

A person may not perform respiratory care services in association with a respiratory care practitioner licensed under this chapter unless that individual is approved by the board in accordance with this section. [PL 1999, c. 386, Pt. S, §2 (NEW).]

1. Licensed in another state. The associate shall file verification that the associate holds a valid license in good standing from another state that has licensure requirements equivalent to the requirements of this chapter. [PL 1999, c. 386, Pt. S, §2 (NEW).]

2. Certified or registered. The associate must be certified or registered by the National Board of Respiratory Care or its successor or other organization approved by the board and must reside in a nonlicensure state. [PL 2007, c. 402, Pt. W, §4 (AMD).]

At the time of application, the associate must report the dates and locations that respiratory care services will be performed in this State, which may not exceed 30 days in a calendar year. If the board determines that the applicant meets the requirements of this section, it may issue an associate license upon payment of a fee as set under section 9710. [PL 2007, c. 402, Pt. W, §4 (AMD).]

SECTION HISTORY

PL 1999, c. 386, §S2 (NEW). PL 2007, c. 402, Pt. W, §4 (AMD).

§9706. Persons and practices exempt

(REPEALED)

SECTION HISTORY

PL 1985, c. 288, §3 (NEW). PL 1989, c. 450, §40 (RP).

§9706-A. Persons and practices exempt

Nothing in this chapter may be construed as preventing or restricting the practice, services or activities of: [PL 1989, c. 450, §41 (NEW).]

1. Licensed or credentialed persons. Any health care personnel licensed by this State or who currently hold a nationally recognized credential in a health care profession engaging in the delivery of respiratory care services for which they have been formally trained. That training must include supervised preclinical didactic and laboratory activities and supervised clinical activities and must be approved by the board or an accrediting agency recognized by the board. It also must include an

evaluation of competence through a standardized testing mechanism that is determined by the board to be both valid and reliable;

[PL 1991, c. 717, §1 (AMD).]

2. Students. The delivery of respiratory care services by students as an integral part of the study program of students enrolled in education programs of any health care profession, as determined by board rule;

[PL 1989, c. 450, §41 (NEW).]

3. Associates.

[PL 1999, c. 386, Pt. S, §3 (RP).]

4. Gratuitous care. Family members, friends and others who give gratuitous care to a patient and do not hold themselves out as respiratory care practitioners;

[PL 1989, c. 450, §41 (NEW).]

5. Self-care. Persons who administer respiratory care to themselves;

[PL 1989, c. 450, §41 (NEW).]

6. Cardiovascular testing. Cardiovascular testing by individuals who have been issued credentials by the National Society of Cardiopulmonary Technicians, the American Cardiology Technologists Association or working in hospital-based cardiology departments;

[PL 1989, c. 450, §41 (NEW).]

7. Cardiopulmonary testing. Cardiopulmonary testing by individuals who have been issued credentials by the National Board for Respiratory Care as Certified Pulmonary Function Technologists; or

[PL 1989, c. 450, §41 (NEW).]

8. Physician supervision. The delivery of respiratory care services by individuals employed in the office and under the direct supervision and control of a physician licensed to practice by the State.

[PL 1989, c. 450, §41 (NEW).]

SECTION HISTORY

PL 1989, c. 450, §41 (NEW). PL 1991, c. 717, §1 (AMD). PL 1999, c. 386, §§3 (AMD).

§9707. Temporary license

No more than one temporary license may be granted to a person who has completed the education requirements of this chapter. This license allows the holder to practice respiratory care under the supervision of a licensed respiratory care practitioner. This license must be issued for a term of 90 days and may be extended for an additional 90 days at the discretion of the board. [PL 2011, c. 286, Pt. I, §1 (AMD).]

SECTION HISTORY

PL 1985, c. 288, §3 (NEW). PL 1989, c. 450, §42 (AMD). PL 2011, c. 286, Pt. I, §1 (AMD).

§9707-A. Respiratory care practitioner trainee license

The board may license student employees as respiratory care practitioner trainees as defined under section 9702, subsection 7, and adopt rules for that license. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 402, Pt. W, §5 (AMD).]

SECTION HISTORY

PL 1989, c. 450, §43 (NEW). PL 2007, c. 402, Pt. W, §5 (AMD).

§9708. Requirements for licensure; levels of licensure

An applicant applying for a license as a respiratory care practitioner shall file a written application provided by the board, showing to the satisfaction of the board that he meets the following requirements. [PL 1985, c. 288, §3 (NEW).]

1. Residence.

[PL 1989, c. 450, §44 (RP).]

2. Ethical practice. An applicant must exhibit trustworthiness and competence.

[PL 2007, c. 402, Pt. W, §6 (AMD).]

3. Education and qualifications. An applicant shall present evidence satisfactory to the board that:

A. For a license as a respiratory therapist:

(1) The applicant is presently credentialed by the National Board for Respiratory Care or its successor or other organization approved by the board as a registered respiratory therapist; or

(2) The applicant:

(a) Is a graduate of an educational program for respiratory therapists which is recognized by the board and accredited by the American Medical Association in collaboration with the Joint Review Committee for Respiratory Therapy Education; and

(b) Has passed an examination as provided for in section 9709; or [PL 2007, c. 402, Pt. W, §7 (AMD).]

B. For a license as a respiratory care technician:

(1) The applicant is presently credentialed by the National Board for Respiratory Care as a certified respiratory therapy technician; or

(2) The applicant:

(a) Is a graduate of an educational program for respiratory therapists or respiratory care technicians which is recognized by the board and accredited by the American Medical Association in collaboration with the Joint Review Committee for Respiratory Therapy Education; and

(b) Has passed an examination as provided for in section 9709. [PL 1985, c. 288, §3 (NEW).]

[PL 2007, c. 402, Pt. W, §7 (AMD).]

4. Restrictions. A respiratory care practitioner trainee shall not perform invasive procedures or procedures related to critical respiratory care, including therapeutic, diagnostic and palliative procedures. Respiratory care practitioner trainees shall only perform services under the on-site supervision of a licensed respiratory care practitioner.

[PL 1989, c. 450, §45 (NEW).]

SECTION HISTORY

PL 1985, c. 288, §3 (NEW). PL 1989, c. 450, §§44,45 (AMD). PL 2007, c. 402, Pt. W, §§6, 7 (AMD).

§9709. Examination for licensure

1. Requirements. Only a person satisfying the requirements of this chapter may apply for examination in such a manner as the board prescribes.

[PL 1985, c. 288, §3 (NEW).]

2. Content. Written examinations shall be designed or adopted by the board and shall test the applicant's knowledge of the basic and clinical sciences relating to respiratory care, respiratory care

techniques and methods and such other subjects as the board may include to determine the applicant's fitness to practice.

[PL 1985, c. 288, §3 (NEW).]

3. Time and place.

[PL 2007, c. 402, Pt. W, §8 (RP).]

SECTION HISTORY

PL 1985, c. 288, §3 (NEW). PL 2007, c. 402, Pt. W, §8 (AMD).

§9709-A. Licensure by endorsement

Notwithstanding any provision of this chapter to the contrary, the board, in accordance with Title 10, section 8003-H and any applicable rules adopted pursuant to that section, shall establish a process to issue a license by endorsement for each license authorized under this chapter that the board determines is appropriate for licensure by endorsement. An applicant may submit an application under the process established under this section or any other licensure process authorized in this chapter. [PL 2021, c. 642, §30 (NEW).]

SECTION HISTORY

PL 2021, c. 642, §30 (NEW).

§9710. Fees

The Director of the Office of Professional and Occupational Regulation within the department may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$135 biennially. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 402, Pt. W, §9 (NEW); PL 2011, c. 286, Pt. B, §5 (REV).]

1. Amount.

[PL 2007, c. 402, Pt. W, §9 (AMD).]

2. Deposit of fees.

[PL 2007, c. 402, Pt. W, §9 (RP).]

SECTION HISTORY

PL 1985, c. 288, §3 (NEW). PL 1989, c. 450, §46 (AMD). PL 1991, c. 509, §30 (AMD). PL 1995, c. 502, §40 (AMD). PL 1999, c. 386, §4 (AMD). PL 2007, c. 402, Pt. W, §9 (RPR). PL 2011, c. 286, Pt. B, §5 (REV).

§9711. Issuance of license

(REPEALED)

SECTION HISTORY

PL 1985, c. 288, §3 (NEW). PL 2007, c. 402, Pt. W, §10 (RP).

§9712. Term of licenses

1. Biennial renewal. Licenses expire biennially on April 30th or on such other date as the commissioner determines.

Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee in addition to the required renewal fee as set under section 9710. A person who submits an application for renewal more than 90 days after the license renewal date is subject to all requirements governing new applicants under this chapter, except that the board may, giving due consideration to the protection of the public, waive examination if that renewal application is received, together with the late fee and renewal fee, within 2 years from the date of that expiration.

[PL 2007, c. 402, Pt. W, §11 (AMD).]

2. Continuing education.

[PL 2007, c. 402, Pt. W, §11 (RP).]

3. Transition.

[PL 2007, c. 402, Pt. W, §11 (RP).]

SECTION HISTORY

PL 1985, c. 288, §3 (NEW). PL 1989, c. 450, §§47,48 (AMD). PL 2007, c. 402, Pt. W, §11 (AMD).

§9713. Deny or refuse to renew license; disciplinary action

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A. [PL 2007, c. 402, Pt. W, §12 (NEW).]

1. Complaints.

[PL 2007, c. 402, Pt. W, §12 (RP).]

2. Disciplinary actions; grounds.

[PL 2007, c. 402, Pt. W, §12 (RP).]

SECTION HISTORY

PL 1985, c. 288, §3 (NEW). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2007, c. 402, Pt. W, §12 (RPR).

§9714. Telehealth services

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Asynchronous encounter" means an interaction between a patient and a person licensed under this chapter through a system that has the ability to store digital information, including, but not limited to, still images, video files, audio files, text files and other relevant data, and to transmit such information without requiring the simultaneous presence of the patient and the person licensed under this chapter. [PL 2021, c. 291, Pt. B, §15 (NEW).]

B. "Store and forward transfer" means the transmission of a patient's records through a secure electronic system to a person licensed under this chapter. [PL 2021, c. 291, Pt. B, §15 (NEW).]

C. "Synchronous encounter" means a real-time interaction conducted with an interactive audio or video connection between a patient and a person licensed under this chapter or between a person licensed under this chapter and another health care provider. [PL 2021, c. 291, Pt. B, §15 (NEW).]

D. "Telehealth services" means health care services delivered through the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring. [PL 2021, c. 291, Pt. B, §15 (NEW).]

E. "Telemonitoring" means the use of information technology to remotely monitor a patient's health status via electronic means, allowing the person licensed under this chapter to track the patient's health data over time. Telemonitoring may be synchronous or asynchronous. [PL 2021, c. 291, Pt. B, §15 (NEW).]

[PL 2021, c. 291, Pt. B, §15 (NEW).]

2. Telehealth services permitted. A person licensed under this chapter may provide telehealth services as long as the licensee acts within the scope of practice of the licensee's license, in accordance

with any requirements and restrictions imposed by this section and in accordance with standards of practice.

[PL 2021, c. 291, Pt. B, §15 (NEW).]

3. Confidentiality. When providing telehealth services, a person licensed under this chapter shall comply with all state and federal confidentiality and privacy laws.

[PL 2021, c. 291, Pt. B, §15 (NEW).]

4. Professional responsibility. All laws and rules governing professional responsibility, unprofessional conduct and generally accepted standards of practice that apply to a person licensed under this chapter also apply to that licensee while providing telehealth services.

[PL 2021, c. 291, Pt. B, §15 (NEW).]

5. Rulemaking. The board shall adopt rules governing telehealth services by persons licensed under this chapter. These rules must establish standards of practice and appropriate restrictions for the various types and forms of telehealth services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 291, Pt. B, §15 (NEW).]

SECTION HISTORY

PL 2021, c. 291, Pt. B, §15 (NEW).

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