DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION

1770 Respiratory Care Practice Advisory Council

1.0 Purpose

The purpose of the standards is to establish minimal acceptable levels of safe practice to protect the general public and to serve as a guide for the Board to evaluate safe and effective practice of respiratory care.

2.0 Definitions

"Board" - means Delaware Board of Medical Licensure and Discipline.

"Certified Respiratory Therapist (CRT)" - means the credential awarded by the NBRC to individuals who pass the certification examination for entry level respiratory therapy practitioners.

"Council" - means the Respiratory Care Practice Advisory Council of the Board of Medical Licensure and Discipline.

"Direct Supervision" - means supervising licensee or supervising physician will be present and immediately available within the treatment area.

"General Supervision" - means whether by direct observation and monitoring, protocols approved by physicians, or orders written or verbally given by physicians.

"NBRC" means the National Board for Respiratory Care, Inc.

"Programs Approved by the Board" - means initial course of study programs accredited by the Joint Review Committee for Respiratory Therapy Education (JRCRTE) or its successor organizations which have been approved by the Board.

"Registered Respiratory Therapist (RRT)" - means the credential awarded by the NBRC to individuals who pass the registry examination for advanced respiratory therapy practitioners.

"Respiratory Care" - means treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under the direction of a physician. Respiratory care includes inhalation therapy and respiratory therapy under 24 **Del.C.** §1776(a)(2) Medical Practice Act.

"Respiratory Care Practitioner (RCP)" - means an individual who practices respiratory care under 24 **Del.C.** §1776(a)(2) Medical Practice Act.

"Student Respiratory Care Practitioner (Student-RCP)" - means an individual enrolled in an accredited Respiratory Care Program recognized and approved by the Board.

"**Unlicensed Personnel (UP)**" - means an individual not otherwise authorized or exempt to provide respiratory care services except as provided in Section 13.0.

"Working Student Respiratory Care Practitioner" - means a student respiratory care practitioner who is employed to perform respiratory care under a limited scope of practice established by the Board.

13 DE Reg. 1223 (03/01/10)

20 DE Reg. 187 (09/01/16)

3.0 Standards of Practice for the Respiratory Care Practitioner

3.1 The respiratory care practitioner shall conduct and document respiratory care assessments of individuals and groups by various appropriate means including but not limited to the following:

3.1.1 Collecting objective and subjective data from observations, examinations, physiologic tests, interviews and written records in an accurate and timely manner.

3.1.2 Sorting, selecting, reporting, and recording the data.

3.1.3 Analyzing data.

3.1.4 Validating, refining and modifying the data by using available resources including interactions with the patient, family, and health team members.

3.1.5 Evaluating data.

3.1.6 Respiratory care practitioners shall establish and document data that serves as the basis for the strategy of care.

3.2 Respiratory care practitioners may develop strategies of care such as a treatment plan.

3.3 Respiratory care practitioners may participate under the direction and supervision of a physician in the implementation of patient care.

4.0 Standards Related to the Respiratory Care Practitioner's Competence and Responsibilities

4.1 Respiratory care practitioners shall:

4.1.1 Have knowledge of the statutes and regulations governing the practice of respiratory care.

4.1.2 Accept responsibility for competent practice of respiratory care.

4.1.3 Obtain instructions and supervision from physicians.

4.1.4 Function as a member of a health care team by collaborating with other members of the team to provide appropriate care.

4.1.5 Consult with respiratory care practitioners and others and seek guidance as necessary.

4.1.6 Obtain instruction and supervision as necessary when implementing respiratory care techniques.

4.1.7 Contribute to the formulation, interpretation, implementation and evaluation of objectives and policies related to the practice of respiratory care within the employment setting.

4.1.8 Report unsafe respiratory care practice and conditions to the Respiratory Care Practice Advisory Council, (Council), or other authorities as appropriate.

4.1.9 Practice without unlawful discrimination as to age, race, religion, sex, national origin or disability.

4.1.10 Respect the dignity and rights of patients regardless of social or economic status, personal attributes or nature of health problems.

4.1.11 Respect patients' right-to-privacy by protecting confidentiality unless obligated by law to disclose the information.

4.1.12 Respect the property of patients and their families.

4.1.13 Teach safe respiratory care practice to other health care workers as appropriate.

5.0 Administration of Medications

5.1 Respiratory care practitioners may administer pharmacological agents, aerosols, or medical gases via the respiratory route. Administration of medication by routes other than the respiratory route require the direct supervision of a physician.

5.2 A respiratory care practitioner shall not deliver any medication unless the order, written or oral by a physician or other person authorized by the Board of Medical Practice, to prescribe that class of medication includes:

5.2.1 Patient identification

5.2.2 Date of the order

5.2.3 Time of the order

5.2.4 Name of medication

5.2.5 Dosage

5.2.6 Frequency of administration

5.2.7 Route of administration

5.2.8 Method of administration

No respiratory care practitioner holding a permit or a license in the state of Delaware may administer medications for the testing or treatment of cardiopulmonary impairment for which the respiratory care provider is untrained or incompetent.

5.3 Respiratory care practitioners must be able to document appropriate training and proficiency on the route of medication delivery, drug pharmacology, and dosage calculations for any cardiopulmonary medications for which they are responsible to administer. Appropriate training includes but is not limited to the following components:

5.3.1 Pharmacology. Subject matter shall include terminology, drug standards, applicable laws and legal aspects, identification of drugs by name and classification, and the principles of pharmacodynamics of medications used in the treatment and testing of cardiopulmonary impairment.

5.3.2 Techniques of drug administration. Subject matter shall include principles of asepsis, safety and accuracy in drug administration, applicable anatomy and physiology, and techniques of administration and any route of administration for cardiopulmonary medications that fall within the legal scope of practice of a respiratory care practitioner.

5.3.3 Dosage calculations. Subject matter shall include a review of arithmetic and methods of calculation required in the administration of drug dosages.

5.3.4 Clinical experience. Subject matter shall include clinical experience in administration of the cardiopulmonary medication(s), planned under the direction of a qualified respiratory care practitioner or other qualified health care provider responsible for teaching cardiopulmonary medication administration.

5.3.5 Role of the respiratory care practitioner in administration of cardio-pulmonary medications. Subject matter shall include constraints of medication administration under the legal scope of practice for respiratory care practitioners, the rationale for specific respiratory care in relation to drug administration; observations and actions associated with desired drug effects, side effects and toxic effects; communication between respiratory care practitioners and other health care teams; respiratory care practitioner - client interactions; and the documentation of cardiopulmonary medication administration.

5.4 Each respiratory care practitioner shall maintain a record that documents training and proficiency and medications that each practitioner is authorized to administer. At the request of the Council such records may be audited, reviewed, or copied.

5.5 Documentation of medication administration by the respiratory care practitioner shall include at a minimum:

5.5.1 Patient identification

5.5.2 Date of the order

5.5.3 Time of the order

5.5.4 Name of medication

5.5.5 Dosage

5.5.6 Frequency of administration

5.5.7 Route of administration

5.5.8 Method of administration

5.5.9 Respiratory care practitioner’s name

5.5.10 Date and time of administration

5.5.11 Documentation of effectiveness

5.5.12 Documentation of adverse reactions and notifications if any

6.0 Disciplinary Proceedings

6.1 The license or permit of a respiratory care practitioner or student found to have committed unprofessional conduct may be subject to revocation, suspension, or non-renewal. The practitioner or student may be placed on probation subject to reasonable terms and conditions, or reprimanded.

6.2 Any licensed respiratory care practitioner found, after notice and hearing, to have engaged in behavior in his or her professional activity which is likely to endanger the public health, safety or welfare or who is unable to render respiratory care services with reasonable skill or safety to patients because of mental illness or mental incompetence, physical illness or excessive use of drugs including alcohol may have his or her license revoked, suspended, not renewed or may be placed on probation.

6.3 Unprofessional Conduct

Unprofessional conduct includes any act of fraud, deceit, incompetence, negligence, or dishonesty and shall include, without limitation, the following:

6.3.1 Performing acts beyond the scope of authorized practice by a respiratory care practitioner to include violations of 24 **Del.C.** §§1775-1779 or of these regulations.

6.3.2 Assuming duties and responsibilities within the practice of respiratory care without adequate preparation or supervision or when competency has not been maintained.

6.3.3 Performing new respiratory care techniques and/or procedures without adequate education and practice or without proper supervision.

6.3.4 Failing to take appropriate action or follow policies and procedures in the practice situation designed to safeguard the patient from incompetent, unethical or illegal health care practices.

6.3.5 Inaccurately recording on, falsifying or altering a patient or agency record.

6.3.6 Committing verbal, physical or sexual abuse or harassment of patients or co-employees.

6.3.7 Assigning unqualified persons to perform the practice of licensed respiratory care practitioners.

6.3.8 Delegating respiratory care responsibilities to unqualified persons.

6.3.9 Failing to supervise persons to whom respiratory care responsibilities have been properly delegated.

6.3.10 Leaving a patient assignment in circumstances which endangers the patient except in documented emergency situations.

6.3.11 Failing to safeguard a patient's dignity and right to privacy in providing respiratory care services which shall be provided without regard to race, color, creed or status.

6.3.12 Violating the confidentiality of information concerning a patient except where disclosure is required by law.

6.3.13 Practicing respiratory care when unfit to perform procedures and make decisions when physically, psychologically, or mentally impaired.

6.3.14 Diverting drugs, supplies, or property of a patient or agency or attempting to do so.

6.3.15 Diverting, possessing, obtaining, supplying or administering prescription drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs or attempting to do so.

6.3.16 Providing respiratory care in this state without a currently valid license or permit and without other lawful authority to do so.

6.3.17 Allowing another person to use his/her license or temporary permit to provide respiratory care for any purpose.

6.3.18 Aiding, abetting and/or assisting an individual to violate or circumvent any law or duly promulgated rule or regulation intended to guide the conduct of a respiratory care practitioner or other health care provider.

6.3.19 Resorting to, or aiding in any fraud, misrepresentation or deceit directly or indirectly in connection with acquiring or maintaining a license to practice respiratory care.

6.3.20 Failing to report unprofessional conduct by another respiratory care practitioner licensee or permit holder or as specified in 4.1.8.

6.3.21 Failing to provide respiratory care to a patient in accordance with the orders of the responsible physician without just cause.

6.3.22 Violating a lawful provision of Title 24, Chapter 17, Subchapter VII, or any lawful regulation established thereunder.

6.4 Disciplinary Investigations And Hearings

6.4.1 Upon receipt of a written complaint against a respiratory care practitioner or upon its own motion, the Council may request the Division of Professional Regulation to investigate the complaint or a charge against a respiratory care practitioner and the process established by 29 **Del.C.** §8735(h) shall be followed with respect to any such matter.

6.4.2 Where feasible, within sixty (60) days of receiving a complaint from the Attorney General's Office after an investigation pursuant to 29 **Del.C.** §8735(h), the Council shall conduct an evidentiary hearing upon notice to the licensee. Written findings of fact and conclusions of law shall be sent to the Board of Medical Licensure and Discipline along with any recommendation to revoke, to suspend, to refuse to renew a license, to place a licensee on probation, or to otherwise reprimand a licensee found guilty of unprofessional conduct in the licensee's professional activity which is likely to endanger the public health, safety or welfare, or the inability to render respiratory care services with reasonable skill or safety to patients because of mental illness or mental incompetence, physical illness or excessive use of drugs including alcohol.

13 DE Reg. 1223 (03/01/10)

20 DE Reg. 187 (09/01/16)

7.0 Working Student Respiratory Care Practitioner

7.1 A working student respiratory care practitioner may only practice under the direct supervision of a licensed respiratory care practitioner. The scope of practice is limited to those activities for which there is documented evidence of competency.

7.2 Direct supervision means that a licensed respiratory care practitioner will be personally present and immediately available within the treatment area to provide aid, direction, and instruction when procedures are

performed. All evaluations, progress notes, and/or chart entries must be co-signed by a licensed respiratory care practitioner.

7.3 A student may apply for a student temporary permit. If approved by the Board, such permit may be issued by the Division of Professional Regulation and may not be renewed. An application will be considered by the Council provided that the applicant meets the following criteria:

7.3.1 Applicant is matriculated in an approved Respiratory Care Program.

7.3.2 Application is submitted no more than 20 weeks prior to the program's announced graduation date.

7.3.3 Applicant shall submit to the Council a certified list of respiratory care services which have been successfully completed as a part of the respiratory care curriculum.

7.4 A student temporary permit shall automatically cease upon graduation or on the date that the holder is no longer matriculated in and not a graduate of a Respiratory Care Program. Any holder of a temporary student permit which ceases for any of the reasons stated above shall within five (5) working days surrender the permit to the Division of Professional Regulation.

7.5 Subject to subsection 7.4, a student temporary permit shall be valid for 16 weeks.

7.6 Respiratory care services which may be performed by the holder of a student temporary permit are limited to only those services which have been successfully completed by the student as part of a respiratory care program. Successful completion of these services must be certified by the program director on the Verification of Respiratory Care Education Form and submitted to the Council along with an attached competency check list. The holder of the student temporary permit must also meet the employer's standards for those procedures in specified patient care situations.

20 DE Reg. 187 (09/01/16)

8.0 Continuing Education

8.1 Contact Hours Required for Renewal

8.1.1 The respiratory care practitioner shall be required to complete twenty (20) contact hours of continuing education biennially.

8.1.1.1 At least ten (10) of the required twenty (20) contact hours shall be from traditional programs attended either in person or by the use of telecommunication technology that allows the attendee to interact with and ask questions of the presenter during the presentation.

8.1.1.2 No more than ten (10) of the required twenty (20) contact hours may be obtained in non-traditional programs in which the participant learns the material at their own pace and place of choosing and demonstrates their mastery of the course content by examination in order to earn contact hours.

8.1.2 Definition of Contact Hours

8.1.2.1 Fifty consecutive minutes of traditional or non-traditional continuing education course work shall be equivalent to one (1) contact hour. A fraction of a contact hour may be computed by dividing the minutes of an activity by 50 and expressed as a decimal.

8.1.3 Contact hours shall be prorated for new licensees in accordance with the following schedule:

8.1.3.1 Two years remaining in the licensing cycle: twenty (20) hours pursuant to subsection 8.1.1.

8.1.3.2 One year remaining in the licensing cycle: ten (10) contact hours, all of which must be in traditional programs pursuant to subsection 8.1.1.1.

8.1.3.3 Less than one year remaining in the licensing cycle: the licensee is not required to complete continuing education.

8.1.4 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the requirements of Section 8.0. Attestation shall be completed electronically.

8.1.5 The respiratory care practitioner shall retain all certificates and other documented evidence of participation in an approved/accredited continuing education program for a period of at least (3) three years. Upon request, such documentation shall be made available to the Council for random audit and verification purposes.

8.2 Continuing Education Content

8.2.1 The overriding consideration in determining whether a specific activity/program qualifies as acceptable continuing education shall be that it contributes directly to the professional competence of the respiratory care practitioner. For example, the following subjects qualify as acceptable continuing education:

8.2.1.1 Respiratory care science and practice and other scientific topics related thereto.

8.2.1.2 Respiratory care education.

8.2.1.3 Research in respiratory care and health care.

8.3 Educational Providers

Continuing education contact hours awarded for activities/programs approved by the following are appropriate for fulfilling the continuing education requirements pursuant to these regulations:

- American Association for Respiratory Care;
- American Medical Association under Physician Category I;
- American Thoracic Society;
- American Association of Cardiovascular and Pulmonary Rehabilitation;
- American Heart Association;
- American Nurses Association;
- American College of Chest Physicians;
- American Society of Anesthesiologists;
- American Sleep Disorders Association; or
- Other professional or educational organizations as approved periodically by the Council.

8.4 Types of Activities/Programs

8.4.1 Workshops. A workshop shall contain the following elements:

8.4.1.1 Developed by a knowledgeable individual or group in the subject matter;

8.4.1.2 Follows a logical sequence;

8.4.1.3 Involves the learner by requiring active response, demonstration and feedback;

8.4.1.4 Requires hands-on experience; and

8.4.1.5 Supplies a bibliography for continued study.

8.4.2 Recredentialing examination for a certified respiratory therapist (CRT) and a registered respiratory therapist (RRT) shall be equivalent to five (5) contact hours, with a maximum of five (5) contact hours per each licensure renewal period.

8.4.3 Advance specialty examinations: Successful completion of advanced specialty examinations administered by the National Board for Respiratory Care (NBRC) or other examinations as approved by the Council, including the following, shall be equivalent to five (5) contact hours for each exam, with a maximum of five (5) contact hours per each licensure renewal period:

- Recredential exam
- Neonatal pediatric specialty exam.
- Pulmonary function credentialing exams
- Sleep Disorders Specialty (SDS) Certification
- Advanced practitioner exam

8.4.4 First time presentation of respiratory care education programs, including preparation time, with a maximum of four (4) contact hours per licensure renewal period. Fifty (50) consecutive minutes of presentation of lectures, seminars or workshops in respiratory care or health care subjects shall be equivalent to one (1) contact hour. The program presented must be approved for continuing education pursuant to subsection 8.3.

8.4.5 Preparation and publication of respiratory care theory, practice or science, in a peer reviewed publication, for a maximum of four (4) contact hours per licensure renewal period.

8.4.6 Courses in Basic Life Support (BLS) for a maximum of two (2) contact hours, Advanced Cardiac Life Support (ACLS) for a maximum of four (4) contact hours, Pediatric Advanced Life Support (PALS) for a maximum of four (4) contact hours, and the Neonatal Resuscitation Program (NRP) for a maximum of four (4) contact hours. A maximum of eight (8) total credit hours from this category may be applied to each renewal period.

8.5 Audit of Continuing Education Contact Hours

8.5.1 Audit. Each biennium, the Division of Professional Regulation shall randomly select from the list of renewed licensees a percentage of licensees, determined by the Council, to be audited. The Council may also audit based on complaints or charges against an individual license, relative to compliance with continuing education requirements or based on a finding of past non-compliance during prior audits.

8.5.2 Documentation. When a licensee is selected for audit, the licensee shall be required to submit documentation showing detailed accounting of the various continuing education contact hours claimed by

the licensee. Licensees selected for random audit are required to supplement the attestation with supporting materials which may include a syllabus, agenda, itinerary or brochure published by the sponsor of the activity and a document showing proof of attendance (i.e., certificate, a signed letter from the sponsor attesting to attendance, report of passing test score).The Council shall attempt to verify the continuing education shown on the documentation provided by the licensee. Upon completion of the review, the Council decide whether the licensee's continuing education meets the requirements of these regulations.

8.5.2.1 Any continuing education not meeting all provisions of these regulations shall be rejected in part or in whole by the Council

8.5.2.2 Any incomplete or inaccurate documentation of continuing education may be rejected in part or in whole by the Council.

8.5.2.3 Any continuing education that is rejected must be replaced by acceptable continuing education within a reasonable period of time established by the Council. This continuing education will not be counted towards the next renewal period.

8.5.3 Council Review and Hearing Process. The Council shall review all documentation requested of any licensee shown on the audit list. If the Council determines the licensee has met the requirements, the licensee's license shall remain in effect. If the Council initially determines the licensee has not met the requirements, the licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. This hearing will be conducted to determine if there are any extenuating circumstances justifying the apparent noncompliance with these requirements. Unjustified noncompliance of these regulations shall be considered unprofessional conduct in the practice of respiratory care pursuant to subsection 6.3.

8.5.4 Sanctions for Unjustified Noncompliance. The minimum penalty for the first finding of unjustified noncompliance shall be a $250.00 monetary penalty; however, the Council may recommend to the Board imposing any of the additional penalties specified in 24 **Del.C.** §1777(e). The minimum penalty for the second finding of unjustified noncompliance shall be a thirty (30) day license suspension; however, the Council may recommend to the Board imposing any of the additional penalties specified in 24 **Del.C.** §1777(e).

8.5.5 Requests for Extension- Extenuating Circumstances. A licensee applying for renewal may request an extension and be given up to an additional twelve (12) months to make up all outstanding required continuing education providing he/she can show good cause why he/she was unable to comply with such requirements at the same time he/she applies for renewal. The licensee must state the reason for such extension along with whatever documentation he/she feels is relevant. The Council shall consider requests such as extensive travel outside the United States, military service, extended illness of the licensee or his/her immediate family, or a death in the immediate family of the licensee.The written request for extension must be received by the Council prior to the licensure renewal. The Council shall issue an extension when it determines that one or more of these criteria have been met or if circumstances beyond the control of the licensee have rendered it impossible for the licensee to obtain the required continuing education. A licensee who has successfully applied for an extension under this paragraph shall make up all outstanding hours of continuing education within the extension period approved by the Council. Make-up credits may not be used in the next renewal period.

8.5.6 Appeal. Any licensee sanctioned pursuant to these regulations may contest such ruling by filing an appeal of the Board's final order pursuant to the Administrative Procedures Act.

4 DE Reg. 694 (10/1/00)
8 DE Reg. 1438 (04/01/05)
8 DE Reg. 1587 (05/01/05)
10 DE Reg. 354 (08/01/06)
13 DE Reg. 1223 (03/01/10)
15 DE Reg. 1768 (06/01/12)
16 DE Reg. 97 (07/01/12)
20 DE Reg. 187 (09/01/16)

9.0 Application for a License

9.1 Application

9.1.1 An application for a license to practice respiratory care must be completed on a form provided by the Board of Medical Licensure and Discipline and returned to the Board Office with the required, non-refundable fee.

9.2 Completed Application

9.2.1 An application for a license to practice respiratory care shall be considered completed when the Board has received the following documentation:

9.2.1.1 Non-refundable application fee

9.2.1.2 Completed application for licensure

9.2.1.3 Verification of education form

9.2.1.4 Verification of national examination score. Individuals who have not been licensed in any jurisdiction within three (3) years of initially passing the NBRC entry level examination will be required to re-take the NBRC examination and provide proof of a current passing score before a license will be issued.

9.2.1.5 Letter(s) of good standing from other states where the applicant may hold a license, if applicable.

9.2.1.6 Any other information requested in the application.

9.3 Appeals Process

9.3.1 When the Council determines that an applicant does not meet the qualifications for licensure as prescribed under 24 **Del.C.** §1776 and the regulations governing the practice of respiratory care, the Council shall make such recommendation to the Board proposing to deny the application. The Council shall notify the applicant of its intended action and reasons thereof. The Council shall inform the applicant of an appeals process prescribed under 29 **Del.C.** §10142.

10 DE Reg. 354 (08/01/06)

20 DE Reg. 187 (09/01/16)

10.0 Renewal of Licenses

10.1 Each license shall be renewed biennially. The failure of the Council/Board to notify a licensee of his/her expiration date and subsequent renewals does not, in any way, relieve the licensee of the requirement to renew his/her certificate pursuant to the Council's regulations and 24 **Del.C.** Ch. 17.

10.2 A licensee's failure to notify the Council of a change in mailing address will not absolve the licensee from audit requirements, including possible sanctions for non-compliance.

10.3 Renewal shall be effected electronically by:

10.3.1 Filing a renewal application online at www.dpr.delaware.gov;

10.3.2 Attesting on the renewal application to the completing of continuing education as required by Section 8.0; and

10.3.3 Payment of fees as determined by the Division of Professional Regulation.

10.4 Failure of a licensee to renew his/her license shall cause his/her license to expire.

10.4.1 A licensee whose license has expired may renew his/her license within one (1) year after the expiration date upon fulfilling the requirements in subsections 10.3.1 - 10.3.3 above, certifying that he/she has not practiced respiratory care in Delaware while his/her license has expired, and paying the renewal fee and a late fee as determined by the Division of Professional Regulation. All late renewals shall be audited for compliance with CE renewal requirements. Any licensee whose license is in an expired status as of December 1, 2014 must either renew his/her license no later than November 30, 2015 or fulfill the requirements in subsections 10.3.2 or 10.3.3, as applicable.

10.4.2 An applicant whose license has been expired for more than one (1) year and who has been actively engaged in the practice of respiratory care during the period of expiration in another jurisdiction shall be required to submit to the Council an application for reinstatement demonstrating proof of active practice, consisting of a minimum of 500 hours over the one year preceding the date of application for reinstatement, on a Council approved form, and shall demonstrate proof of completion of 20 hours of continuing education during the two-year period preceding the application.

10.4.3 An applicant whose license has been expired for more than one (1) year and who has not been actively engaged in the practice of respiratory care during the period of expiration shall be required to submit an application for reinstatement and shall be required to give evidence of satisfactory completion of an approved respiratory care examination within two (2) years prior to the application for reinstatement before

licensure will be granted. In addition the applicant shall demonstrate completion of 20 hours of continuing education during the two-year period preceding the application.

13 DE Reg. 1223 (03/01/10)

18 DE Reg. 788 (04/01/15)

20 DE Reg. 187 (09/01/16)

11.0 Telehealth

11.1 The respiratory care practitioner who provides treatment through telehealth shall meet the following requirements:

11.1.1 Location of patient during treatment through telehealth

11.1.1.1 The respiratory care practitioner shall have an active Delaware license in good standing to practice telehealth in the state of Delaware; and

11.1.1.2 During the telehealth treatment session, the patient shall be located within the borders of the State of Delaware.

11.1.2 Informed consent

11.1.2.1 Before services are provided through telehealth, the respiratory care practitioner shall obtain written, informed consent from the patient, or other appropriate person with authority to make health care treatment decisions for the patient. At minimum, the informed consent shall inform the patient and document acknowledgement of the risk and limitations of:

11.1.2.1.1 The use of electronic communications in the provision of care;

11.1.2.1.2 The potential breach of confidentiality, or inadvertent access, of protected health information using electronic communication in the provision of care; and

11.1.2.1.3 The potential disruption of electronic communication in the use of telehealth.

11.1.3 Confidentiality: The respiratory care practitioner shall ensure that the electronic communication is secure to maintain confidentiality of the patient's medical information as required by the Health Insurance Portability and Accountability Act (HIPAA) and other applicable Federal and State laws. Confidentiality shall be maintained through appropriate processes, practices and technology, including disposal of electronic equipment and data.

11.1.4 Competence and scope of practice:

11.1.4.1 The respiratory care practitioner shall be responsible for determining and documenting that telehealth is an appropriate level of care for the patient;

11.1.4.2 The respiratory care practitioner shall comply with the Council's and the Board's law and rules and regulations and all current standards of care requirements applicable to onsite care;

11.1.4.3 The respiratory care practitioner shall limit the practice of telehealth to the area of competence in which proficiency has been gained through education, training and experience; and

11.1.4.4 The respiratory care practitioner shall document in the file or record which services were provided by telehealth.

20 DE Reg. 187 (09/01/16)

12.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

12.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

12.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

12.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

12.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

12.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection 12.8 of this section.

12.6 The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

12.6.1 Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

12.6.2 Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

12.6.3 Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

12.6.4 Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

12.6.5 Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/ her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

12.6.6 Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

12.7 The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

12.8 The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

12.9 If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

12.10 Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

12.11 Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.

12.12 Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

7 DE Reg. 761 (12/1/03)
8 DE Reg. 1438 (04/01/05)
20 DE Reg. 187 (09/01/16)

13.0 Unlicensed Personnel (UP)

13.1 Unlicensed personnel working in the State of Delaware may not perform any clinical assessments or provide patient care during the course of their job duties.

13.2 Any UP found to have violated the provisions of this section shall be prosecuted for the unlicensed practice of respiratory care.

1 DE Reg. 1746 (05/01/98)
4 DE Reg. 699 (01/01/00)
7 DE Reg. 761 (12/01/03)
8 DE Reg. 1445 (04/01/05)
8 DE Reg. 1587 (05/01/05)
10 DE Reg. 354 (08/01/06)
13 DE Reg. 1223 (03/01/10)
15 DE Reg. 542 (10/01/11)
15 DE Reg. 1768 (06/01/12)
16 DE Reg. 97 (07/01/12)
18 DE Reg. 788 (04/01/15)
20 DE Reg. 187 (09/01/16)