Title 15 - Mississippi Department of Health

Part III – Office of Health Protection

Subpart 60 – Professional Licensure

CHAPTER 09 REGULATIONS GOVERNING LICENSURE OF RESPIRATORY CARE PRACTITIONERS

100 GENERAL

100.01 **Purpose:** The purpose of these regulations is to safeguard the public's health, safety, and welfare by establishing minimum qualifications and creating exclusive titles corresponding to the level of qualifications for individuals who wish to offer respiratory care services to the public. Further, in order to insure the highest degree of professional conduct by those engaged in offering respiratory care services to the public, it is the purpose of these regulations to provide and impose disciplinary sanctions, be they civil or criminal, against persons who do not meet or adhere to the procedures, qualifications, and standards set out in this chapter.

100.02 **Legal Authority:** The State Board of Health is authorized to establish and enforce these rules and procedures by virtue of the "Mississippi Respiratory Care Practice Act of 1991," Sections 73-57-1 et seq. of Mississippi Code of 1972, annotated.

100.03 **Definitions:** The following terms shall have the meaning set forth below, unless the context otherwise requires:

1. **"Board"** shall mean the Mississippi State Board of Health.

2. **"Council"** shall mean the Respiratory Care Advisory Council.

3. **"License"** shall mean the document of licensure issued by the Board.

4. "**Respiratory care"** shall mean the allied health professions responsible for the treatment, management, diagnostic, testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system, under a qualified medical director, and includes "inhalation therapy" and "respiratory therapy."

5. **"Practice of respiratory care"** shall include, but not be limited to: 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; transcription and implementation of the written

or verbal orders of a physician pertaining to the practice of respiratory care; observing and monitoring signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics; and implementation based on observed abnormalities, of appropriate reporting, referral, respiratory care protocols or changes in treatment, pursuant to a prescription by a person authorized to practice medicine under the laws of the State of Mississippi; or the initiation of emergency procedures under the regulations of the Board or as otherwise permitted in this act. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, and private dwelling, or other place deemed appropriate or necessary of the Board, in accordance with the prescription or verbal order of a physician, and shall be performed under a qualified medical director.

6. **"Performance of respiratory care"** means respiratory care in accordance with the prescription of a licensed physician and includes, but is not limited to, the diagnostic and therapeutic use of the following: administration of medical gases (except for the purpose of anesthesia), aerosols and humidification; environmental control mechanisms and hyperbaric therapy; pharmacologic agents related to respiratory care procedures; mechanical or physiological ventilatory support; bronchopulmonary hygiene; cardiopulmonary resuscitation; maintenance of the natural airway; insertion and maintenance of artificial airways; specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures, flows, collection of specimens of blood and blood gases, expired and inspired gas samples, respiratory secretions, and pulmonary function testing; and hemodynamic and other related physiologist measurements of the cardiopulmonary system.

7. **"Respiratory care practitioner"** means:

   a. A person employed in the practice of respiratory care who has the knowledge and skill necessary to administer respiratory care.

   b. A person who is capable of serving as a resource to the physician in relation to the technical aspects of respiratory care as to safe and effective methods for administering respiratory care modalities;

   c. A person who is able to function in situations of unsupervised patient contact requiring great individual judgment; and

   d. A person capable of supervising, directing and teaching less skilled personnel in the provision of respiratory care services.

8. **"Respiratory care assistant"** means:

   a. A person who meets the qualifications established by the Board.

   b. A person whose qualifications are less than those established by this act as necessary for licensure; and

   c. A person who works under the direct personal supervision and in the presence of a licensed respiratory care practitioner.

9. **"Qualified medical director"** means the medical director of any inpatient or outpatient respiratory care service, department, or home care agency. He shall be a licensed physician who has special interest and knowledge in the diagnosis and treatment of respiratory problems. Whenever possible the medical director should be qualified by special training and/or experience in the management of acute and chronic respiratory disorders. The physician should be responsible for the quality, safety, and appropriateness of the respiratory care services provided and require that respiratory care be ordered by a physician who has medical responsibility for the patient. The medial director should be readily accessible to the respiratory care practitioners and should assure their competency.

10. **"Examination"** shall mean the entry level examination as administered by the National Board for Respiratory Care (NBRC) to become a Certified Respiratory Therapy Technician (CRTT) or other examination that the Board may approve.

11. **"Department"** shall mean the Mississippi Department of Health.

12. **"Initiation of Emergency Procedure"** shall include, but not be limited to, Advanced Cardiac Life Support, Pediatric Advanced Life Support, and Neonatal Resuscitation Program, in emergency situations. Procedures not covered in (1-3(e) and (f) above may be performed by only those Licensed Respiratory Care Practitioners who have successfully completed a course in each respective appropriate discipline as governed by the American Heart Association, in accordance with the prescription or verbal order of a physician, and shall be performed under a qualified medical director.

100.04 **Publication:** The Department shall publish, annually, a list of the names and addresses of all persons licensed by the Board as Respiratory Care Practitioners and a list of all persons whose licenses have been suspended, revoked, denied renewal, put on probationary status, censured, or reprimanded.

101 RESPIRATORY CARE ADVISORY COUNCIL ("COUNCIL")

101.01 **Council Structure and Purpose:** The Council shall consist of nine (9) members as set forth in the enabling statute, for the terms indicated therein, and

shall serve under the jurisdiction of the State Board of Health. The purpose of the Council is to serve in an advisory capacity to the Board in matters relating to the administration and interpretation of the enabling statute.

101.02 **Meeting:** The Council shall meet at least twice each year. Additional meetings may be held, at the discretion of the chairman of the Council or of the Board, upon ten (10) day written notice to the Council members. A quorum shall consist of five (5) members of the Council, including the chairman, and shall be necessary for the Council to take action by vote.

102 STATE BOARD OF HEALTH ("BOARD")

102.01 **Responsibilities:** The Board, with the advice of the council, shall:

1. establish examination, licensing, and renewal of license criteria for applicants;

2. maintain an up-to-date list of all individuals licensed to practice respiratory care, with such list being available, upon request, to the public;

3. refer disciplinary actions of any individual engaged in the practice of respiratory care to the appropriate government agency for prosecution, whether licensed or otherwise, or, in its discretion, refer same to the appropriate committee or council;

4. conduct disciplinary hearings, upon specified charges, of a licensee;

5. maintain an up-to-date list of all individuals whose license has been suspended, revoked, or denied and make such list available to public inspection and supply such list to similar regulatory boards in other states or jurisdictions;

6. keep a record of all proceedings of the Board, and make said record available to the public; and

7. direct the Department to promulgate and implement rules and procedures to carry out the purpose of the Act.

103 LICENSURE

103.01 **Licensure Requirements:** An applicant for licensure shall submit to the Department, verified by oath, written evidence in form and content satisfactory to the Department that the applicant has:

1. completed and graduated from an approved four-year high school course of study, or the equivalent thereof determined by the appropriate educational agency; and

2. completed a respiratory care educational program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation (CAHEA) in collaboration with the Joint Review Committee for Respiratory Therapy Education(JRCRTE) or their successor organizations; and

3. passed an examination as administered by the National Board for Respiratory Care or other examination as approved by the Department within two years of filing for an application.

103.02 **Licensure by Credentials:** The Board shall issue a license to applicants holding credentials conferred by the National Board of Respiratory Care (NBRC) as a Certified Respiratory Therapy Technician (CRTT) and/or as a Registered Respiratory Therapist (RRT), providing such credentials have not been suspended or revoked.

103.03 **Temporary Permit:**

1. The Board may, in its discretion, issue a temporary permit to practice respiratory care for a period of six (6) months to an applicant for a license, pending the compliance of the requirements for licensure, providing the applicant submits to the Department, verified by oath, in form and content satisfactory to the Department that:

   a. the applicant is currently practicing, or has within the last twelve (12) months practiced respiratory care in another state pursuant to a license issued by that state; or

   b. that the applicant is a student in a JRCRTE or its successor organization approved respiratory care education program and expects to graduate within thirty (30) days of the application for a temporary permit, provided that said application is submitted within 1 year from the date of graduation.

2. In its discretion, and upon application, the Board may issue a second temporary permit upon the expiration of the temporary permit specified in this section, for a period not to exceed twelve (12) months, from the date of the issuance of the original temporary permit. No applicant shall be entitled to, or shall be issued a temporary permit, whose application is considered abandoned by the Board.

103.04 **Abandonment:** An application shall be deemed abandoned by the Department if, after two years from the date of filing, the requirements for licensing have not been completed and submitted to the Department.

104 PROFESSIONAL IDENTIFICATION

104.01 **Titles and Abbreviation:** A person issued a license to practice respiratory care by the Mississippi State Board of Health may use the title "Licensed Respiratory Care Practitioner" and the abbreviations "L.R.C.P.," "R.C.P.," or "R.C.P.-L."

104.02 **Production and Display of License:** A person issued a license to practice respiratory care by the Mississippi State Board of Health shall carry said license at all times and show said license when requested.

105 RENEWAL OF LICENSE

105.01 **General Provisions:**

1. The Board shall issue licenses which shall be renewed biennially.

2. The licensure year shall be construed as September 1st through August 31st.

105.02 **Procedure for Renewal of License:** The Department shall mail notices, at least thirty (30) days prior to the renewal date, to the last address registered with the board, to the persons to whom licenses were issued or renewed during the preceding renewal period. The licensee shall:

1. complete the renewal form;

2. submit proof of continuing education credit as detailed in Section VII of these regulations;

3. enclose the renewal fee; and

4. file the above with the Department prior to the end of the renewal period.

105.03 **Failure to Renew:** A licensee who does not file, with the Department, his renewal application within the renewal period will be deemed to have allowed his license to lapse. Said licensee may be reinstated by the Department, in its discretion, by the payment of the renewal fee and a reinstatement fee, provided said application for reinstatement is made within two (2) years of the end of the renewal period.

106 CONTINUING EDUCATION

106.01 **Definition and Philosophy:** Each individual licensed as a respiratory care Practitioner is responsible for optimum service to the consumer and is accountable to the consumer, the employer, and the profession for evidence of maintaining high levels of skill and knowledge. Pursuant to the Act, continuing education is mandatory. Continuing education is defined as education beyond

the basic preparation required for entry into the profession, directly related to the performance and practice of respiratory care.

106.02 **Requirements:**

1. Regulations set the requirement of twenty (20) clock hours to be accrued during the licensing term.

2. Individuals applying for initial licensure within a licensing term must accrue continuing education hours on a prorated scale. Written notification of required hours will be sent to the applicant at the time of licensure.

3. Individuals holding a temporary permit are not required to accrue continuing education hours.

4. Persons who fail to accrue the required continuing education hours shall be issued a probationary license for a term of two (2) years. Failure to accrue the required hours will result in the revocation of the license. Hours accrued are first credited for the delinquent hours lacking from the previous licensure period, and then applied to the present licensing period.

5. Probationary licenses will be issued for one licensure term only. No ensuing license may be probationary as a result of not meeting continuing education requirements.

106.03 **Content Criteria:** The content must apply to the field of respiratory care practice or health care and performance and must be designed to meet one of the following goals:

1. Update knowledge and skills required for competent performance beyond entry level as described in current legislation and regulations.

2. Allow the licensee to enhance his knowledge and skills.

3. Provide opportunities for interdisciplinary learning.

4. Extend limits of professional capabilities and opportunities.

5. Facilitate personal contributions to the advancement of the profession.

106.04 **Sources of Continuing Education:**

1. Continuing education hours may be accrued from the following sources:

   a. Mississippi Society for Respiratory Care

   b. American Association for Respiratory Care

c. Mississippi Nursing Association

d. American Nursing Association

e. American Nurses Credentialing Center

f. Critical Care Nurses Association

g. American Medical Association

2. Academic course work taken for credit, with a passing grade, from a regionally accredited college or university. The courses must relate to the profession of respiratory care. One academic semester hour shall be equivalent to fifteen (15) clock hours for continuing education credit. No more than fifty percent (50%) of total required hours may be accrued through academic course work.

106.05 **Reporting Procedures for Continuing Education:** Continuing education hours shall be submitted at the time of renewal. It is the responsibility of the licensee to insure that the following criteria are met with respect to continuing education credit:

1. Attendance at seminars, workshops, presentations: Verification of attendance shall be made by the submission of a continuing education certificate, a continuing education reporting form signed by the program chairman, or proof of having filed with the AARC.

2. Academic course work credits to be accrued must meet the content criteria in Sections 7-3, be cited by title on the continuing education form, and must be accompanied by a course description from the college or university catalog and a copy of the transcript or final grade report.

107 REVOCATION, SUSPENSION, AND DENIAL OF LICENSE

107.01 **Standards of Conduct:** Licensees may, at the discretion of the Board, have their license suspended, revoked, or denied at the time of application or renewal if the Board determines that the licensee:

1. Is guilty of fraud or deceit in procuring or attempting to procure a license or renewal of a license to practice respiratory care.

2. Is unfit or incompetent by reason of negligence, habits, or other causes of incompetence.

3. Is habitually intemperate in the use of alcoholic beverage.

4. Is addicted to, or has improperly obtained, possessed, used, or distributed habit-forming drugs or narcotics.

5. Is guilty of dishonest or unethical conduct.

6. Has practiced respiratory care after his license or permit has expired, lapsed, or has been suspended.

7. Has practiced respiratory care under cover of any permit or license illegally or fraudulently obtained or issued.

8. Has violated, aided, or abetted others in violation of any provision of this act.

9. Has engaged in any conduct considered by the Board to be detrimental to the profession of respiratory care.

10. Failed to disclose to an employer, upon the written request of the employer, any potential conflict of interest, including but not limited to concurrent employment by both a Durable Medical Equipment Company and/or a Home Health Company, and a Hospital or clinic.

11. Failed to service a patient and/or equipment in a home setting as required by a contract to which the Licensee is a party.

12. Has participated in a Hospital or Clinical Agency setting in a "captive referral arrangement", whereby patients were directed to utilize a particular supplier of home medical equipment unless so directed by Hospital or Clinic policy.

13. Failed to follow the principles of ethical professional behavior.

14. Has been convicted of a misdemeanor in any jurisdiction which has, as an element, misstatement, fraud, or dishonesty.

15. Has been convicted of a felony in any jurisdiction.

16. Has had a license to practice any health related profession revoked, suspended, placed on probation, reprimanded, or censured, in any jurisdiction.

107.02 **Summary Suspension:** The Board may summarily suspend a license without a hearing, simultaneously with the filing of a formal complaint and notice of hearing, if the Board determines that:

1. The health, safety, or welfare of the general public is in immediate danger; or

2. The licensee's physical capacity to practice his profession is in issue; or

3. The licensee's mental capacity to practice his profession is in issue.

107.03 **Complaints:** All complaints concerning a licensee, his business, or professional practice, shall be reviewed by the Department. Each complaint received shall be logged, recording at a minimum the following information:

1. licensee's name
2. name of the complaining party, if known;
3. date of complaint;
4. brief statement of complaint; and
5. disposition

107.04 **Investigation:** All complaints will be evaluated, and if deemed necessary, investigated, by the administrative secretary or other authorized employee of the Department.

107.05 **Notice of Charges and Hearing:**

1. Following the investigative process, the Department may file formal charges against the licensee. Such formal complaint shall, at a minimum, inform the licensee of the facts which are the basis of the charge and which are specific enough to enable the licensee to defend against the charges.

2. Each licensee, whose conduct is the subject of a formal charge which seeks to impose disciplinary action against the licensee, shall be served notice of the formal charge at least fifteen (15) days before the date of hearing. A hearing shall be presided over by the Board or the Board's designee. Service shall be considered to have been given if the notice was personally received by the licensee, or the notice was mailed certified, return receipt requested, to the licensee at the licensee's last known address as listed with the state agency.

3. The notice of the formal hearing shall consist at a minimum of the following information:

   a. The time, place and date of hearing;

   b. That the licensee shall appear personally at the hearing and may be represented by counsel;

   c. That the licensee shall have the right to produce witnesses and evidence in the licensee's behalf and shall have the right to cross-examine adverse witnesses and evidence;

d. That the hearing could result in disciplinary action being taken against the licensee's license;

e. That rules for the conduct of these hearings exist and it may be in the licensee's best interest to obtain a copy; and

f. That the Board, or its designee, shall preside at the hearing and following the conclusion of the hearing shall make findings of facts, conclusions of law and recommendations, separately stated, to the Board as to what disciplinary action, if any, should be imposed on the licensee.

4. The Board or its designee shall hear evidence produced in support of the formal charges and contrary evidence produced by the licensee. At the conclusion of the hearing, the Board shall issue an order, within sixty (60) days.

5. Disposition of any complaints may be made by consent order or stipulation between the Board and the licensee.

6. All proceedings pursuant to this section are matters of public record and shall be preserved pursuant to state law.

107.06 **Board Sanctions:** The Board may impose any of the following sanctions, singly or in combination, when it finds that a licensee is guilty of any of the above offenses:

1. Revocation of the license;

2. Suspension of the license, for any period of time;

3. Issue a letter of reprimand to the licensee;

4. Place a license on probationary status and require the licensee to submit to any of the following:

a. report regularly to the board upon matters which are the basis of probation;

b. continue to renew professional education until a satisfactory degree of skill has been attained in those areas which are the basis of probation; or

c. such other reasonable requirements or restrictions as are proper;

5. Refuse to renew a license; or

6. Revoke probation which has been granted and impose any other disciplinary action in this subsection when the requirements of probation have not been fulfilled or have been violated.

107.07 **Appeal:** Any person aggrieved by a decision of the Board shall have a right of appeal to the Circuit Court of the county of the residence of the licensee as it appears on the record, in the manner provided for in the Act and the Laws of the State of Mississippi.

108 EXCEPTIONS AND EXEMPTIONS

108.01 **Exceptions:** No person shall practice respiratory care or represent himself to be a respiratory care practitioner unless he is licensed by the Board, except as otherwise provided in this section.

1. The person is involved in the practice of respiratory care which is an integral part of the program of study by students enrolled in a respiratory care education program recognized by the Joint Review Committee for Respiratory Therapy Education and the American Medical Association Council on Allied Health Education or their successors. Unlicensed students enrolled in respiratory therapy education programs shall be identified as "Student-RCP" and shall only provide respiratory care under direct clinical supervision. Direct Clinical Supervision shall mean under the direct control of a clinical instructor of the respiratory care education program in which the unlicensed student is enrolled, or his designee. The clinical instructor or his designee shall be a Licensed Respiratory Care Practitioner in the State of Mississippi, who shall be readily accessible and accountable at all times when respiratory care is being provided by the unlicensed student. It shall be a violation of these regulations for an unlicensed student to receive compensation for providing respiratory care services. It shall also be a violation of these regulations to knowingly compensate an unlicensed student for providing respiratory care services.

2. Self-care by a patient, or gratuitous care by a friend or family member who does not represent or hold himself out to be a respiratory care practitioner.

3. Respiratory care services rendered in the course of an emergency.

4. Persons in the military services or working in federal facilities shall be exempted from the provisions of this act when functioning in the course of their assigned duties.

5. The respiratory care practitioner is engaged in performing advances in the art and techniques of respiratory care learned through formalized or specialized training.

6. Nothing in these regulations is intended to limit, preclude, or otherwise interfere with the practices of other persons and health providers licensed by appropriate agencies of the State of Mississippi.

7. An individual, who, by passing an examination which includes content in one or more of the functions included in these regulations, shall not be prohibited from performing such procedures for which he was tested, so long as the testing body offering the examination is certified by the National Commission for Health Certifying Agencies or its equivalent.

108.02 **Good Samaritan Act:** Licensee's regulated pursuant to these rules and regulations are covered by the "Good Samaritan Act" of the State of Mississippi.

109 RESPIRATORY CARE ASSISTANT

109.01 **Definition:** A Respiratory Care Assistant **(**RCA**)**, shall be defined as an individual who meets the following qualifications and requirements:

1. Has completed and graduated from an approved four (4) year high school course of study, or the equivalent thereof as determined by the appropriate educational agency; and

2. Is a citizen of the United States, or has the appropriate work permit issued by the appropriate agency; and

3. Is a resident of the State of Mississippi, or will accomplish same within thirty (30) days of employment; and

4. Will work under the supervision of the LRCP as defined in the following section.

109.02 **Supervision:** Supervision by an LRCP of a RCA shall be defined as meaning that the RCA must work under the direct control of the LRCP. The RCA may not participate in patient contact service, or deliver respiratory care to a patient.

110 CRIMINAL OFFENSES AND PUNISHMENT

110.01 **Offenses:** It is a misdemeanor for any person to:

1. Sell, fraudulently obtain, or furnish any respiratory care permit, license, record, or aid or abet therein.

2. Practice respiratory care under cover of any respiratory care diploma, permit, license, or record illegally or fraudulently obtained or issued.

3. Practice respiratory care unless duly licensed to do so by the Mississippi State Board of Health.

4. Impersonate in any manner or pretend to be a respiratory care practitioner or use the title "Licensed Respiratory Care Practitioner," the letters "L.R.C.P." or any other words, letters, signs, symbols or devices to indicate the person using them is a licensed respiratory care practitioner, unless duly authorized by license or permit.
   Practice respiratory care during the time his license or permit is suspended, revoked, lapsed, or expired.

5. Fail to notify the board of the suspension, probation or revocation of any past or currently held licenses, required to practice respiratory care in this or any other jurisdiction.

6. Make false representations, impersonate, act as a proxy for another person, allow, or aid any person to impersonate him in connection with any examination or application for licensing or request to be examined or licensed.

7. Otherwise violate any provisions of the Act.

110.02 **Punishment:** Such misdemeanor shall, upon conviction, be punishable by a fine of not more than One Thousand Dollars ($1,000.00) or by imprisonment for not more than six (6) months or by both fine and imprisonment for each offense.

111 FEES

111.01 **Method of Payment:** In accordance with the enabling statute, the following fees, where applicable, are payable to the State Board of Health by certified check, cashiers check, or money order. Fees paid to the State Board of Health are non-refundable.

111.02 **Schedule of Fees:**

1. Application and Initial Licensure Fee-$75.00

2. Renewal Fee-$100.00

3. Temporary Permit Fee - $50.00

4. Reinstatement Fee - $200.00

5. Replacement Fee - $50.00

6. License Verification Fee - $25.00

111.03 **Examination Fee:** Fees for examination are to be paid directly to the appropriate testing organization.

112 ADMINISTRATIVE GRIEVANCE PROCEDURE

112.01 **Administrative Appeals:** All persons aggrieved by a decision regarding the initial application for licensure or the renewal of licensure shall have the right of administrative appeal and a hearing to be conducted according to the policy of the Department of Health.

112.02 **Notification:** Written notice will be provided to all applicants regarding denial of an original license or a renewal license. Such notice shall contain the reason thereof and shall offer the applicant an opportunity to submit additional information pertinent to their application for a second review by the Department.

112.03 **Hearing:**

1. If requested in writing within the specified time frame a hearing will be provided in which the applicant may show cause why the license should be granted or renewed.

2. Within sixty (60) days of the hearing, or other such time frame as determined during the hearing, written findings of fact, together with a recommendation for action on the license in question, shall be forwarded to the State Health Officer. The State Health Officer shall decide what action will be taken on the recommendation within five days of its receipt. Written notice shall be provided to the applicant.

CERTIFICATION OF REGULATION

This is to certify that the above **Regulations Governing Licensure of Respiratory Care Practitioners** was adopted by the Mississippi State Board of Health on January 21, 1998 to become effective February 21, 1998.

Brian W. Amy, MD, MHA, MPH
Secretary and Executive Officer