RULES
OF
THE TENNESSEE BOARD OF RESPIRATORY CARE
DIVISION OF HEALTH RELATED BOARDS

CHAPTER 1330-01
GENERAL RULES AND REGULATIONS GOVERNING RESPIRATORY CARE PRACTITIONERS

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1330-01-.01 DEFINITIONS. As used in these rules, the following terms and acronyms shall have the following meaning ascribed to them:

(1) ABG - Arterial Blood Gas.

(2) ABG Endorsement - Endorsed by the Board to perform analysis of blood and other materials.

(3) Applicant - Any individual seeking licensure by the Board who has submitted an official application and paid the application fee.

(4) Board - The Tennessee Board of Respiratory Care.

(5) Board Consultant - Any individual authorized by the Board to do the following acts:

(a) To conduct a review of the qualifications of an applicant for a license or temporary license to practice respiratory care in Tennessee, to make an initial determination as to whether the applicant has met all the requirements to practice respiratory care in Tennessee, and to issue temporary authorizations to practice in accordance with T.C.A. § 63-27-116; and

(b) To decide the following:

1. What, if any, investigation should be instituted upon complaints received by the Division;

2. What, if any, disciplinary actions should be instituted upon investigations conducted by the Division;

3. What, if any, terms of settlements should be offered in formal disciplinary matters based upon investigations conducted by the Division. A proposed settlement will not become final unless it is subsequently ratified by the board.

(Rule 1330-01-.01, continued)

(6) Board Designee - Any individual authorized by the Board to conduct a review of the qualifications of an applicant for a license or temporary license to practice respiratory care in Tennessee, to make an initial determination as to whether the applicant has met all the requirements to practice respiratory care in Tennessee, and to issue temporary authorizations to practice in accordance with T.C.A. § 63-1-142.

(7) Board Office - The office of the Unit Director assigned to the Board..

(8) C.A.A.H.E.P. - The Commission on Accreditation of Allied Health Education Programs.

(9) Certificate - Document issued by the Board to an applicant who has completed the certification process. The certificate takes the form of an artistically designed certificate as well as other versions bearing an expiration date.

(10) Co.A.R.C. - The Committee on Accreditation for Respiratory Care.

(11) Department - Tennessee Department of Health.

(12) Division - The Division of Health Related Boards, in the Department of Health, responsible for all administrative, fiscal, inspectional, clerical and secretarial functions of the health related boards enumerated in T.C.A. § 68-1-101.

(13) Fee - Money, gifts, services, or anything of value offered or received as compensation in return for rendering services; also, the required fees set forth in rule 1330-01-.06.

(14) He/she Him/her - When used in the text of these rules represents both the feminine and masculine genders.

(15) HRB - Health Related Boards.

(16) In Good Standing - The status of a license or permit which is current in the payment of all fees, administrative requirements and which is not subject to disciplinary action.

(17) T.J.C. - The Joint Commission previously known as the Joint Committee on Accreditation of Health Care Organizations.

(18) License - Document issued by the Board to an applicant who has completed the process for licensure, or temporary licensure, or licensure by endorsement. The license takes the form of an artistically designed license as well as other versions bearing an expiration date.

(19) Licensee - Any person who has been lawfully issued a license, temporary license or a license by endorsement pursuant to T.C.A. § 63-27-116 (c) to practice.

(20) Life Support Systems - A term synonymous with “life support equipment” which, for purposes of the licensure exemption allowed for licensed practical nurses, means any and all of the following:

(a) Any type of mechanical ventilator.

(b) Continuous Positive Airway Pressure or Bi-Positive Airway Pressure devices.

(c) Cardiopulmonary monitors.

(d) All oxygen delivery devices except nasal cannula.

(Rule 1330-01-.01, continued)

(21) Maintain - For purposes of the licensure exemption allowed for licensed practical nurses, means the setting up, attaching to or replacement of devices onto a life support system, and includes initiation of, replacement of and/or maintenance on any type of life support system.

(22) Manage - For purposes of the licensure exemption allowed for licensed practical nurses means the making of adjustments to the controls or settings of any life support system.

(23) NBRC - National Board for Respiratory Care.

(24) Person - Any individual, firm, corporation, partnership, organization, or body politic.

(25) Practice of Respiratory Care – Shall have the same meaning as set forth in T.C.A. § 63-27-102 (4).

(26) Respiratory Care Practitioner – Shall have the same meaning as set forth in T.C.A. § 63-27-102 (7).

(27) Successfully Completed A Respiratory Care Educational Program - Having completed the required course work, received passing grades and met other administrative requirements of a respiratory care educational program. "Respiratory care educational program" is defined in T.C.A. § 63-27-105 and is applicable to registered and certified respiratory therapists pursuant to T.C.A. § 63-27-105.

(28) Use of Title or Description - To hold oneself out to the public as having a particular status by means signs, mailboxes, address plates, stationary, announcements, business cards, or other means of professional identification.

(29) Written Evidence - Includes, but is not limited to, written verification from supervisors or other colleagues familiar with the applicant's work.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-1-101, 63-1-107 (d), 63-1-115, 63-1-132, 63-1-142, 63-1-145,63-1-146, 63-27-102, 63-27-104, 63-27-105, 63-27-112, 63-27-113, and 63-27-116.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed September 26, 2001; effective December 10, 2001. Amendment filed March 27, 2003; effective June 10, 2003. Amendment filed April 17, 2003; effective July 1, 2003. Amendment filed August 28, 2015; effective November 26, 2015.*

1330-01-.02 SCOPE OF PRACTICE.

(1) The scope of practice for registered respiratory therapist, certified respiratory therapist or assistant is defined in T.C.A. § 63-27-102 (3) and (4), and T.C.A. §§ 63-27-106, 107 and 108.

(2) Use of Titles

(a) Only a certified respiratory therapist who has an active credential with the National Board of Respiratory Care (NBRC) and who possesses a valid, current and active license issued by the Board that is not suspended or revoked has the right to use the titles and/or acronyms "Certified Respiratory Therapist (CRT)" as defined in T.C.A. § 63-27-102.

(b) Only a registered respiratory therapist who has an active credential with the National Board of Respiratory Care (NBRC) and who possesses a valid, current and active license issued by the Board that is not suspended or revoked has the right to use the title and/or acronym "Registered Respiratory Therapist (RRT)" as defined in T.C.A. § 63-27-102.

(Rule 1330-01-.02, continued)

(c) Any person who possesses a valid, current and active license issued by the Board that is not suspended or revoked has the right to practice as a respiratory care practitioner as defined in T.C.A. § 63-27-102.

(d) Any person licensed by the Board to whom this rule applies must use one of the titles authorized by this rule in every advertisement he or she publishes. Failure to do so may constitute an omission of a material fact which makes the advertisement misleading and deceptive and subjects the practitioner to disciplinary action pursuant to T.C.A. § 63-27-112 (a) (2) and (9).

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-1-145, 63-1-146, 63-27-102, 63-27-104, 63-27-106, 63-27-107, 63-27-108, 63-27-111, and 63-27-112.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed June 16, 2006; effective August 30, 2006. Amendment filed February 22, 2010; effective May 23, 2010. Amendment filed August 28, 2015; effective November 26, 2015.*

1330-01-.03 DELIVERY OF RESPIRATORY EQUIPMENT TO A PATIENT'S PLACE OF RESIDENCE.

(1) When respiratory equipment is delivered and installed in a patient's place of residence, the following acts constitute the practice of respiratory care because they are a part of the administration of medical gasses:

(a) Initial patient assessment;

(b) Attachment of the respiratory equipment to the patient;

(c) Ongoing assessment of the patient's response to the administration of the medical gas;

(d) Initial and ongoing instruction and education of the patient (and of the patient's family or other caregiver, where relevant) with respect to the role of the respiratory equipment in managing the patient's disease or condition; and

(e) Recommendation to the physician of needed modifications in the physician's order.

(2) When respiratory equipment is delivered and installed in a patient's place of residence, the following acts do not constitute the practice of respiratory care:

(a) Delivery of respiratory equipment and supplies (initial and replacement) to the patient's place of residence;

(b) Assembly of respiratory equipment in the patient's place of residence;

(c) Explanation to the patient of the proper operation and maintenance of the following respiratory equipment:

1. Cylinders used with low-flow (set at less than 6.00 liters per minute) nasal cannula;

2. Pressure regulators/Flow controllers used with low-flow (set at less than 6.00 liters per minute) nasal cannula;

3. Home liquid oxygen systems used with low-flow (set at less than 6.00 liters per minute) nasal cannula;

(Rule 1330-01-.03, continued)

4. Oxygen concentrators used with low-flow (set at less than 6.00 liters per minute) nasal cannula;

5. Oxygen analyzers;

6. Humidifiers; and

7. Small volume medication nebulizers with air compressors.

(d) Initial inspection and assessment of the environment in which the respiratory equipment is to be used;

(e) Exchange of empty medical gas cylinders;

(f) Refilling of liquid oxygen containers; and

(g) Servicing (including repair and maintenance) of respiratory equipment.

(3) With respect to the following respiratory equipment when delivered and installed in a patient's place of residence, all acts except delivery, repair and maintenance constitute the practice of respiratory care:

(a) Continuous Positive Airway Pressure Devices;

(b) Bi-Level Positive Airway Pressure Devices;

(c) Ventilators;

(d) Apnea monitors;

(e) High-flow (6.00 liters per minute or higher) nasal cannula;

(f) All other oxygen delivery devices; and

(g) All other respiratory equipment not listed in subparagraph (2) (c).

(4) With respect to a small volume medication nebulizer with air compressor which is delivered to a patient's place of residence, the placement of medication in a small volume medication nebulizer with air compressor and the instruction of a patient about the medication constitutes the practice of respiratory care.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-27-102, 63-27-104, 63-27-105, 63-27-110, and 63-27-117.* ***Administrative History:*** *Original rule filed June 16, 2006; effective August 30, 2006.*

1330-01-.04 RESERVED.

1330-01-.05 QUALIFICATIONS AND PROCEDURES FOR LICENSURE. To become licensed as a respiratory care practitioner in Tennessee, a person must comply with the following procedures and requirements:

(1) All applicants for all levels of licensure must comply with the following:

(a) A current application packet shall be requested from the Board office.

(Rule 1330-01-.05, continued)

(b) An applicant shall respond truthfully and completely to every question or request for information contained in the application form and submit it along with all documentation and fees required by the form and this rule to the Board office.

(c) Applications for licensure will be accepted throughout the year. All supporting documents requested in these instructions must be received in the Board office within sixty (60) days of receipt of the application or the file will be closed.

(d) An applicant shall pay, at the time of application, the non-refundable application fee, state regulatory fee and if applicable reciprocity or testing fee as provided in rule 1330-01-.06.

(e) An applicant shall submit with his application a “passport” style photograph taken within the preceding twelve (12) months.

(f) An applicant shall attest on his application that he has attained at least eighteen (18) years of age.

(g) An applicant shall disclose the circumstances surrounding any of the following:

1. Conviction of any criminal law violation of any country, state or municipality, except minor traffic violations.

2. The denial of licensure or certification application by any other state or the discipline of licensure in any state.

3. Loss or restriction of licensure or certification in this or in any other state.

4. Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under the country’s or state’s statutory common, or case law.

5. To the extent known by the applicant, the circumstance involved in any pending investigation of licensure or certification by any state.

(h) An applicant shall cause to be submitted to the Board’s administrative office directly from the vendor identified in the Board’s licensure application materials, the result of a criminal background check.

(i) If an applicant holds or has ever held a license or certification to practice respiratory care or any other profession in any other state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of licensure or certification) from each such licensing board which indicates the applicant holds or held an active license or certification and whether it is in good standing presently or was in good standing at the time it became inactive.

(j) When necessary, all required documents shall be translated into English and such translation and original document certified as to authenticity by the issuing source. Both versions must be submitted.

(k) The application form is not acceptable if any portion of it or any other documents required to be submitted by this rule or the application itself have been executed and dated prior to one year before filing with the Board.

(Rule 1330-01-.05, continued)

(l) All applications shall be sworn to and signed by the applicant and notarized. All documents submitted for qualification of licensure become the property of the State of Tennessee and will not be returned.

(2) In addition to the requirements of paragraph (1) of this rule, the following requirements must be met according to the level of licensure sought:

(a) Registered respiratory therapists:

1. The applicant shall submit proof of completion of academic and clinical preparation in a respiratory care program approved by C.A.A.H.E.P. in collaboration with Co.A.R.C. or their successor organizations.

2. The applicant shall have the school send directly to the Board office either a certificate of completion, diploma, or final official transcript. If arterial blood gas endorsement is desired, the applicant must have their school send directly to the Board office a final transcript which shows the applicant's training in blood gas analysis.

3. The applicant shall request verification of passage of the advanced level practitioner exam be submitted directly to the Board office from NBRC.

(b) Certified respiratory therapists:

1. The applicant shall submit proof of completion of academic and clinical preparation in a respiratory care program approved by C.A.A.H.E.P. in collaboration with Co.A.R.C. or their successor organizations.

2. The applicant shall have the school send directly to the Board office either a certificate of completion, diploma, or final official transcript. If arterial blood gas endorsement is desired, the applicant must have their school send directly to the Board office a final transcript which shows the applicant's training in blood gas analysis.

3. The applicant shall submit proof of completion of academic and clinical preparation in a respiratory care program approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or other accrediting organization recognized by the Board. "Academic and clinical preparation in a respiratory care program approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or other accrediting organization by the Board" shall mean successful completion of a respiratory care educational program as that term is defined in T.C.A. § 63-27-105 and Rule 1330-01-.01.

The applicant shall have the school send directly to the Board office either a certificate of completion, diploma, or final official transcript. If arterial blood gas endorsement is desired, the applicant must have their school send directly to the Board office a final transcript which shows the applicant's training in blood gas analysis.

4. The applicant shall request verification of passage of the entry-level practitioner exam provided by the NBRC be submitted directly to the Board office from the NBRC.

(3) Respiratory care practitioners by endorsement - The Board may issue a license by endorsement to an applicant who is currently licensed to practice respiratory care under the

(Rule 1330-01-.05, continued)

laws of another state, territory or country if the qualifications of the applicant are deemed by the Board to be equivalent to those required in Tennessee.

(a) Endorsement applicants must:

1. Complete the Board approved application;

2. Provide proof of possessing a current license, in good standing, from another state; and

3. Provide proof of having completed at least twelve (12) hours of continuing education for the previous calendar year.

(b) If ABG endorsement is desired, refer to rule 1330-01-.22 on ABG endorsement.

(c) Graduates of educational programs not accredited by the American Medical Association Committee on Allied Health Education and Accreditation or the Commission on Accreditation for Respiratory Care may be determined to have equivalent educational attainment upon submitting the following:

1. Official copy of grades and curriculum, translated into English. Such translation and original document must be certified as to authenticity by the issuing source.

2. Any education credentials obtained in such program evaluated by either a professional credentialing agency or an institution of higher education (college or university). The results of such evaluation must be submitted directly to the Board's administrative office from the evaluator on the evaluator's official letterhead and contain an original signature.

3. If the applicant is not a United States citizen:

(i) Documentation of legal entry into the United States {certified photocopy of visa, naturalization papers or passport}.

(ii) Evidence of passing their English Competency Examination except for those applicants educated in countries in which English is the primary language or whose country of education is a member of the British Commonwealth. The test results must be forwarded directly to the Board office from the testing agency.

(I) One of the following examinations must have been passed:

I. Test of Spoken English

II. Test of English as a Foreign Language

III. Test of Written English or

IV. Michigan English Language Assessment Battery

(II) To obtain information regarding English competency examinations, requests must be directed to:

Test of English
P. O. Box 6155
Princeton, NJ 08541-6155

(Rule 1330-01-.05, continued)

Or

Michigan English Language Assessment Battery
English Language Institute
Testing and Certification Division
3020 North University Building
The University of Michigan
Ann Arbor, MI 48109-1057

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-1-145, 63-1-146, 63-27-102, 63-27-104, 63-27-105, 63-27-106, 63-27-107, 63-27-108, 63-27-112, 63-27-113, 63-27-115, and 63-27-116.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed March 27, 2003; effective June 10, 2003. Amendment filed April 17, 2003; effective July 1, 2003. Amendment filed December 5, 2003; effective February 18, 2004. Amendment filed March 14, 2006; effective May 28, 2006. Amendment filed August 28, 2015; effective November 26, 2015.*

1330-01-.06 FEES.

(1) The fees are as follows:

(a) Total Application fee - A fee to be paid by all applicants seeking initial licensure, including those seeking licensure by reciprocity. This fee consists of the Application Fee and License Fee. In cases where an applicant is denied licensure or the application file is closed due to abandonment, only the portion representing the License Fee will be refundable.

(b) Endorsement/Verification fee - A non-refundable fee to be paid for each certification, endorsement or verification of an individual's record for any purpose.

(c) Late Renewal fee - A Division established non-refundable fee to be paid when an individual fails to timely renew a license.

(d) License Renewal fee - A non-refundable fee to be paid by all licensees. This fee also applies to individuals who reinstate a retired or lapsed license.

(e) Replacement license fee - A non-refundable fee to be paid when an individual requests a replacement for a lost or destroyed "initial" license.

(f) State Regulatory fee - A non-refundable fee to be paid by all individuals with all applications.

(g) Upgrade fee - A non-refundable fee to be paid by a respiratory assistant or a certified respiratory therapist when seeking to upgrade his/her authorization to practice respiratory care as provided in rule 1330-01-.21.

(2) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Board of Respiratory Care.

(3) Fee Schedule: Amount

(a) Total Application Fee

(Rule 1330-01-.06, continued)

	1. Application Fee	70.00
	2. License Fee	80.00
	Total Application Fee	150.00
(b)	Endorsement/Verification	15.00
(c)	Late Renewal Fee	50.00
(d)	Renewal (biennial) Fee	100.00
(e)	Replacement License	25.00
(f)	State Regulatory (biennial)	10.00
(g)	Upgrade Fee	20.00
(h)	License Fee	80.00

(4) The total application fee must be paid at the time of application.

Authority: *T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 9-4-5117, 63-27-104, and 63-27-105.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed March 27, 2003; effective June 10, 2003. Amendment filed December 5, 2003; effective February 18, 2004. Amendment filed July 18, 2007; effective October 1, 2007. Amendment filed July 13, 2012; effective October 11, 2012. Amendment filed November 18, 2015; effective February 16, 2016.*

1330-01-.07 APPLICATION REVIEW, APPROVAL, AND DENIAL.

(1) Application files are not considered completed until all information, including fees, have been received by the Division. Preliminary review of all applications to determine whether or not the application file is complete may be delegated to the Board's Unit Director.

(2) Completed applications may be approved by a Board member, by the Board consultant, or by the Board designee for a temporary authorization pursuant to T.C.A. §§ 63-1-142 and 63-27-116.

(3) If an application is incomplete when received in the Board office, and all other reasonable efforts to correct any deficiency have failed, a deficiency letter will be sent by certified mail to the applicant notifying him of the deficiency. This letter shall request specified additional material necessary to complete the application. The requested information must be received in the Board office on or before the sixtieth (60th) day after receipt of the notification.

(a) Such notification shall be sent certified mail return receipt requested from the Board office.

(b) If the requested information is not timely received, the application file shall be deemed abandoned and closed and the applicant notified. No further action will take place until a new application is received pursuant to the rules governing the application process, including another payment of all fees.

(Rule 1330-01-.07, continued)

(4) If a completed application has been denied by the Board the action shall become final and the following shall occur:

(a) A notification of the denial shall be sent by the Board office by certified mail, return receipt requested. Specific reasons for denial will be stated, such as incomplete or unofficial records, examination failure, or other matters judged insufficient for licensure, and such notification shall contain all the specific statutory or administrative authorities for the denial.

(b) The notification, when appropriate, shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). The notification shall inform the applicant of the procedure necessary to accomplish that action.

(c) An applicant has a right to a contested case hearing only if the licensure denial is based on subjective or discretionary criteria.

(d) An applicant may be granted a contested case hearing if licensure denial is based on an objective, clearly defined criteria only if, after review and attempted resolution by the Board's administrative staff, the licensure application cannot be approved and the reasons for continued denial present a genuine issue of fact and/or law which is appropriate for appeal. Such request must be made in writing to the Board within thirty (30) days of the receipt of the notice of denial from the Board.

(5) If the Board finds it has erred in the issuance of a license, the Board will give written notice by certified mail of its intent to revoke the license. The notice will allow the applicant the opportunity to meet the requirements of licensure within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke the license, the applicant shall have the right to proceed according to rule 1330-01-.07(4).

(6) Applications submitted for one type of license, temporary license or permit cannot be converted after filing to an application for another type of license, temporary license or permit. If an applicant desires to convert, a new application with supporting documents and appropriate fees must be submitted.

(7) The issuance or renewal of licensure to applicants who otherwise may be entitled to full licensure or renewal, may be withheld, denied, conditioned or restricted in any manner the Board deems necessary to protect the public in any of the following circumstances:

(a) When any applicant's application indicates a problem in the areas of mental, physical, moral or educational criteria for licensure or renewal which the Board determines may create a potential threat to the public health, safety or welfare.

(b) When any applicant has violated any provision of T.C.A. §§ 63-27-101, et seq., or rules promulgated pursuant thereto.

(c) When any applicant fails to fully and timely comply with all licensure application and renewal requirements.

Authority: *T.C.A. §§4-5-202, 4-5-204, 4-5-301, 63-1-142, 63-27-104, 63-27-105, 63-27-109, 63-27-112, and 63-27-116.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed March 27, 2003; effective June 10, 2003. Amendment filed April 17, 2003; effective July 1, 2003.*

1330-01-.08 RESERVED.

Authority: *T.C.A. §§4-5-202, 4-5-204, and 63-27-104.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed March 27, 2003; effective June 10, 2003.*

1330-01-.09 RENEWAL OF LICENSE.

(1) Renewal application

(a) The due date for license renewal is the last day of the month in which a birthdate falls pursuant to the Division's biennial birthdate renewal system. The due date is contained on the renewal document designated as the expiration date.

(b) Methods of Renewal

1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org

2. Paper Renewals - For individuals who have not renewed their license online via the Internet, a renewal application form will be mailed to each individual licensed by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee from the responsibility of meeting all requirements for renewal.

(c) To be eligible for renewal an individual must submit to the Division, on or before the expiration date, the following:

1. A completed and signed renewal application form; and

2. The renewal and state regulatory fees as provided in rule 1330-01-.06.

(d) Licensees who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses processed in accordance with rule 1200-10-01-.10.

(e) Anyone submitting a signed renewal form or letter which is found to be untrue may be subject to disciplinary action as provided in rule 1330-01-.15.

(2) Reinstatement of a license that has expired may be accomplished upon meeting the following conditions:

(a) Obtaining and fully completing the Board's Reinstatement Application and submitting it along with payment of all past due registration/renewal fees to the Board office; and

(b) Paying the Late Renewal fee, pursuant to Rule 1330-01-.06; and

(c) Providing documentation of successfully completing continuing education requirements, pursuant to Rule 1330-01-.12.

(Rule 1330-01-.09, continued)

(3) After January 1, 2004, applicants currently licensed as registered respiratory therapists who have not obtained the credential "Registered Respiratory Therapist (RRT)" from the NBRC shall have their licenses renewed or reinstated as certified respiratory therapists.

(4) Initial renewal issuance decisions pursuant to this rule may be made administratively by the Board consultant pursuant to T.C.A. § 63-27-116 or by the Board designee pursuant to T.C.A. § 63-1-142, subject to review and subsequent decision by the Board.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-27-104, 63-27-102, 63-27-104, 63-27-105, 63-27-109, 63-27-113, and 63-27-116.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed March 27, 2003; effective June 10, 2003. Amendment filed April 17, 2003; effective July 1, 2003.*

1330-01-.10 SUPERVISION.

(1) Levels of Supervision

(a) The supervision required by T.C.A. §§ 63-27-106 and 63-27-107 for registered respiratory therapists and certified respiratory therapists requires that the individual responsible for supervision be available at least by electronic or telephonic communication at all times that the registered respiratory therapist or certified respiratory therapist is performing services.

(b) The supervision required by T.C.A. § 63-27-108 (b) for respiratory assistants requires that the individual responsible for supervision be on-site at all times at the facility or location where the respiratory assistant is performing services.

(2) Conflict of Interest Supervision - Supervision cannot be provided by the individual's parents, spouse, former spouse, siblings, children, cousins, in-laws {present or former}, step-children, grandparents, grandchildren, aunts, uncles, employees, or anyone sharing the same household. Such supervision shall not be acceptable toward fulfillment of the supervision requirement.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-27-102, 63-27-104, 63-27-106, 63-27-107, and 63-27-108.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed March 27, 2003; effective June 10, 2003.*

1330-01-.11 RETIREMENT AND REINSTATEMENT OF LICENSE.

(1) A person who holds a current license and does not intend to practice as a "Respiratory Care Practitioner" may apply to convert an active license to retired status. An individual who holds a retired license will not be required to pay a renewal fee to maintain his license in retired status.

(2) A person who holds an active license may apply for retired status in the following manner:

(a) Obtain, complete, and submit an Affidavit of Retirement form to the Board office; or

(b) Submit any other documentation which may be required to the Board office.

(c) The effective date of retirement will be the date the Affidavit of Retirement is received in the Board office.

(Rule 1330-1-.11, continued)

(3) After January 1, 2004, applicants currently licensed as registered respiratory therapists who have not obtained the credential "Registered Respiratory Therapist (RRT)" from the NBRC shall have their licenses reinstated as certified respiratory therapists.

(4) An individual whose license has been retired may re-enter active status by doing the following:

(a) Obtain, complete, and submit a Reinstatement Application form to the Board office; and

(b) Pay the renewal fee and state regulatory fees as provided in rule 1330-01-.06.

(c) If reinstatement is requested prior to the expiration of one year from the date of retirement, the Board will require payment of the past due renewal and the late renewal fees.

(d) Provide verification of completion of continuing education requirements, as provided in rule 1330-01-.12.

(5) Reinstatement applications shall be treated as licensure applications and review decisions shall be governed by rule 1330-01-.07.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-27-104, 63-27-105, 63-27-109, and 63-27-113.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed March 27, 2003; effective June 10, 2003. Amendment filed April 17, 2003; effective July 1, 2003.*

1330-01-.12 CONTINUING EDUCATION.

(1) Hours required.

(a) Each therapist and assistant licensed by the Board must complete twelve (12) hours of approved continuing education every calendar year.

1. At least five (5) of those twelve (12) hours must pertain to the clinical practice of respiratory care or to research relating to the cardio-pulmonary system.

2. At least one (1) of those twelve (12) hours must pertain to patient safety as defined by the T.J.C.

3. At least one (1) of those twelve (12) hours must be a course focused on the professional or ethical standards required of respiratory therapists by their governing rules and statutes.

4. The remaining five (5) hours may pertain to, among other topics, education or management.

(b) For new licensees, submitting proof of successful completion of the respiratory care program required by T.C.A. §§ 63-27-106 or 63-27-107 shall be considered proof of sufficient preparatory education so as to satisfy the continuing education requirements for the calendar year in which the new licensee completed the program.

(2) Acceptable Continuing Education.

(a) The following organizations' or associations' and their local and state affiliates' continuing education activities, which pertain to the practice of respiratory care, are considered pre-approved for fulfilling the requirements of this rule:

(Rule 1330-01-.12, continued)

1. All hospitals or institutions belonging to the Tennessee Hospital Association, or which are T.J.C. accredited, and other accrediting hospital bodies with Centers for Medicare and Medicaid Services deemed status;

2. American Association for Respiratory Care and any of its chartered affiliates;

3. American Association of Critical Care Nurses;

4. American Association of Pediatric Physicians;

5. American Cancer Society;

6. American College of Chest Physicians;

7. American College of Emergency Physicians;

8. American College of Physicians;

9. American Heart Association;

10. American Lung Association;

11. American Medical Association;

12. American Nurses Association;

13. American Nurses Credentialing Center's Commission on Accreditation;

14. American Society of Anesthesiologists;

15. American Society of Cardiovascular Professionals;

16. American Thoracic Society;

17. Association of Certified Registered Nurse Anesthetists;

18. Committee on Accreditation for Respiratory Care;

19. Society of Critical Care Medicine;

20. Tennessee Association for Home Care;

21. Tennessee Association of Cardiovascular and Pulmonary Rehabilitation;

22. Tennessee Medical Association;

23. American Academy of Sleep Medicine;

24. American Association of Sleep Technologists; and

25. Society of Anesthesia & Sleep Medicine.

(b) In lieu of obtaining continuing education hours from one of the organizations listed in (a), a licensee may obtain his or her continuing education hours in any of the following ways:

(Rule 1330-01-.12, continued)

1. By taking and passing (with a grade point average of 2.0 or its equivalent, or better) a college or university course which focuses on the clinical practice of respiratory care and/or on education, management or research relating to the cardiopulmonary system. The licensee will receive continuing education hours equal to three (3) times the number of hours for which the course is accredited by the college or university.

2. By taking and passing advanced training courses (either the initial, renewal, or instructor courses) on advanced cardiac life support (ACLS), pediatric advanced life support (PALS), or neonatal resuscitation programs (NRP). The licensee will receive ten (10) continuing education hours for one of these courses (unless the number of hours attended by the licensee is actually less than ten (10 hours).

3. By taking and passing a NBRC re-credentialing examination (either of the advanced practitioner examinations for registered respiratory therapists or the certification examination for certified respiratory therapists), or by taking and passing a NBRC specialty examination, such as, including but not limited to, Sleep Disorder Specialty or Certified Pulmonary Function Technologist. The licensee will receive ten (10) continuing education hours for passing the examination. These exams shall not fulfill the one (1) hour requirement in patient safety or the one (1) hour in ethics.

4. By presenting or instructing a pre-approved course. The credit is limited to credit for twice the presentation time and credit cannot be given for the same topic more than once per calendar year.

(c) A minimum of 5 hours must be obtained live, real time, with interactive opportunity.

(3) Continuing Education Program Approval Process

(a) All entities offering education activities not considered pre-approved by these rules must request and receive prior approval of their content by the Board in order to be considered valid for fulfilling any of the continuing education requirements as set forth in this act.

(b) Application for approval shall contain the topic, speaker credentials, a brief description of content or content objectives, the sponsoring institution or organization, the length in minutes of each presentation, and the number of credit hours requested. Activities/courses that are being offered in traditional classroom and lecture formats shall also include the date and the place of instruction.

(c) All applications must be submitted to the Board a minimum of thirty (30) calendar days prior to any scheduled Board meeting which is to take place before the educational offering. The Board or Board Consultant shall review each application and shall rule on whether the offering(s) in whole or in part shall be accepted as valid for the purposes of the continuing education requirements of this act. The decision of the Board shall be final in all such matters.

(4) Documentation

(a) Each individual must retain independent proof of attendance and completion of all continuing education requirements. This documentation must be retained for a period of three (3) years from the end of the renewal period in which the continuing education was acquired. This documentation must be produced for inspection and verification, if

(Rule 1330-01-.12, continued)

requested in writing by the Board during its verification process. Such documentation must be one (1) or more of the following:

1. Certificates verifying the individual's completion.

2. Official transcript verifying credit hours earned.

3. Written documentation of training that is kept by the respiratory care practitioner and meets the following criteria:

(i) Written or printed on official stationery of the organization which provided the continuing education;

(ii) The licensee's name;

(iii) The total number of continuing education hours;

(iv) The course title;

(v) The date of the continuing education; and

(vi) The licensee's signature and license number.

(b) If, after request by the Board during its verification process, a person submits documentation for training that is not clearly identifiable as appropriate continuing education, the Board will request a written description of the training and how it applies to the practice of respiratory care. If the Board determines that the training cannot be considered appropriate continuing education, the individual will be given ninety (90) days to replace the hours not allowed. Those hours will be considered replacement hours and cannot be counted during the next renewal period.

(5) Continuing education credit will not be allowed for the following:

(a) Regular work activities, administrative staff meetings, case staffing/reporting, etc.

(b) Membership in, holding office in, or participation on boards or committees, business meetings of professional organizations, or banquet speeches.

(c) Independent unstructured or self-structured learning.

(d) Training specifically related to policies and procedures of an agency (Examples - universal precautions, infection control, emergency or disaster preparedness, employee orientation, employee relations).

(e) College or university course(s), except as authorized pursuant to subparagraph (2)(b).

(f) Provider CPR courses of any type.

(6) Continuing Education for Reinstatement of Retired, Revoked, or Expired License.

(a) Reinstatement of Retired License

1. An individual whose license has been retired for one (1) year or less will be required to fulfill continuing education requirements as outlined in this rule as a prerequisite to reinstatement. Those hours can not be counted toward future continuing education requirements.

(Rule 1330-01-.12, continued)

2. Any individual requesting reinstatement of a license which has been retired for more than one (1) year must submit, along with the reinstatement request, verification which indicates the attendance and completion of twelve (12) hours of continuing education for every calendar year for which the license has been retired, although under no circumstances shall the maximum number of hours required be more than twenty-four (24) hours. The continuing education hours must have been obtained during the period of retirement with the exception of the most recent calendar year requirement, which must have been completed within the twelve (12) months preceding reinstatement.

3. The twelve (12) hours received for each calendar year must comply with the requirements of rule 1330-01-.12(1)(a).

(b) Reinstatement of Revoked License - Any individual requesting reinstatement of a license which has been revoked for non-compliance with the continuing education requirements of this rule must submit, along with the reinstatement request, verification which indicates the attendance and completion of twelve (12) hours of continuing education for every calendar year for which the license has been revoked. The continuing education hours must have been obtained during the period of revocation with the exception of the most recent calendar year requirement, which must have been completed within the twelve (12) months preceding reinstatement.

(c) Reinstatement of Expired License – No person whose license has expired may be reinstated without submitting evidence of fulfillment of the continuing education requirements as outlined in this rule.

1. Except for licensees who have been practicing in another state during the period of expiration, the continuing education hours documented at the time of reinstatement must equal twelve (12) hours for every calendar year for which the license was expired, although under no circumstances shall the maximum number of hours required be more than sixty (60) hours, and must have been successfully completed before the date of reinstatement.

2. For licensees who have been practicing in another state during the period of expiration, the continuing education hours documented at the time of reinstatement must equal twelve (12) hours for every calendar year for which the license was expired, although under no circumstances shall the maximum number of hours required be more than forty-eight (48) hours, and must have been begun and successfully completed before the date of reinstatement.

3. The twelve (12) hours received for each calendar year must comply with the requirements of rule 1330-01-.12(1)(a).

(d) Continuing education hours obtained as a prerequisite for reinstating a license may not be counted toward the calendar year requirement.

(7) Violations - Any licensee who fails to successfully complete or who falsely certifies attendance and completion of the required hours of continuing education may be subject to disciplinary action.

(a) Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrant the intended action.

(Rule 1330-01-.12, continued)

(b) The licensee has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license.

(c) Any licensee who fails to show compliance with the required continuing education hours in response to the notice contemplated by subparagraphs (7) (a) and (7) (b) above may be subject to disciplinary action.

(d) Continuing education hours obtained as a result of compliance with the terms of a Board Order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any renewal period.

(8) Waiver or Extension of Continuing Education

(a) The Board may grant a waiver of the need to attend and complete the required hours of continuing education or the Board may grant an extension of the deadline to complete the required hours of continuing education if it can be shown that compliance was beyond the physical or mental capabilities of the person seeking the waiver.

(b) Waivers or extension of the deadline will be considered only on an individual basis and may be requested by submitting the following items to the Board office:

1. A written request for a waiver or deadline extension which specifies which requirements are sought to be waived or which deadline is sought to be extended and a written and signed explanation of the reason for the request; and

2. Any documentation which supports the reason(s) for the waiver or deadline extension requested or which is subsequently requested by the Board.

(c) A waiver or deadline extension approved by the Board is effective only for the renewal period for which the waiver is sought.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-1-107, 63-1-145, 63-1-146, 63-27-102, 63-27-104, 63-27-105, 63-27-106, 63-27-107, 63-27-109, 63-27-112, and 63-27-116.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed March 27, 2003; effective June 10, 2003. Amendments filed March 17, 2005; effective May 31, 2005. Amendment filed February 22, 2010; effective May 23, 2010. Amendment filed August 28, 2015; effective November 26, 2015.*

1330-01-.13 RESERVED.

Authority: *T.C.A. §§4-5-202, 4-5-204, and 63-27-104.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 27, 2003; effective June 10, 2003.*

1330-01-.14 TEMPORARY LICENSE.

(1) (a) A temporary license is available for applicants who have filed their application with the Board office, and whose application file includes all the documentation required by rule 1330-01-.05, except for proof of their examination passage, and who are otherwise qualified for licensure. A temporary license can be issued not to exceed a cumulative period of six (6) months.

1. An applicant for temporary license as a registered respiratory therapist shall submit proof of successful completion of a program accredited by the American Medical Association Committee on Allied Health Education and Accreditation

(Rule 1330-01-.14, continued)

(CAHEA) in collaboration with the Joint Review Committee for Respiratory Therapy Education (JRCRTE) or their successor organizations

2. An applicant for temporary license as a certified respiratory therapist shall submit proof of successful completion of academic and clinical preparation in a respiratory care program approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or other accrediting organization recognized by the Board pursuant to Rule 1330-01-.05(2)(b)1.

"Academic and clinical preparation in a respiratory care program approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or other accrediting organization recognized by the Board" means successful completion of a program accredited by the American Medical Association Committee on Allied Health Education and Accreditation (CAHEA) in collaboration with the Joint Review Committee for Respiratory Therapy Education (JRCRTE) or their successor organizations.

(b) Applications for temporary licenses may be used for purposes of applying for full licensure. Those applications shall be held open for a period of one (1) year from the date of issuance while awaiting notification of the results of the NBRC examination. If notification of successful completion of the examination is not received in the Board office directly from the NBRC before the expiration of that year, the application will be considered abandoned pursuant to 1330-01-.07.

(2) A temporary license will always become invalid at the time a permanent license is issued.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-1-145, 63-1-146, 63-27-102, 63-27-104, 63-27-112, and 63-27-116.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed March 27, 2003; effective June 10, 2003. Amendment filed April 17, 2003; effective July 1, 2003. Amendment filed August 28, 2015; effective November 26, 2015.*

1330-01-.15 DISCIPLINARY GROUNDS, ACTIONS, AND CIVIL PENALTIES.

(1) The Board may take any disciplinary action described in paragraph (2) when a licensee has been found guilty of committing any act or offense provided in T.C.A. § 63-27-112 (a), or has violated any of the provisions of Tennessee Code Annotated, Title 63, Chapter 1 or Chapter 27 or the rules promulgated pursuant thereto.

(2) Actions - Upon a finding by the Board that a respiratory care practitioner has violated any provision of the Respiratory Care Practitioner Act or the rules promulgated pursuant thereto, the Board may impose any of the following actions separately or in any combination deemed appropriate to the offense.

(a) Denial of an application for licensure

(b) Advisory Censure - This is a written action issued to the respiratory care practitioner for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.

(c) Formal reprimand - This is a written action issued to a respiratory care practitioner for one time and less severe violation(s). It is a formal disciplinary action.

(d) Probation - This is a formal disciplinary action which places a respiratory care practitioner on close scrutiny for a fixed period of time. This action may be combined

(Rule 1330-01-.15, continued)

with conditions which must be met before probation will be lifted and/or which restrict the individual's activities during the probationary period.

(e) Licensure Suspension - This is a formal disciplinary action which suspends an individual's right to practice for a fixed period of time. It contemplates the re-entry of the individual into the practice under the licensure previously issued.

(f) Licensure Revocation For Cause - This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the license previously issued. The Board, in its discretion, may allow reinstatement of a revoked license upon conditions and after a period of time which it deems appropriate. No petition for reinstatement and no new application for licensure from a person whose license was revoked shall be considered prior to the expiration of at least one (1) year unless otherwise stated in the Board's revocation order.

(g) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee in any of the following circumstances:

1. During any period of probation, suspension; or

2. During any period of revocation after which the licensee may petition for an order of compliance to reinstate the revoked license; or

3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked license; or

4. As a stand-alone requirement(s) in any disciplinary order.

(h) Civil penalty - A monetary disciplinary action assessed by the Board pursuant to paragraph (5) of this rule.

(i) Once ordered, probation, suspension, revocation, assessment of a civil penalty, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee or certificate holder petitions, pursuant to paragraph (3) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met, and after any civil penalties assessed have been paid.

(3) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.

(a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:

1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or

2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or

(Rule 1330-01-.15, continued)

3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license or certificate previously revoked.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:

   (i) A copy of the previously issued order; and

   (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and

   (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

   (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or

   (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.

5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-01-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Respiratory Care

Petitioner's Name: _____
Petitioner's Mailing Address: _____
_____

(Rule 1330-01-.15, continued)

Petitioner's E-Mail Address: _____
Telephone Number: _____

Attorney for Petitioner: _____
Attorney's Mailing Address: _____
_____
_____

Attorney's E-Mail Address: _____
Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or

2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or

3. An order issued reflecting that compliance and reinstating a license or certificate previously revoked.

Note - You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show compliance is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ___ day of _____, 20_____.

_____
Petitioner's Signature

(4) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed or uncertified practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty other than the one(s) previously ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

(a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.

(Rule 1330-01-.15, continued)

(b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board's Administrative Office that shall contain all of the following:

   (i) A copy of the previously issued order; and

   (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and

   (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

   (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or

   (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.

5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-01-.11.

(c) Form Petition

Petition for Order Modification
Board of Respiratory Care

Petitioner's Name: _____
Petitioner's Mailing Address: _____
_____
_____
Petitioner's E-Mail Address: _____

(Rule 1330-01-.15, continued)

Telephone Number: _____

Attorney for Petitioner: _____
Attorney's Mailing Address: _____
_____
_____
Attorney's E-Mail Address: _____
Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:

_____
_____
_____
_____
_____
_____
_____

Note - You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ___ day of _____, 20_____.

_____
Petitioner's Signature

(5) Civil Penalties - The purpose of this rule is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. § 63-1-134.

(a) Schedule of Civil Penalties

1. A Type A civil penalty may be imposed whenever the Board finds the person who is required to be licensed by the Board is guilty of a willful and knowing violation of the Respiratory Care Practitioner Act, or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be an imminent substantial threat to the health, safety and welfare of an individual client or the public. For purposes of this section, a type A penalty shall include, but not be limited to, a person who willfully and knowingly is or was practicing as a respiratory care practitioner without a license from the Board.

2. A Type B civil penalty may be imposed whenever the Board finds the person required to be licensed by the Board is guilty of a violation of the Respiratory Care Practitioner Act or regulations promulgated pursuant thereto in such manner as to impact directly on the care of clients or the public.

3. A Type C civil penalty may be imposed whenever the Board finds the person required to be licensed, permitted, or authorized by the Board is guilty of a violation of the Respiratory Care Practitioner Act or regulations promulgated

(Rule 1330-01-.15, continued)

pursuant thereto, which are neither directly detrimental to the clients or public, nor directly impact their care, but have only an indirect relationship to client care or the public.

(b) Amount of Civil Penalties

1. Type A civil penalties shall be assessed in the amount of not less than $500 and not more than $1,000.

2. Type B civil penalties may be assessed in the amount of not less than $100 and not more than $500.

3. Type C civil penalties may be assessed in the amount of not less than $50 and not more than $100.

(c) Procedures for Assessing Civil Penalties

1. The Division may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.

2. Civil Penalties may also be initiated and assessed by the Board during consideration of any Notice of Charges. In addition, the Board may, upon good cause shown, assess type and amount of civil penalty which was not recommended by the Division.

3. In assessing the civil penalties pursuant to these rules the Board may consider the following factors:

(i) Whether the amount imposed will be a substantial economic deterrent to the violator;

(ii) The circumstances leading to the violation;

(iii) The severity of the violation and the risk of harm to the public;

(iv) The economic benefits gained by the violator as a result of non-compliance; and

(v) The interest of the public.

4. All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of T.C.A. Title 4, Chapter 5.

Authority: *T.C.A. §§4-5-105, 4-5-202, 4-5-204, 4-5-217, 4-5-223, 63-1-122, 63-1-134, 63-27-104, 63-27-111, and 63-27-112.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed February 13, 2002; April 29, 2002. Amendment filed March 27, 2003; effective June 10, 2003. Amendment filed April 17, 2003; effective July 1, 2003. Amendment filed August 9, 2004; effective October 23, 2004. Amendment filed February 22, 2010; effective May 23, 2010.*

1330-01-.16 LICENSE.

(1) Issuance - Upon the Board determining that an applicant has successfully met all statutory and regulatory requirements, the Board shall direct the Division to issue the applicant a license in the classification for which he is qualified to practice.

(2) Display of License - Every person licensed by the Board shall have on file a copy of his license in his office and, whenever required, exhibit such license to the Board or its authorized representatives.

(3) Replacement License, or Renewal Document- A person's whose license, certificate, or renewal document has been lost or destroyed may be issued a replacement document upon receipt of a written request in the Board office. Such request shall be accompanied by an affidavit (signed and notarized) stating the facts concerning the loss or destruction of the original document and the required fee pursuant to rule 1330-01-.06. The damaged license, if available, must accompany the affidavit.

(4) Verification of License - Requests for verification or endorsement of a license must be made in writing to the Board office and accompanied by the fee required by rule 1330-01-.06.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-1-109, 63-1-106, and 63-27-104.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000.*

1330-01-.17 CHANGE OF NAME AND/OR ADDRESS. The name and address contained in the applicant's license application shall be the name and address of the licensee where all correspondence and renewal forms from the Board shall be sent.

(1) Change of Name - An individual licensed by the Board shall notify the Board in writing within thirty (30) days of a name change and will provide both the old and new names. A request for name change must also include a copy of the official document involved and reference the individual's profession, board, social security and license numbers.

(2) Change of Address - Each person holding a license who has had a change of address or place of employment, shall file in writing with the Board his current address, giving both old and new addresses. Such requests shall be received in the Board office no later than thirty (30) days after such change is effective and must reference the individual's name, profession, board, social security and license numbers.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-1-108, 63-27-104, 63-27-105, and 63-27-106.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 27, 2003; effective June 10, 2003.*

1330-01-.18 MANDATORY RELEASE OF PATIENT RECORDS. - Patient records release shall be governed by Tennessee Code Annotated, Title 63, Chapter 2.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-27-104, 63-2-101, and 63-2-102.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000.*

1330-01-.19 BOARD OFFICERS, CONSULTANTS, RECORDS, DECLARATORY ORDERS, ADVISORY RULINGS, SUBPOENAS, AND SCREENING PANELS.

(1) The Board, shall elect annually from its members the following officers:

(a) Chairman - who shall preside at all Board meetings, and appoint committees.

(Rule 1330-01-.19, continued)

(b) Secretary - who in the absence of the chairperson shall preside at Board meetings and who, along with the Board's Unit Director, shall be responsible for correspondence from the Board and execution of all official documents requiring the seal of the Board to be affixed.

(2) The Board shall select consultants who, along with each individual member of the Board, may serve as consultants to the Division and who are vested with the authority to do the following acts:

(a) Review complaints and recommend whether and what type disciplinary actions should be instituted as the result of complaints received or investigations conducted by the Division.

(b) Recommend whether and what terms a complaint, case or disciplinary action might be settled. Any matter proposed for settlement must be subsequently reviewed, evaluated and ratified by the full Board before it becomes effective.

(c) Review and approve all types of applications for issuance of a temporary authorization pursuant T.C.A. § 63-27-116 (d), subject to subsequent ratification by the Board before full licensure, renewal or reinstatement can issue.

(d) Undertake any other matter authorized by a majority vote of the Board.

(3) Records and Complaints

(a) All requests, applications, notices, other communications and correspondence shall be directed to the Board office. Any requests or inquiries requiring a Board decision or official Board action, except documents relating to disciplinary actions or hearing requests, must be received fourteen (14) days prior to a scheduled Board meeting. Requests or inquiries not timely received will be retained in the Board office and presented at the next Board meeting.

(b) All records of the Board, except those made confidential by law, are open for inspection and examination, under the supervision of an employee of the Division at the Board office during normal business hours.

(c) Copies of public records shall be provided to any person upon payment of a fee.

(d) All complaints should be directed to the Division's Investigations Section.

(4) Declaratory Orders - The Board adopts, as if fully set out herein, rule 1200-10-01-.11, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the declaratory order process. All declaratory order petitions involving statutes, rules or orders within the jurisdiction of the Board shall be addressed by the Board pursuant to that rule and not by the Division. Declaratory Order Petition forms can be obtained from the Board's administrative office.

(5) Advisory Rulings - Any person who is affected by any matter within the jurisdiction of the Board and who holds a license issued pursuant to Chapter 27 of Title 63 of the Tennessee Code Annotated, may submit a written request for an advisory ruling subject to the limitations imposed by T.C.A. § 63-27-104 (b). The procedures for obtaining and issuance of advisory rulings are as follows:

(a) The licensee shall submit the request to the Board Administrative Office on the form contained in subparagraph (5)(e) providing all the necessary information; and

(Rule 1330-01-.19, continued)

(b) The request, upon receipt, shall be referred to the Board's administrative staff for research, review and submission of a proposed ruling to the Board for its consideration at the next meeting after the draft ruling has been approved by the Board's consultant and advisory attorney; and

(c) The Board shall review the proposed ruling and either make whatever revisions or substitutions it deems necessary for issuance or refer it back to the administrative staff for further research and drafting recommended by the Board; and

(d) Upon adoption by the Board the ruling shall be transmitted to the requesting licensee. The ruling shall have only such affect as is set forth in T.C.A. § 63-27-104 (b).

(e) Any request for an advisory ruling shall be made on the following form, a copy of which may be obtained from the Board's Administrative Office:

Board of Respiratory Care
Request for Advisory Ruling

Date: _____
Licensee's Name: _____
Licensee's Address: _____
_____
_____

License Number: _____

1. The specific question or issue for which the ruling is requested:
_____
_____
_____

2. The facts that gave rise to the specific question or issue:
_____
_____
_____
_____

3. The specific statutes and/or rules which are applicable to the question or issue:
_____
_____

Licensee's Signature _____

(6) Subpoenas

(a) Purpose - Although this rule applies to persons and entities other than respiratory care practitioners, it is the Board's intent as to respiratory care practitioners that they be free to comprehensively treat and document treatment of their patients without fear that the treatment or its documentation will be unduly subjected to scrutiny outside the profession. Consequently, balancing that intent against the interest of the public and patients to be protected against substandard care and activities requires that persons seeking to subpoena such information and/or materials must comply with the substance and procedures of these rules.

It is the intent of the Board that the subpoena power outlined herein shall be strictly construed. Such power shall not be used by the Division or Board investigators to seek

(Rule 1330-01-.19, continued)

other incriminating evidence against respiratory care practitioners when the Division or Board does not have a complaint or basis to pursue such an investigation. Thus, unless the Division or its investigators have previously considered, discovered, or otherwise received a complaint from either the public or a governmental entity, no subpoena as contemplated herein shall issue.

(b) Definitions - As used in this chapter of rules the following words shall have the meanings ascribed to them:

1. Probable Cause

(i) For Investigative Subpoenas - Shall mean that probable cause, as defined by case law at the time of request for subpoena issuance is made, exists that a violation of the Respiratory Care Practitioner Act or rules promulgated pursuant thereto has occurred or is occurring and that it is more probable than not that the person(s), or item(s) to be subpoenaed possess or contain evidence which is more probable than not relevant to the conduct constituting the violation.

(ii) The utilization of the probable cause evidentiary burden in proceedings pursuant to this rule shall not in any way, nor should it be construed in any way to establish a more restrictive burden of proof than the existing preponderance of the evidence in any civil disciplinary action which may involve the person(s) or items that are the subject of the subpoena.

2. Presiding Officer - For investigative subpoenas shall mean the Board chair.

(c) Procedures

1. Investigative Subpoenas

(i) Investigative Subpoenas are available only for issuance to the authorized representatives of the Tennessee Department of Health, its investigators and its legal staff.

(ii) An applicant for such a subpoena must either orally or in writing notify the Board's Unit Director of the intention to seek issuance of a subpoena. That notification must include the following:

(I) The time frame in which issuance is required so the matter can be timely scheduled; and

(II) A particular description of the material or documents sought, which must relate directly to an ongoing investigation or contested case, and shall, in the instance of documentary materials, be limited to the records of the patient or patients whose complaint, complaints, or records are being considered by the Division or Board, although in no event shall such subpoena be broadly drafted to provide investigative access to medical records of other patients who are not referenced in a complaint received from an individual or governmental entity, or who have not otherwise sought relief, review, or Board consideration of a respiratory care practitioner's conduct, act, or omission; and

(III) Whether the proceedings for the issuance is to be conducted by physical appearance or electronic means; and

(Rule 1330-01-.19, continued)

(IV) The name and address of the person for whom the subpoena is being sought or who has possession of the item(s) being subpoenaed.

(iii) The Board's Unit Director shall cause to have the following done:

(I) In as timely a manner as possible arrange for the Board chair to preside and determine if the subpoena should be issued; and

(II) Establish a date, time and place for the proceedings to be conducted and notify the applicant and the court reporter; and

(III) Maintain a complete record of the proceedings including an audio tape in such a manner as to:

I. Preserve a verbatim record of the proceeding; and

II. Prevent the presiding officer from being allowed to participate in any manner in any disciplinary action of any kind, formal or informal, which may result which involves either the person or the documents or records for which the subpoena was issued.

(iv) The Proceedings

(I) The applicant shall do the following:

I. Provide for the attendance of all persons whose testimony is to be relied upon to establish probable cause; and

II. Produce and make part of the record copies of all documents to be utilized to establish probable cause; and

III. Obtain, complete and provide to the presiding officer a subpoena which specifies the following:

A. The name and address of the person for whom the subpoena is being sought or who has possession of the item(s) being subpoenaed; and

B. The location of the materials, documents or reports for which production pursuant to the subpoena is sought, if that location is known; and

C. A brief, particular description of any materials, documents or items to be produced pursuant to the subpoena; and

D. The date, time and place for compliance with the subpoena.

IV. Provide the presiding officer testimony and/or documentary evidence which in good faith the applicant believes is sufficient to establish that probable cause exists for issuance of the subpoena as well as sufficient proof that all other reasonably available alternative means of securing the materials, documents or items have been unsuccessful.

(Rule 1330-01-.19, continued)

(II) The presiding officer shall do the following:

I. Commence the proceedings and swear all necessary witnesses; and

II. Hear and maintain the confidentiality of the evidence, if any, presented at the proceedings; and

III. Control the manner and extent of inquiry during the proceedings and be allowed to question any witness who testifies; and

IV. Determine, based solely on the evidence presented in the proceedings, whether probable cause exists and, if so, issue the subpoena for the person(s) or items specifically found to be relevant to the inquiry; and

V. Sign the subpoena as ordered to be issued; and

VI. Not participate in any way in any other proceeding whether formal or informal which involves the matters, items or person(s) which are the subject of the subpoena. This does not preclude the presiding officer from presiding at further proceedings for issuance of subpoenas in the matter.

2. Post-Notice of Charges Subpoenas - If the subpoena is sought for a contested case being heard with an Administrative Law Judge from the Secretary of State's office presiding, the procedure in part 1330-01-.19(6)(c)1. shall not apply and all such post-notice of charges subpoenas should be obtained from the office of the Administrative Procedures Division of the Office of the Secretary of State pursuant to the Uniform Administrative Procedures Act and rules promulgated pursuant thereto.

(d) Subpoena Forms

1. All subpoena shall be issued on forms approved by the Board chair.

2. The subpoena forms may be obtained by contacting the Board's Administrative Office.

(e) Subpoena Service - Any method of service of subpoenas authorized by the Tennessee Rules of Civil Procedure or the rules of the Tennessee Department of State, Administrative Procedures Division may be utilized to serve subpoenas pursuant to this rule.

(7) Screening Panels - The Board adopts, as if fully set out herein, rule 1200-10-01-.13, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the screening panel process.

(8) Reconsiderations and Stays - The Board authorizes the member who chaired the Board for a contested case to be the agency member to make the decisions authorized pursuant to rule 1360-04-01-.18 regarding petitions for reconsiderations and stays in that case.

(Rule 1330-01-.19, continued)
Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-1-115, 63-1-132, 63-1-142, 63-1-145, 63-1-146, 63-27-102, 63-27-103, 63-27-104, and 63-27-112.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed June 16, 2006; effective August 30, 2006. Amendment filed March 16, 2007; effective May 30, 2007. Amendment filed February 22, 2010; effective May 23, 2010. Amendment filed August 28, 2015; effective November 26, 2015.*

1330-01-.20 ADVERTISING. The following acts or omissions in the context of advertisements by any licensee shall subject the licensee to disciplinary action pursuant to T.C.A. § 63-27-112.

(1) Claims that convey the message that one licensee is better than another when superiority cannot be substantiated.

(2) Misleading use of an unearned or non-health degree.

(3) Misrepresentation of a licensee's credentials, training, experience, or ability.

(4) Promotion of professional services which the licensee knows or should know is beyond the licensee's ability to perform.

(5) Use of any personal testimonial attesting to a quality of competency offered by a licensee that is not reasonably verifiable.

(6) Utilization of any statistical data or other information based on past performances for prediction of future services, which creates an unjustified expectation about results that the licensee can achieve.

(7) Communication of personal identifiable facts, data, or information about a patient without first obtaining the patient's consent.

Authority: *T.C.A. §§4-5-202, 4-5-204, 63-1-145, 63-1-146, 63-27-104, and 63-27-112.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 27, 2003; effective June 10, 2003. Amendment filed June 16, 2006; effective August 30, 2006.*

1330-01-.21 UPGRADING CLASSIFICATION REQUIREMENTS.

(1) A respiratory assistant may upgrade to certified respiratory therapist by doing the following:

(a) Complete and submit a notarized application, attach a "passport" style photograph taken within the preceding twelve (12) months, and pay the Upgrade and State Regulatory fees as provided in rule 1330-01-.06.

(b) Submit proof of completion of academic and clinical preparation in a respiratory care program approved by C.A.A.H.E.P. in collaboration with Co.A.R.C. or their successor organizations. The applicant shall have the school send directly to the Board office either a certificate of completion, diploma, or final official transcript. If arterial blood gas endorsement is desired, the applicant must have their school send directly to the Board office a final transcript which shows the applicant's training in blood gas analysis; and

(c) Have the NBRC submit to the Board office proof of successful completion of the entry level practitioner examination provided by the NBRC and/or proof of NBRC certification.

(2) A respiratory assistant may upgrade to registered respiratory therapist by doing the following:

(Rule 1330-01-.21, continued)

(a) Complete and submit a notarized application, attach a "passport" style photograph taken within the preceding twelve (12) months, and pay the Upgrade and State Regulatory fees as provided in rule 1330-01-.06.

(b) Submit proof of completion of academic and clinical preparation in a respiratory care program approved by C.A.A.H.E.P. in collaboration with Co.A.R.C. or their successor organizations. The applicant shall have the school send directly to the Board office either a certificate of completion, diploma, or final official transcript. If arterial blood gas endorsement is desired, the applicant must have their school send directly to the Board office a final transcript which shows the applicant's training in blood gas analysis; and

(c) Have the NBRC submit to the Board office proof of successful completion of the advanced level practitioner examination provided by the NBRC.

(3) A certified respiratory therapist may upgrade to registered respiratory therapist by doing the following:

(a) Complete and submit a notarized application, attach a "passport" style photograph taken within the preceding twelve (12) months, and pay the Upgrade and State Regulatory fees as provided in rule 1330-01-.06.

(b) Submit proof of completion of academic and clinical preparation in a respiratory care program approved by C.A.A.H.E.P. in collaboration with Co.A.R.C. or their successor organizations. The applicant shall have the school send directly to the Board office either a certificate of completion, diploma, or final official transcript. If arterial blood gas endorsement is desired, the applicant must have their school send directly to the Board office a final transcript which shows the applicant's training in blood gas analysis; and

(c) Have the NBRC submit to the Board office proof of successful completion of the advanced level practitioner examination provided by the NBRC.

Authority: *T.C.A. §§4-3-1011, 4-5-202, 4-5-204, 63-27-102, 63-27-104, 63-27-105, 63-27-106, 63-27-107, 63-27-113, 63-27-115, and 63-27-116.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed March 27, 2003; effective June 10, 2003. Amendment filed April 17, 2003; effective July 1, 2003. Amendment filed December 5, 2003; effective February 18, 2004.*

1330-01-.22 ABG ENDORSEMENT.

(1) ABG endorsement includes the practice of specimen analysis of blood gases, pH and other associated parameters along with the needed equipment maintenance and quality assurance procedures. For purposes of this rule "associated parameters" includes, but is not limited to:

(a) measured parameters, such as:

1. pCO_2;

2. pO_2;

3. O_2 saturation;

4. carboxyhemoglobin;

5. methemoglobin;

(Rule 1330-01-.22, continued)

6. hemoglobin; and

7. fetal hemoglobin; and

(b) calculated parameters, such as:

1. sodium bicarbonate;

2. base excess;

3. total CO_2; and

4. O_2 saturation.

(2) Obtaining ABG Endorsement

(a) Registered respiratory therapists and certified respiratory therapists can obtain ABG endorsement by submitting verification to the Board that he/she holds a current CRT or RRT credential issued by the NBRC; or

(b) An individual can obtain ABG endorsement by submitting verification to the Board of a current "Special Analyst-Blood Gas" license issued by the Tennessee Medical Laboratory Board.

Authority: *T.C.A. §§ 4-5-202, 4-5-204, 63-27-104, and 63-27-115.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000. Amendment filed March 20, 2001; effective June 3, 2001. Amendment filed September 26, 2001; effective December 10, 2001. Repeal and new rule filed December 2, 2005; effective February 15, 2006. Amendment filed March 16, 2007; effective May 30, 2007.*

1330-01-.23 CONSUMER RIGHT-TO-KNOW REQUIREMENTS.

(1) Malpractice Reporting Requirements - The threshold amount below which malpractice judgments, awards or settlements in which payments are awarded to complaining parties need not be reported pursuant to the Health Care Consumer Right-To-Know-Act of 1998 shall be ten thousand dollars ($10,000).

(2) Criminal Conviction Reporting Requirements - For purposes of the Health Care Consumer Right-To-Know-Act of 1998 the following criminal convictions must be reported:

(a) Conviction of any felony; and

(b) Conviction or adjudication of guilt for any misdemeanor, regardless of its classification, in which any element of the misdemeanor involves any one or more of the following:

1. Sex.

2. Alcohol or drugs.

3. Physical injury or threat of injury to any person.

4. Abuse or neglect of any minor, spouse or the elderly.

5. Fraud or theft.

(c) If any misdemeanor conviction reported under this rule is ordered expunged, a copy of the order of expungement signed by the judge must be submitted to the Department before the conviction will be expunged from any profile.

Authority: *T.C.A. §§4-5-202, 4-5-204, 47-31-105, and 63-27-104.* ***Administrative History:*** *Original rule filed January 31, 2000; effective April 15, 2000.*

1330-01-.24 ENDORSEMENT OF RESPIRATORY THERAPISTS TO PROVIDE POLYSOMNOGRAPHIC SERVICES.

(1) In order for a licensee of this Board to practice polysomnography without obtaining licensure from the Polysomnographic Professional Standards Committee, the licensee must obtain an endorsement from this Board. In order to obtain an endorsement, a licensee shall provide this Board with the following:

(a) A completed and signed polysomnographic services endorsement form, as approved by this Board; and

(b) Proof of possessing a valid, active, and unrestricted license as a Registered Respiratory Therapist or Certified Respiratory Therapist, issued by this Board; and

(c) One of the following:

1. Certification by the National Board of Registered Polysomnographic Technologists as a registered polysomnographic technologist; or

2. Certification by the National Board of Respiratory Care as a sleep disorder specialist; or

3. Proof of completion of the Sleep Center or Sleep Lab Competency Checklist, as approved by this Board, signed by both the director of the sleep lab and the medical director from a current employing facility, verifying that an individual certified as a respiratory therapist has obtained a minimum of five hundred and four (504) hours in a sleep center or sleep laboratory or that an individual registered as a respiratory therapist has obtained a minimum of two hundred and fifty-two (252) hours in a sleep lab or sleep center, and outlining competency relative to the following topics, which include, but are not limited to:

(i) Patient safety, rapport, preparation, education and confidentiality;

(ii) Setup, function, calibration, operation and maintenance of all relative equipment;

(iii) Monitoring, recording, and analysis of physiologic data as defined under T.C.A. § 63-31-101(9)(a)(i);

(iv) Appropriate corrective and emergency procedures as appropriate, according to lab/center policies; and

(v) Implementation of the applicable treatment procedures according to lab/center policy and procedure.

Authority: *T.C.A. §§ 63-31-107 and 63-27-104.* ***Administrative History:*** *Emergency rule filed June 30, 2010; effective through December 27, 2010. Original rule filed September 24, 2010; effective December 23, 2010. Amendment filed April 26, 2012; effective July 25, 2012.*