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312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower  
 Nashville, TN 37243  
 Phone: 615-741-2650  
 Fax: 615-741-5133  
 Email: [register.information@tn.gov](mailto:register.information@tn.gov)

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Sequence Number: 08-35-15  
 Rule ID(s): 6012  
 File Date: 08/28/15  
 Effective Date: 11/26/15

# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. T.C.A. § 4-5-205*

<b>Agency/Board/Commission:</b>	Board of Respiratory Care
<b>Division:</b>	
<b>Contact Person:</b>	Mary Katherine Bratton, Assistant General Counsel
<b>Address:</b>	665 Mainstream Drive, Nashville, Tennessee
<b>Zip:</b>	37234
<b>Phone:</b>	(615) 741-1611
<b>Email:</b>	Mary.Bratton@tn.gov

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
1330-01	General Rules and Regulations Governing Respiratory Care Practitioners
Rule Number	Rule Title
1330-01-.01	Definitions
1330-01-.02	Scope of Practice
1330-01-.05	Qualifications and Procedures for Licensure
1330-01-.12	Continuing Education
1330-01-.14	Temporary License
1330-01-.19	Board Officers, Consultants, Records, Declaratory Orders, Advisory Rulings, Subpoenas, and Screening Panels

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1330-01  
General Rules and Regulations Governing Respiratory Care Practitioners

Amendments

Rule 1330-01-.01 Definitions is amended by deleting paragraphs (7) and (17) and substituting instead the following language, so that as amended, the new paragraphs (7) and (17) shall read:

- (7) Board Office - The office of the Unit Director assigned to the Board.
- (17) T.J.C. - The Joint Commission previously known as the Joint Committee on Accreditation of Health Care Organizations.

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

Rule 1330-01-.02 Scope of Practice is amended by deleting subparagraphs (2)(a) and (2)(b) in their entirety and substituting instead the following language, so that as amended, the new subparagraphs (2)(a) and (2)(b) shall read:

- (2) (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 title and/or acronym "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.

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

Rule 1330-01-.05 Qualifications and Procedures for Licensure is amended by deleting paragraph (3), and its subparagraphs, parts, subparts, items and sub-items, in their entirety and substituting instead the following language, so that as amended, the new paragraph (3) shall read:

- (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 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

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. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

Rule 1330-01-.12 Continuing Education is amended by deleting subparagraph (1)(a), including its parts, and is further amended by deleting subparagraph (1)(b) in its entirety, and substituting instead the following language, so that as amended, the new subparagraphs (1)(a) and (1)(b) shall read:

- (1) (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.

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

Rule 1330-01-.12 Continuing Education is amended by deleting subparagraphs (2)(a), (2)(b), and (2)(c), including their parts and subparts, and substituting instead the following language, so that as amended, the new subparagraphs (2)(a), (2)(b) and (2)(c) shall read:

(2) (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:

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:

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.

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

Rule 1330-01-.12 Continuing Education is amended by deleting subparagraph (3)(a) in its entirety, and substituting instead the following language, so that as amended, the new subparagraph (3)(a) shall read:

- (3) (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.

Rule 1330-01-.12 Continuing Education is amended by deleting subparagraph (3)(c) in its entirety, and substituting instead the following language, so that as amended, the new subparagraph (3)(c) shall read:

- (3) (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.

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

Rule 1330-01-.12 Continuing Education is amended by deleting part (4)(a)1. in its entirety, and substituting instead the following language, so that as amended, the new part (4)(a)1. shall read:

- (4) (a) 1. Certificates verifying the individual's completion.

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

Rule 1330-01-.12 Continuing Education is amended by deleting part (4)(a)4. in its entirety.

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112

Rule 1330-01-.12 Continuing Education is amended by deleting subparagraph (5)(c) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (5)(c) shall read:

- (5) (c) Independent unstructured or self-structured learning.

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

Rule 1330-01-.12 Continuing Education is amended by deleting part (6)(a)2. in its entirety and substituting instead the following language, so that as amended, the new part (6)(a)2. shall read:

- (6) (a) 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.

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

Rule 1330-01-.12 Continuing Education is amended by adding new part (6)(a)3. which shall read:

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

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

Rule 1330-01-.12 Continuing Education is amended by deleting subparagraph (6)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (6)(b) shall read:

- (6) (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.

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

Rule 1330-01-.12 Continuing Education is amended by deleting parts (6)(c)1. and (6)(c)2. in their entirety and substituting instead the following language, and is further amended by adding new part (6)(c)3., so that as amended, the new parts (6)(c)1., (6)(c)2. and (6)(c)3. shall read:

- (6) (c) 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).

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

Rule 1330-01-.14 Temporary License is amended by deleting subparagraph (1)(a), but not its parts, and substituting instead the following language, so that as amended, the new subparagraph (1)(a) shall read:

- (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.

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

Rule 1330-01-.19 Board Officers, Consultants, Records, Declaratory Orders, Advisory Rulings, Subpoenas, and Screening Panels is amended by deleting subparagraph (5)(e) in its entirety and substituting instead the following language, so that as amended, the new subparagraph (5)(e) shall read:

- (5) (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 \_\_\_\_\_

Authority: T.C.A. §§ 63-1-145, 63-1-146, 63-27-102, 63-27-104, and 63-27-112.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Troy Hamm	X				
Anna Ambrose	X				
Lisa Caldwell	X				
Jeffery McCartney, MD	X				
Winston Granville	X				
John Schario				X	
Delmar Mack	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board for Respiratory Care (board/commission/ other authority) on 08/28/2014 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 05/19/14 (mm/dd/yy)

Rulemaking Hearing(s) Conducted on: (add more dates). 08/28/14 (mm/dd/yy)

Date: 7/17/15

Signature: Mary Katherine Bratton

Name of Officer: Mary Katherine Bratton

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: 7-17-15

Notary Public Signature: Stanne Mechkowski

My commission expires on: MY COMMISSION EXPIRES APRIL 19, 2017

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

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Herbert H. Statz III  
 Herbert H. Statz III  
 Attorney General and Reporter  
8/25/2015  
 Date

Filed with the Department of State on: 08/28/15

Effective on: 11/26/15

Tre Hargett  
 Tre Hargett  
 Secretary of State



## Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were two comments received regarding this rulemaking hearing.

The first comment came from Coleen Schanabker, a representative of the American Association of Respiratory Care, who highly approved of the rules, noting that the trend across the nation was for the rules to center around ethics and patient safety.

Lastly, John P. Williams, representing the Tennessee Society for Respiratory Care (TSRC), submitted a written comment and addressed the Board in person with a proposed correction to the amendment to subparagraph (3)(c) of rule 1330-01-.05 [Qualifications and Procedures for Licensure]. The organization proposed adding a reference to the Commission on Accreditation for Respiratory Care because CAAHEP was not in existence before November 2009. Many therapists who gained licensure did so through programs offered by the Commission on Accreditation for Respiratory Care before 2009. The Board voted to accept this change. Mr. Williams stated that the rules contained good changes in general and were a step forward in terms of continuing education. He additionally supported the rules as being thoroughly vetted and stated that the end result is good.

## **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

### **Regulatory Flexibility Analysis**

#### **1. The extent to which the rule or rules may overlap, duplicate, or conflict with other federal, state, and local governmental rules.**

These rules do not overlap, duplicate, or conflict with other federal, state, and local governmental rules.

#### **2. Clarity, conciseness, and lack of ambiguity in the rule or rules.**

These rules exhibit clarity, conciseness, and lack of ambiguity.

#### **3. The establishment of flexible compliance and/or reporting requirements for small business.**

The compliance requirements contained in the rules are the same for large or small businesses and are as flexible as possible while still allowing the Board to achieve its mandated mission of protecting the health, safety, and welfare of Tennesseans.

#### **4. The establishment of friendly schedules or deadlines for compliance and/or reporting requirements for small businesses.**

Compliance requirements contained in the rules are the same for large or small businesses, and are as friendly as possible to small businesses while still allowing the Board to fulfill their charge to protect the public through monitoring the continuing education process for Respiratory Therapists. The change to rule 1330-01-.12(3)(c) enables small or large businesses to seek Board approval of their education courses on a more convenient schedule.

#### **5. The consolidation or simplification of compliance or reporting requirements for large or small businesses.**

Compliance requirements contained in the rules are the same for large or small businesses.

#### **6. The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rules.**

These rules do not establish performance, design, or operational standards.

#### **7. The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.**

These rules do not create unnecessary barriers or stifle entrepreneurial activity or innovation.

## STATEMENT OF ECONOMIC IMPACT TO SMALL BUSINESSES

**Name of Board, Committee or Council:** Tennessee Board of Respiratory Care

**Rulemaking hearing date:** August 28, 2014

**1. Type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, and/or directly benefit from the proposed rule:**

The Board does not anticipate that there will be costs to small businesses other than the costs to Respiratory Therapists to pay for the additional required hours of continuing education classes. Respiratory Therapists who are sole proprietors and businesses that employ them, such as hospitals, will be affected. There are Four Thousand, Seven hundred and Thirty (4,730) Respiratory Therapists actively licensed in Tennessee. These therapists and any employers who may pay a portion of the therapist's continuing education fee will bear the cost of this rule change. However, the cost of the two additional hours will be minimal. Continuing Education providers may also be affected by directly benefiting from the opportunity to provide more types and hours of coursework.

**2. Projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:**

The proposed amendments have no increased or new reporting, recordkeeping, or other administrative costs that are required for compliance.

**3. Statement of the probable effect on impacted small businesses and consumers:**

The increased number of required hours for continuing education will impact all Respiratory Therapists and thereby any that are sole proprietors of their own business as well as any programs or hospitals that may pay any portion of continuing education fees by requiring payment for two additional education hours. Self-employed Respiratory Therapists and businesses that employ them will be benefited by improved knowledge in respiratory care in general and in the fields of patient safety and care particularly. Those who offer the continuing education coursework will also be benefited by these additional required hours as their offerings can increase.

**4. Description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and/or objectives of the proposed rule that may exist, and to what extent, such alternative means might be less burdensome to small business:**

The goal of these rules amendments is to improve Respiratory Therapists' continuing education and training in the areas of patient care and safety; there is no less burdensome method of requiring further education for that purpose.

**5. Comparison of the proposed rule with any federal or state counterparts:**

Federal: The Board is not aware of any federal counterparts.

State: The Board is not aware of any direct state counterparts. However, some Respiratory Care Boards in other neighboring states have as many if not more hours of continuing education, for example: Georgia has 30 hours required biennially, Alabama requires 24 biennially, Kentucky requires 24 biennially, North Carolina requires 24 biennially, and South Carolina requires 30 biennially. Additionally, many other Tennessee Health Related Boards require a significant amount of continuing education, for example: Board of Chiropractic Examiners requires 48 biennially, the Board of Optometry requires 30 biennially, the Board of Athletic Trainers requires 50 biennially, the Massage Licensure Board requires 25 biennially, and the Board of Examiners for Nursing Home Administrators requires 36 biennially.

**6. Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.**

The rule change does not provide for any exemptions.

## **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rule amendments should not have a financial impact on local governments.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

1. Rule 1330-01-.01, *Definitions; (17) J.C.A.H.O.*: This rule amendment would reflect the changed name of this organization; (7): This rule amendment deletes the former Board Office address.
2. Rule 1330-01-.02, *Scope of Practice*: This rule amendment reflects that a respiratory therapist must hold an active credential from the National Board of Respiratory Care, which is different from being a member as the rule currently reads. The statutes require credentialing rather than membership for use of the terminology.
3. Rule 1330-01-.05 *Qualifications and Procedures for Licensure: (3) Respiratory care practitioners by endorsement*: This rule amendment would add the requirement to applicants who are licensed in another state, territory, or country and are seeking licensure through endorsement to have completed twelve hours of continuing education for the previous calendar year, the rule for therapists licensed in Tennessee.
4. Rule 1330-01-.12 *Continuing Education: (1) Hours required*: This rule amendment would accomplish furthering the education of those who practice respiratory therapy by increasing the number of required hours from ten to twelve and providing that one of those hours must pertain to ethics and one to patient safety.
5. Rule 1330-01-.12 *Continuing Education: (2) Acceptable Continuing Education*: The rule amendment reflects an updated list of pre-approved continuing education providers, clarifies the continuing education credits allowable for an individual presenting or instructing a course, changes the permissible examinations that can be taken in lieu of continuing education coursework, and updates the language regarding allowable multi-media formats.
6. Rule 1330-01-.12 *Continuing Education: (3) Continuing Education Program Approval Process*: This rule amendment changes when an application for an education program to become pre-approved is due to the Board for consideration.
7. Rule 1330-01-.12 *Continuing Education: (4) Documentation*: This rule amendment removes references to multi-media formats to clarify the rule reflective of the changes made to subsection (2)(c).
8. Rule 1330-01-.12 *Continuing Education: (5) Continuing education will not be allowed for the following*: This rule amendment removes unnecessary language.
9. Rule 1330-01-.12 *Continuing Education: (6) Continuing Education for Reinstatement of Retired, Revoked, or Expired License*: This rule was amended to reflect the changes made to subsection (1) regarding the hours required annually for continuing education.
10. Rule 1330-01-.14 *Temporary License*: This rule was amended to shorten the time an individual may hold a temporary license from one year to six months.
11. Rule 1330-01-.19(5)(e) *Advisory Rulings*: This rule was amended to remove the former Board Office address.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The rule change affects all Respiratory Therapist licensees and some continuing education providers. Currently

there are Four Thousand, Seven Hundred and Thirty (4,730) such licensees.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

These rules should not result in any increase or decrease in state and local government revenues and expenditures.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Mary Katherine Bratton, Assistant General Counsel, Office of General Counsel, Department of Health

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Mary Katherine Bratton, Assistant General Counsel, Office of General Counsel, Department of Health

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Office of General Counsel, Department of Health, 665 Mainstream Drive, Nashville, Tennessee 37243 (615) 741-1611, [Mary.Bratton@tn.gov](mailto:Mary.Bratton@tn.gov).

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

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

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

**TABLE OF CONTENTS**

1330-01-.01	Definitions	1330-01-.15	Disciplinary Grounds, Actions, and Civil Penalties
1330-01-.02	Scope of Practice	1330-01-.16	License
1330-01-.03	Delivery of Respiratory Equipment to a Patient's Place of Residence	1330-01-.17	Change of Name and/or Address
1330-01-.04	Reserved	1330-01-.18	Mandatory Release of Patient Records
1330-01-.05	Qualifications and Procedures for Licensure	1330-01-.19	Board Officers, Consultants, Records, Declaratory Orders, Advisory Rulings, Subpoenas, and Screening Panels
1330-01-.06	Fees	1330-01-.20	Advertising
1330-01-.07	Application Review, Approval, and Denial	1330-01-.21	Upgrading Classification Requirements
1330-01-.08	Reserved	1330-01-.22	ABG Endorsement
1330-01-.09	Renewal of License	1330-01-.23	Consumer Right-To-Know Requirements
1330-01-.10	Supervision	1330-01-.24	Endorsement of Respiratory Therapists to Provide Polysomnographic Services
1330-01-.11	Retirement and Reinstatement of License		
1330-01-.12	Continuing Education		
1330-01-.13	Reserved		
1330-01-.14	Temporary License		

**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 located at 665 Mainstream Drive, Nashville, TN 37243.~~
- (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) J.C.A.H.O. - The Joint Committee on Accreditation of Health Care Organizations.~~
- (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.

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(Rule 1330-01-.01, continued)

- (c) Cardiopulmonary monitors.
- (d) All oxygen delivery devices except nasal cannula.
- (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, 63-27-102, 63-27-104, 63-27-105, 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.

**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 is a member of 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)" or "Certified Respiratory Therapy Technician (CRTT)" as defined in T.C.A. § 63-27-102.~~

(Rule 1330-01-.02, continued)

- (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 title and/or acronym "Certified Respiratory Therapist (CRT)" as defined in T.C.A. § 63-27-102.~~
- (b) ~~Only a registered respiratory therapist who is a member of 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.~~
- (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.
- (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).

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**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.

**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;

(Rule 1330-01-.03, continued)

**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.
  - (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

(Rule 1330-01-.05, continued)

- 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.
  - (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.

(Rule 1330-01-.05, continued)

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 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. Endorsement applicants must:~~

- ~~(a) Complete the Board approved application; and~~
- ~~(b) Provide proof of possessing a current license, in good standing, from another state.~~
- ~~(c) If ABG endorsement is desired, refer to rule 1330-01-.22 on ABG endorsement.~~
- ~~(d) Graduates of educational programs not accredited by the American Medical Association Committee on Allied Health Education and Accreditation 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.~~
- ~~(l) 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~~

(Rule 1330-01-.05, continued)

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

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

~~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~~

(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 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.

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(a) Endorsement applicants must:

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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.

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(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:

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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

(Rule 1330-01-.05, continued)

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

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

(4) Application review and licensure decisions shall be governed by rule 1330-01-.07.

**Authority:** T.C.A. §§4-5-202, 4-5-204, 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.

**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.



(Rule 1330-01-.10, continued)

**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.
- (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 ten (10) contact hours of continuing education every calendar year. All courses must be at least thirty (30) minutes in length.~~
  4. ~~At least five (5) hours of the ten (10) hour requirement shall pertain to the clinical practice of respiratory care, or to education, or to research relating to the cardio-pulmonary system.~~

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(Rule 1330-01-.12, continued)

~~2. Up to five (5) hours of the ten (10) hour requirement may pertain to the management of practicing respiratory care or may pertain to ethics and substance abuse.~~

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

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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.

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

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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.

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

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~~(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 to constitute continuing education contact hour requirements for the calendar year in which the program was completed.~~

(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.

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(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, shall be considered prior approved for fulfilling the contact hour requirements of this rule:~~

~~1. All hospitals or institutions belonging to the Tennessee Hospital Association, or which are J.C.A.H.O.-accredited.~~

~~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~~

(Rule 1330-01-.12, continued)

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

(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:

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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;

(Rule 1330-01-.12, continued)

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.

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

- ~~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 contact 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 contact 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 national re-credentialing examination (either of the advanced practitioner examinations for registered respiratory therapists or the certification examination for certified respiratory therapists). The licensee will receive twelve (12) continuing education contact hours for passing the examination.~~
- ~~4. By completing a self-study course, as provided in subparagraph (2) (c).~~

(Rule 1330-01-12, continued)

(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:

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) Multi-Media Formats—Continuing education activities/courses may be presented in the traditional lecture and classroom formats or in multi-media formats.

1. Multi-media courses are courses utilizing:

- (i) The Internet
- (ii) Closed circuit television
- (iii) Satellite broadcasts
- (iv) Correspondence courses
- (v) Videotapes
- (vi) CD-ROM
- (vii) DVD
- (viii) Teleconferencing
- (ix) Videoconferencing
- (x) Distance learning

2. A maximum of five (5) credit hours may be granted for multi-media courses during each calendar year.

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

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(Rule 1330-01-.12, continued)

(3) Continuing Education Program Approval Process

~~(a) All entities offering education activities not granted prior approval 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.~~

(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

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(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 forty-five (45) calendar days prior to 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.~~

(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.

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(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 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 attendance.

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;

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(Rule 1330-01-.12, continued)

- (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.

~~4. Certificates or letters verifying successful completion of a multi-media course.~~

- (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 such as home study programs, except as authorized pursuant to subparagraph (2) (c).~~
  - (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.
    - ~~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 ten (10) contact hours of continuing education for every calendar year for which the license has been retired, although under no circumstances shall the maximum number of contact hours required be more than twenty (20) 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.~~

(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.

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

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~~(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 ten (10) contact 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.~~

(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.

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(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 ten (10) contact hours for every calendar year for which the license was expired, although under no circumstances shall the maximum number of contact hours required be more than sixty (60) hours, and must have been successfully completed before the date of reinstatement.~~

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.

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~~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 ten (10) contact hours for every calendar year for which the license was expired, although under no circumstances shall the maximum number of contact hours required be more than forty (40) hours, and must have been begun and successfully completed before the date of reinstatement.~~



(Rule 1330-01-.12, continued)

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.
- (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.

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**Authority:** T.C.A. §§4-5-202, 4-5-204, 63-1-107, 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

(Rule 1330-01-.12, continued)

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.

**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) ~~Filed with the Board office all the documentation required by rule 1330-01-.05, except proof of examination passage. A temporary license can be issued not to exceed a cumulative period of twelve (12) months.~~

- (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.

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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 (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, 63-27-104, 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.

(Rule 1330-01-.17, continued)

- (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.
  - (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.

(Rule 1330-01-.19, continued)

- (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
  - (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:

(Rule 1330-01-.19, continued)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

Licensee's Signature \_\_\_\_\_

Mail or Deliver to: \_\_\_\_\_ Unit Director  
Tennessee Board of Respiratory Care  
665 Mainstream Drive  
Nashville, TN 37243

(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:

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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

(Rule 1330-01-.19, continued)

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 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

(Rule 1330-01-.19, continued)

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
- (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.

(Rule 1330-01-.19, continued)

- 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.
- (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.
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- (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.



(Rule 1330-01-.19, continued)

- (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.

**Authority:** T.C.A. §§ 4-5-202, 4-5-204, 63-1-115, 63-1-132, 63-1-142, 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.

**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.