

Advisory Board on Respiratory Therapy

Virginia Board of Medicine

September 20, 2022

1:00 p.m.

Advisory Board on Respiratory Therapy

Board of Medicine

Tuesday, September 20, 2022 @ 1:00 p.m.

9960 Mayland Drive, Suite 201

Henrico, VA

	Page
Call to Order – Santiera Brown-Yearling, RRT, Chair	
Emergency Egress Procedures – William Harp, MD	i
Roll Call – Delores Cousins	
Approval of Minutes of May 24, 2022	1 - 3
Adoption of the Agenda	
Public Comment on Agenda Items (15 minutes)	
New Business	
1. Periodic Review of Regulations Governing the Practice of Respiratory Therapy Erin Barrett	4 – 17
2. Review of Bylaws for Advisory Board Erin Barrett	18 - 19
3. Discuss Contiguous States Licensure Shari Toomey	-- --
4. Approval of 2023 Meeting Calendar Santiera Brown-Yearling, RRT	20
5. Election of Officers Santiera Brown-Yearling, RRT	

Announcements:

Next Scheduled Meeting: February 7, 2023 @ 1:00 p.m.

Adjournment

PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)

PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THESE PREMISES IN THE EVENT OF AN EMERGENCY.

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound.

When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

Training Room 1

Exit the room using one of the doors at the back of the room. (**Point**) Upon exiting the room, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

<< DRAFT >>

ADVISORY BOARD ON RESPIRATORY THERAPY

Minutes

May 24, 2022

The Advisory Board on Respiratory Therapy met on Tuesday, May 24, 2022 at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Henrico, Virginia.

MEMBERS PRESENT: Santiera Brown-Yearling, RRT, Chair
Shari Toomey, RRT, Vice-Chair
Daniel Gochenour, RRT

MEMBERS ABSENT: Bruce K. Rubin, MD
Denver Supinger, Citizen Member

STAFF PRESENT: William L. Harp, MD, Executive Director
Erin Barrett, DHP Senior Policy Analyst
Michael Sobowale, LLM, Deputy Director for Licensure
Colanthia Opher, Deputy Director for Administration
Delores Cousins, Licensure Specialist

GUESTS PRESENT: Sherleen Bose

Call to Order

Santiera Brown-Yearling called the meeting to order at 1:05 p.m.

Emergency Egress Procedures

Emergency Egress Procedures were presented by Dr. Harp

Roll Call

Roll was called, and a quorum was declared.

Approval of the October 5th, 2021 Minutes

Shari Toomey moved to approve the minutes, which were seconded by Daniel Gochenour and passed.

Adoption of Agenda

Shari Toomey moved to adopt the agenda. Daniel Gochenour seconded the motion, which was approved.

Public Comment on Agenda Items

None

Healthcare Workforce Data Center presentation by Dr. Yetty Shobo

Dr. Shobo did her usual comprehensive presentation on demographics and answered questions from the Advisory Board members and staff.

New Business

1. Legislative Update from the 2022 General Assembly

Erin Barrett presented relevant legislation from the Session. She highlighted HB745 that authorizes new RT graduates to practice for 6 months without a license or until they get a failing score on the NBRC exam. She also covered SB317 which authorizes out-of-state licensed RT's to practice in Virginia for 90 days.

2. Discussion of Licensing Process for Respiratory Therapists

Daniel Gochenour commented on the effect of HB745 and the positive effect it will have on the respiratory care workforce.

3. Consider Amendment to Bylaws for the Advisory Board

Erin Barrett suggested the process to review and update the Advisory Board's bylaws be done in conjunction with the 10 other Advisory Boards, so one guidance document could be presented to the Board of Medicine for approval. The Advisory agreed with this approach.

Announcements:

Delores Cousins provided statistics.

- 1/1/2021 to 12/31/2021 - 346 initial applications; 34 reinstatement applications

- 1/1/2022 to 5/24/2022 - 156 initial applications; 15 reinstatement applications
- License count - 2,996 Virginia current active; 83 Virginia current inactive
- License count - 1,096 out-of-state current active; 25 out-of-state current active
- License count - 1 probation current

Next Scheduled Meeting:

The next scheduled meeting will be September 20, 2022 @ 1pm.

Adjournment

Santiera Brown-Yearling adjourned the meeting @ 2:12 pm.

Santiera Brown-Yearling, Chair

William L. Harp, MD, Executive Director

Michael Sobowale, LLM, Deputy Director

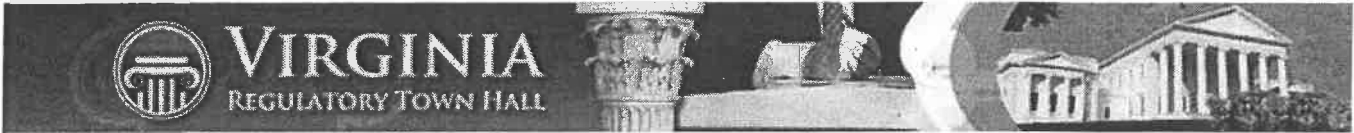
Agenda Items: Recommend periodic review result and potential regulatory changes to full Board

Included in your agenda package are:

- Notice of periodic review
- Recommended revisions to Chapter 40

Action needed:

- Consider any additional changes needed
- Motion to recommend full Board retain and amend Chapter 40 with suggested amendments



Agency Department of Health Professions

Board Board of Medicine

Chapter Regulations Governing the Practice of Respiratory Therapists
[18 VAC 85 - 40]

[Edit Review](#)

Review 2148

Periodic Review of this Chapter

Includes a Small Business Impact Review

Date Filed: 6/16/2022

Review Announcement

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, this regulation is undergoing a periodic review.

The review of this regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018). <http://TownHall.Virginia.Gov/EO-14.pdf>.

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

In order for you to receive a response to your comment, your contact information (preferably an email address or, alternatively, a U.S. mailing address) must accompany your comment. Following the close of the public comment period, a report of both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

Contact Information

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Publication Information and Public Comment Period

Published in the Virginia Register on 7/18/2022 [Volume: 38 Issue: 24]

Comment Period begins on the publication date and ends on 8/17/2022

Comments Received: 0

Review Result

Pending

8/31/22, 8:15 AM

Virginia Regulatory Town Hall View Periodic Review

Attorney General Certification

Pending

This periodic review was created by Erin Barrett on 06/16/2022 at 12:24pm

Commonwealth of Virginia



REGULATIONS

GOVERNING THE PRACTICE OF RESPIRATORY THERAPISTS

VIRGINIA BOARD OF MEDICINE

Title of Regulations: 18 VAC 85-40-10 et seq.

**Statutory Authority: § 54.1-2400 and Chapter 29
of Title 54.1 of the *Code of Virginia***

Revised Date: March 5, 2020

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Part I. General Provisions.

18VAC85-40-10. Definitions.

A. The following words and terms when used in this chapter shall have the meanings ascribed to them in §54.1-2900 of the Code of Virginia:

"Board"

"Qualified medical direction"

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"AARC" means the American Association for Respiratory Care.

"Accredited educational program" means a program accredited by the Commission on Accreditation for Respiratory Care or any other agency approved by the NBRC for its entry level certification examination.

"Active practice" means a minimum of 160 hours of professional practice as a respiratory therapist within the 24-month period immediately preceding renewal or application for licensure if previously licensed or certified in another jurisdiction. The active practice of respiratory care may include supervisory, administrative, educational or consultative activities or responsibilities for the delivery of such services.

~~"Advisory board" means the Advisory Board on Respiratory Care to the Board of Medicine as specified in §54.1-2956 of the Code of Virginia.~~

Commented [VP1]: The only place this is used is in this definition.

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

"Respiratory therapist" means a person as specified in §54.1-2954 of the Code of Virginia.

~~18VAC85-40-20. Public participation.~~

~~A separate board regulation, 18VAC85-11, entitled Public Participation Guidelines, provides for involvement of the public in the development of all regulations of the Virginia Board of Medicine.~~

18VAC85-40-25. Current name and address.

Each licensee shall furnish the board his current name and address of record. All notices required by law or by this chapter to be given by the board to any such licensee shall be validly given when sent to the latest address of record provided or served to the licensee. Any change of name or address of record or public address, if different from the address of record, shall be furnished to the board within 30 days of such change.

18VAC85-40-30. Violations.

~~Any violation of Chapter 29 of Title 54.1 of the Code of Virginia shall be subject to the statutory sanctions as set forth in the Act.~~

18VAC85-40-35. Fees.

The following fees are required:

1. The application fee, payable at the time the application is filed, shall be \$130.
2. The biennial fee for renewal of active licensure shall be \$135 and for renewal of inactive licensure shall be \$70, payable in each odd-numbered year in the license holder's birth month. For 2021, the fee for renewal of an active license shall be \$108 and the fee for renewal of an inactive license shall be \$54.
3. The additional fee for late renewal of licensure within one renewal cycle shall be \$50.
4. The fee for reinstatement of a license issued by the Board of Medicine pursuant to §54.1-2904 of the Code of Virginia, which has lapsed for a period of two years or more, shall be \$180 and must be submitted with an application for licensure reinstatement.
5. The fee for reinstatement of a license pursuant to §54.1-2408.2 of the Code of Virginia shall be \$2,000.
6. The fee for a duplicate license shall be \$5, and the fee for a duplicate wall certificate shall be \$15.
7. The handling fee for a returned check or a dishonored credit card or debit card shall be \$50.
8. The fee for a letter of good standing/verification to another jurisdiction shall be \$10; the fee for certification of grades to another jurisdiction shall be \$25.
9. The fee for an application or for the biennial renewal of a restricted volunteer license shall be \$35, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$15 for each renewal cycle.

Part II. Requirements for Licensure as a Respiratory Therapist.

18VAC85-40-40. Licensure requirements.

An applicant for licensure shall submit the following on forms provided by the board:

1. A completed application and a fee as prescribed in 18VAC85-40-35.
2. Verification of professional education in respiratory care as required in 18VAC85-40-45.
3. Verification of practice as required on the application form.
4. Evidence of passage of the national examination as required in 18VAC85-40-50.

5. If licensed or certified in any other jurisdiction, documentation of active practice as a respiratory therapist or documentation of 20 hours of continuing education within the 24-month period immediately preceding application and verification that there has been no disciplinary action taken or pending in that jurisdiction.

18VAC85-40-45. Educational requirements.

An applicant for licensure shall:

- 1. Be a graduate of an accredited educational program for respiratory therapists; or
- 2. Hold current credentialing as a Certified Respiratory Therapist (CRT) or a Registered Respiratory Therapist (RRT) from the NBRC or any other credentialing body determined by the board to be equivalent.

18VAC85-40-50. Examination requirements.

An applicant for a license to practice as a licensed respiratory therapist shall submit to the board evidence that the applicant has passed the NBRC entry level examination for respiratory care, or its equivalent as approved by the board.

18VAC85-40-55. Registration for voluntary practice by out-of-state licensees.

Any respiratory therapist who does not hold a license to practice in Virginia and who seeks registration to practice under subdivision 27 of §54.1-2901 of the Code of Virginia on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization that sponsors the provision of health care to populations of underserved people shall:

- 1. File a complete application for registration on a form provided by the board at least five business days prior to engaging in such practice. An incomplete application will not be considered;
- 2. Provide a complete record of professional licensure in each state in which he has held a license and a copy of any current license;
- 3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;
- ~~4. Pay a registration fee of \$10; and~~
- 5. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of subdivision 27 of §54.1-2901 of the Code of Virginia.

Commented [VP2]: If the volunteer section is needed, pull out \$10

Part III. Renewal and Reinstatement.

18VAC85-40-60. Renewal of license.

A. Every licensed respiratory therapist intending to continue his licensure shall biennially in each odd-numbered year in his birth month:

1. Register with the board for renewal of his license;
 2. Pay the prescribed renewal fee at the time he files for renewal;
 3. Attest that he has engaged in active practice as defined in 18VAC85-40-10 or present other documented evidence acceptable to the board that he is prepared to resume practice; and
 4. Attest to having met the continuing education requirements of 18VAC85-40-66.
- B. A respiratory therapist whose licensure has not been renewed by the first day of the month following the month in which renewal is required shall pay a late fee as prescribed in 18VAC85-40-35.

18VAC85-40-61. Inactive license.

A licensed respiratory therapist who holds a current, unrestricted license in Virginia shall, upon a request on the renewal application and submission of the required fee, be issued an inactive license. The holder of an inactive license shall not be entitled to perform any act requiring a license to practice respiratory care in Virginia.

18VAC85-40-65. Reactivation or reinstatement.

A. To reactivate an inactive license or to reinstate a license that has been lapsed for more than two years, a respiratory therapist shall submit evidence of competency to return to active practice to include one of the following:

1. Information on continued practice in another jurisdiction during the period in which the license has been inactive or lapsed;
2. Ten hours of continuing education for each year in which the license has been inactive or lapsed, not to exceed three years; or
3. Recertification by passage of an examination from NBRC.

B. To reactivate an inactive license, a respiratory therapist shall pay a fee equal to the difference between the current renewal fee for inactive licensure and the renewal fee for active licensure.

C. To reinstate a license which has been lapsed for more than two years, a respiratory therapist shall file an application for reinstatement and pay the fee for reinstatement of his licensure as prescribed in 18VAC85-40-35. The board may specify additional requirements for reinstatement of a license so lapsed to include education, experience or reexamination.

D. A respiratory therapist whose licensure has been revoked by the board and who wishes to be reinstated shall make a new application to the board, fulfill additional requirements as specified in the order from the board and make payment of the fee for reinstatement of his licensure as prescribed in 18VAC85-40-35 pursuant to §54.1-2408.2 of the Code of Virginia.

E. The board reserves the right to deny a request for reactivation or reinstatement to any licensee who has been determined to have committed an act in violation of §54.1-2915 of the Code of Virginia or any provisions of this chapter.

18VAC85-40-66. Continuing education requirements.

A. In order to renew an active license as a respiratory therapist, a licensee shall attest to having completed 20 hours of continuing education within the last biennium as follows:

1. Courses approved and documented by a sponsor recognized by the AARC;
2. Courses directly related to the practice of respiratory care as approved by the American Medical Association for Category 1 CME credit; or
3. A credit course of post-licensure academic education relevant to respiratory care offered by a college or university accredited by an agency recognized by the U.S. Department of Education.

Up to two continuing education hours may be satisfied through delivery of respiratory therapy services, without compensation, to low-income individuals receiving services through a local health department or a free clinic organized in whole or primarily for the delivery of health services. One hour of continuing education may be credited for three hours of providing such volunteer services. For the purpose of continuing education credit for voluntary service, the hours shall be approved and documented by the health department or free clinic.

B. A practitioner shall be exempt from the continuing education requirements for the first biennial renewal following the date of initial licensure in Virginia.

C. The practitioner shall retain in his records the completed form with all supporting documentation for a period of four years following the renewal of an active license.

D. The board shall periodically conduct a random audit of its active licensees to determine compliance. The practitioners selected for the audit shall provide all supporting documentation within 30 days of receiving notification of the audit.

E. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

F. The board may grant an extension of the deadline for continuing competency requirements, for up to one year, for good cause shown upon a written request from the licensee prior to the renewal date.

G. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

18VAC85-40-67. Restricted volunteer license.

A. A respiratory therapist who held an unrestricted license issued by the Virginia Board of Medicine or by a board in another state as a licensee in good standing at the time the license expired or became inactive may be issued a restricted volunteer license to practice without compensation in a clinic that is organized in whole or in part for the delivery of health care services without charge in accordance with §54.1-106 of the Code of Virginia.

B. To be issued a restricted volunteer license, a respiratory therapist shall submit an application to the board that documents compliance with requirements of §54.1-2928.1 of the Code of Virginia and the application fee prescribed in 18VAC85-40-35.

C. The licensee who intends to continue practicing with a restricted volunteer license shall renew biennially during his birth month, meet the continued competency requirements prescribed in subsection D of this section, and pay to the board the renewal fee prescribed in 18VAC85-40-35.

D. The holder of a restricted volunteer license shall not be required to attest to hours of continuing education for the first renewal of such a license. For each renewal thereafter, the licensee shall attest to obtaining 10 hours of continuing education as approved and documented by a sponsor recognized by the AARC or in courses directly related to the practice of respiratory care as approved by the American Medical Association for Category 1 CME credit within the last biennium.

Part IV. Scope of Practice.

18VAC85-40-70. Individual responsibilities.

Practice as a licensed respiratory therapist means, upon receipt of written or verbal orders from a qualified practitioner and under qualified medical direction, the evaluation, care and treatment of patients with deficiencies and abnormalities associated with the cardiopulmonary system. This practice shall include, but not be limited to, ventilatory assistance and support; the insertion of artificial airways without cutting tissue and the maintenance of such airways; the administration of medical gases exclusive of general anesthesia; topical administration of pharmacological agents to the respiratory tract; humidification; and administration of aerosols. The practice of respiratory care shall include such functions shared with other health professionals as cardiopulmonary resuscitation; bronchopulmonary hygiene; respiratory rehabilitation; specific testing techniques required to assist in diagnosis, therapy and research; and invasive and noninvasive cardiopulmonary monitoring.

18VAC85-40-80. [Repealed]

Part V. Standards of Professional Conduct.

18VAC85-40-85. Confidentiality.

A practitioner shall not willfully or negligently breach the confidentiality between a practitioner and a patient. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the practitioner shall not be considered negligent or willful.

18VAC85-40-86. Patient records.

A. Practitioners shall comply with provisions of § 32.1-127.1:03 related to the confidentiality and disclosure of patient records.

B. Practitioners shall provide patient records to another practitioner or to the patient or his personal representative in a timely manner in accordance with provisions of § 32.1-127.1:03 of the Code of Virginia.

C. Practitioners shall properly manage and keep timely, accurate, legible and complete patient records;

D. Practitioners who are employed by a health care institution or other entity, in which the individual practitioner does not own or maintain his own records, shall maintain patient records in accordance with the policies and procedures of the employing entity.

~~E. Practitioners who are self-employed or employed by an entity in which the individual practitioner owns and is responsible for patient records shall:~~

Commented [VP3]: This seems unnecessary

1. Maintain a patient record for a minimum of six years following the last patient encounter with the following exceptions:

a. Records of a minor child, including immunizations, shall be maintained until the child reaches the age of 18 or becomes emancipated, with a minimum time for record retention of six years from the last patient encounter regardless of the age of the child;

b. Records that have previously been transferred to another practitioner or health care provider or provided to the patient [or his personal representative]; or

c. Records that are required by contractual obligation or federal law may need to be maintained for a longer period of time.

~~2. From October 19, 2005, post information or in some manner inform all patients concerning the time frame for record retention and destruction. Patient records shall only be destroyed in a manner that protects patient confidentiality, such as by incineration or shredding.~~

Commented [VP4]: ???

~~3. When a practitioner is closing, selling or relocating his practice, he shall meet the requirements of § 54.1-2405 of the Code of Virginia for giving notice that copies of records can be sent to any like regulated provider of the patient's choice or provided to the patient.~~

18VAC85-40-87. Practitioner-patient communication; termination of relationship.

A. Communication with patients.

1. Except as provided in § 32.1-127.1:03 F of the Code of Virginia, a practitioner shall accurately present information to a patient or his legally authorized representative in understandable terms and encourage participation in decisions regarding the patient's care.

2. A practitioner shall not deliberately make a false or misleading statement regarding the practitioner's skill or the efficacy or value of a medication, treatment, or procedure provided or directed by the practitioner in the treatment of any disease or condition.

3. Before an invasive procedure is performed, informed consent shall be obtained from the patient in accordance with the policies of the health care entity. Practitioners shall inform patients of the risks, benefits, and alternatives of the recommended procedure that a reasonably prudent practitioner practicing respiratory care in Virginia would tell a patient.

a. In the instance of a minor or a patient who is incapable of making an informed decision on his own behalf or is incapable of communicating such a decision due to a physical or mental disorder, the legally authorized person available to give consent shall be informed and the consent documented.

b. An exception to the requirement for consent prior to performance of an invasive procedure may be made in an emergency situation when a delay in obtaining consent would likely result in imminent harm to the patient.

c. For the purposes of this provision, "invasive procedure" shall mean any diagnostic or therapeutic procedure performed on a patient that is not part of routine, general care and for which the usual practice within the health care entity is to document specific informed consent from the patient or surrogate decision-maker prior to proceeding.

4. Practitioners shall adhere to requirements of § 32.1-162.18 of the Code of Virginia for obtaining informed consent from patients prior to involving them as subjects in human research with the exception of retrospective chart reviews.

B. Termination of the practitioner/patient relationship.

Commented [VP5]: Seems like this would not be done by the RT

1. The practitioner or the patient may terminate the relationship. In either case, the practitioner shall make the patient record available, except in situations where denial of access is allowed by law.

2. A practitioner shall not terminate the relationship or make his services unavailable without documented notice to the patient that allows for a reasonable time to obtain the services of another practitioner.

18VAC85-40-88. Practitioner responsibility.

A. A practitioner shall not:

1. Perform procedures or techniques that are outside the scope of his practice or for which he is not trained and individually competent;

2. Knowingly allow subordinates to jeopardize patient safety or provide patient care outside of the subordinate's scope of practice or area of responsibility. Practitioners shall delegate patient care only to subordinates who are properly trained and supervised;

3. Engage in an egregious pattern of disruptive behavior or interaction in a health care setting that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; or

4. Exploit the practitioner/patient relationship for personal gain.

B. Advocating for patient safety or improvement in patient care within a health care entity shall not constitute disruptive behavior provided the practitioner does not engage in behavior prohibited in A 3 of this section.

~~18VAC85-40-89. Solicitation or remuneration in exchange for referral.~~

~~A practitioner shall not knowingly and willfully solicit or receive any remuneration, directly or indirectly, in return for referring an individual to a facility or institution as defined in §37.2-100 of the Code of Virginia, or hospital as defined in §32.1-123 of the Code of Virginia.~~

~~Remuneration shall be defined as compensation, received in cash or in kind, but shall not include any payments, business arrangements, or payment practices allowed by Title 42, §1320a-7b(b) of the United States Code, as amended, or any regulations promulgated thereto.~~

18VAC85-40-90. Sexual contact.

A. For purposes of § 54.1-2915 A 12 and A 19 of the Code of Virginia and this section, sexual contact includes, but is not limited to, sexual behavior or verbal or physical behavior which:

1. May reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both; or
2. May reasonably be interpreted as romantic involvement with a patient regardless of whether such involvement occurs in the professional setting or outside of it.

B. Sexual contact with a patient.

1. The determination of when a person is a patient for purposes of § 54.1-2915 A 19 of the Code of Virginia is made on a case-by-case basis with consideration given to the nature, extent, and context of the professional relationship between the practitioner and the person. The fact that a person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. A person is presumed to remain a patient until the patient-practitioner relationship is terminated.

2. The consent to, initiation of, or participation in sexual behavior or involvement with a practitioner by a patient does not change the nature of the conduct nor negate the statutory prohibition.

C. Sexual contact between a practitioner and a former patient.

Sexual contact between a practitioner and a former patient after termination of the practitioner-patient relationship may still constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge, or influence of emotions derived from the professional relationship.

D. Sexual contact between a practitioner and a key third party shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on

patient care. For purposes of this section, key third party of a patient shall mean: spouse or partner, parent or child, guardian, or legal representative of the patient.

E. Sexual contact between a supervisor and a trainee shall constitute unprofessional conduct if the sexual contact is a result of the exploitation of trust, knowledge or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on patient care.

18VAC85-40-91. Refusal to provide information.

A practitioner shall not willfully refuse to provide information or records as requested or required by the board or its representative pursuant to an investigation or to the enforcement of a statute or regulation.

Chapter 29 of Title 54.1 of the Code of Virginia
Medicine

§ 54.1-2954. Respiratory therapist; definition.

"Respiratory therapist" means a person who has passed the examination for the entry level practice of respiratory care administered by the National Board for Respiratory Care, Inc., or other examination approved by the Board, who has complied with the regulations pertaining to licensure prescribed by the Board, and who has been issued a license by the Board.

1985, c. 347, § 54-281.10; 1988, c. 765; 1998, c. 557; 2015, c. 302.

§ 54.1-2954.1. Powers of Board concerning respiratory care.

The Board shall take such actions as may be necessary to ensure the competence and integrity of any person who claims to be a respiratory therapist or who holds himself out to the public as a respiratory therapist or who engages in the practice of respiratory care and to that end the Board shall license persons as respiratory therapists. The Board shall consider and may accept relevant practical experience and didactic and clinical components of education and training completed by an applicant for licensure as a respiratory therapist during his service as a member of any branch of the armed forces of the United States as evidence of the satisfaction of the educational requirements for licensure as a respiratory therapist. The provisions hereof shall not prevent or prohibit other persons licensed pursuant to this chapter from continuing to practice respiratory care when such practice is in accordance with regulations promulgated by the Board.

The Board shall establish requirements for the supervised, structured education of respiratory therapists, including preclinical, didactic and laboratory, and clinical activities, and an examination to evaluate competency. All such training programs shall be approved by the Board.

1990, c. 920; 1998, c. 557; 2011, c. 390; 2015, c. 302.

§ 54.1-2955. Restriction of titles.

A. It is unlawful for any person not holding a current and valid license from the Board to practice as a respiratory therapist or to assume the title "Respiratory Therapist" or to use, in conjunction with his name, the letters "RT."

B. Notwithstanding the provisions of subsection A, a person who has graduated from an accredited respiratory therapy education program may practice with the title "Respiratory Therapist, License Applicant" or "RT-Applicant" until he has received a failing score on any examination required by the Board for licensure or six months from the date of graduation, whichever occurs sooner. Any person practicing pursuant to this subsection as shall be identified with the title "Respiratory Therapist, License Applicant" or "RT-Applicant" on any identification issued by an employer and in conjunction with any signature in the course of his practice.

1985, c. 347, § 54-281.11; 1988, c. 765; 1990, c. 920; 1998, c. 557; 2015, c. 302; 2022, c. 764.

§ 54.1-2956. Advisory Board on Respiratory Care; appointment; terms; duties; etc.

A. The Advisory Board on Respiratory Care shall assist the Board in carrying out the provisions of this chapter regarding the qualifications, examination, and regulation of licensed respiratory therapists.

The Advisory Board shall consist of five members appointed by the Governor as follows: three members shall be at the time of appointment respiratory therapists who have practiced for not less than three years, one member shall be a physician licensed to practice medicine in the Commonwealth, and one member shall be appointed by the Governor from the Commonwealth at large. Beginning July 1, 2011, the Governor's appointments shall be staggered as follows: two members for a term of one year, one member for a term of two years, and two members for a term of three years. Thereafter, appointments shall be for four-year terms.

Vacancies occurring other than by expiration of term shall be filled for the unexpired term. No person shall be eligible to serve on the Advisory Board for more than two consecutive terms.

B. The Advisory Board shall, under the authority of the Board, recommend to the Board for its enactment into regulation the criteria for licensure as a respiratory therapist and the standards of professional conduct for holders of licenses.

The Advisory Board shall also assist in such other matters dealing with respiratory care as the Board may in its discretion direct.

1985, c. 347, §§ 54-281.12, 54-281.13; 1988, c. 765; 1990, c. 920; 1998, c. 557; 2011, cc. 691, 714; 2015, c. 302.

§ 54.1-2956.01. Exceptions to respiratory therapist's licensure.

The licensure requirements for respiratory therapists provided in this chapter shall not prohibit the practice of respiratory care as an integral part of a program of study by students enrolled in an accredited respiratory care education program approved by the Board. Any student enrolled in accredited respiratory care education programs shall be identified as "Student RT" and shall only deliver respiratory care under the direct supervision of an appropriate clinical instructor recognized by the education program.

1998, c. 557; 2015, c. 302.

Agenda Item: Bylaws for all Advisory Boards

Included in your agenda package are:

- ❖ Copy of Approved Guidance Document 85-3

Action Needed:

- None

**BYLAWS FOR
ADVISORY BOARDS OF THE BOARD OF MEDICINE**

Article I - Members of the Advisory Board

The appointments and limitations of service of the members shall be in accordance with the applicable statutory provision of the advisory board governing such matters.

Article II - Officers

Section 1. Titles of Officers - The officers of the advisory board shall consist of a chairman and vice-chairman elected by the advisory board. The Executive Director of the Board of Medicine shall serve in an advisory capacity.

Section 2. Terms of Office - The chairman and vice-chairman shall serve for a one-year term and may not serve for more than two consecutive terms in each office. The election of officers shall take place at the first meeting after July 1, and officers shall assume their duties immediately thereafter.

Section 3. Duties of Officers.

- (a) The chairman shall preside at all meetings when present, make such suggestions as may deem calculated to promote and facilitate its work, and discharge all other duties pertaining by law or by resolution of the advisory board. The chairman shall preserve order and conduct all proceedings according to and by parliamentary rules and demand conformity thereto on the part of the members. The chairman shall appoint all committees as needed.

The chairman shall act as liaison between the advisory board and the Board of Medicine on matters pertaining to licensing, discipline, legislation and regulation of the profession which the advisory board represents.

When a committee is appointed for any purpose, the chairman shall notify each member of the appointment and furnish any essential documents or information necessary.

- (b) The vice-chairman shall preside at meetings in the absence of the chairman and shall take over the other duties of the chairman as may be made necessary by the absence of the chairman.

Article III - Meetings

Section 1. There shall be at least one meeting each year in order to elect the chairman and vice-chairman and to conduct such business as may be deemed necessary by the advisory board.

Section 2. Quorum - Three members shall constitute a quorum for transacting business.

Section 3. Order of Business - The order of business shall be as follows:

- (a) Calling roll and recording names of members present
- (b) Approval of minutes of preceding regular and special meetings
- (c) Adoption of Agenda
- (d) Public Comment Period
- (e) Report of Officers
- (f) Old Business
- (g) New Business

The order of business may be changed at any meeting by a majority vote.

Article IV - Amendments

Amendments to these bylaws may be proposed by presenting the amendments in writing to all advisory board members prior to any scheduled advisory board meeting. If the proposed amendment receives a majority vote of the members present at that advisory board meeting, it shall be represented as a recommendation for consideration to the Board of Medicine at its next regular meeting.

2023 Board Meeting Dates

Advisory Board on:

Behavioral Analysts			10:00 a.m.
Mon - February 6	June 12	October 2	
Genetic Counseling			1:00 p.m.
Mon - February 6	June 12	October 2	
Occupational Therapy			10:00 a.m.
Tue - February 7	June 13	October 3	
Respiratory Care			1:00 p.m.
Tue - February 7	June 13	October 3	
Acupuncture			10:00 a.m.
Wed - February 8	June 14	October 4	
Radiological Technology			1:00 p.m.
Wed - February 8	June 14	October 4	
Athletic Training			10:00 a.m.
Thurs - February 9	June 15	October 5	
Physician Assistants			1:00 p.m.
Thurs - February 9	June 15	October 5	
Midwifery			10:00 a.m.
Fri - February 10	June 16	October 6	
Polysomnographic Technology			1:00 p.m.
Fri - February 10	June 16	October 7	
Surgical Assisting			10:00 a.m.
Mon - February 13	June 19	October 10	