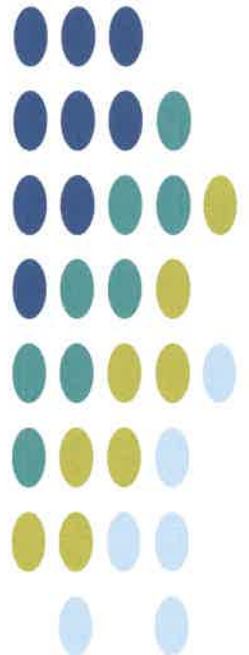


# Advisory Board on Respiratory Therapy

Virginia Board of Medicine

May 21, 2019

1:00 p.m.



# Advisory Board on Respiratory Therapy

Board of Medicine

Tuesday, May 21, 2019 @ 1:00 p.m.

9960 Mayland Drive, Suite 201, Henrico, VA

Training Room 2

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Call to Order – Shari Toomey, PhD, RRT, Chair	
Emergency Egress Procedures – William Harp, MD	i
Roll Call – Denise Mason	
Approval of Minutes of October 2, 2018	1
Adoption of the Agenda	
Public Comment on Agenda Items (15 minutes)	
<b>New Business</b>	
1. Report of the 2019 General Assembly .....	5
2. NBRC specialty exam counting as continuing education hours .....	14
3. Tracking of RT’s credentialed after July 1, 2002 for maintenance of NBRC .....	18
4. Employment under a temporary license until full license issued .....	24
5. Regulations governing the practice of Respiratory Therapists .....	25
Announcements	
Adjournment	
Next Scheduled Meeting: October 1, 2019 @ 1:00 p.m.	

**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.**

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

**Training Room 2**

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the doors, 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 UAPPROVED**

**Advisory Board on Respiratory Therapy  
Minutes  
October 2, 2018**

The Advisory Board on Respiratory Therapy met on Tuesday, October 2, 2018 at 1:00 p.m. at the Department of Health Professions, Perimeter Center, 9960 Mayland, Suite 201, Drive, Henrico, VA

**MEMBERS PRESENT:** Shari Toomey, RRT, Chair  
Daniel Gochenour, RRT, Vice Chair  
Bruce Rubin, MD  
Santiera Brown, RRT  
Denver Supinger

**MEMBERS ABSENT:** None

**STAFF PRESENT:** William L. Harp, M.D., Executive Director  
Elaine Yeatts, DHP Senior Policy Analyst  
Colanthia Morton Opher, Deputy for Administration  
Denise Mason, Licensing Specialist

**GUESTS PRESENT:** Yetty Shobo, PhD, Healthcare Workforce Data Center  
Mark Hickman, CSG

**Call TO ORDER**

Dr. Harp called the meeting to order at 1:02 p.m.

**EMERGENCY EGRESS PROCEDURES**

Dr. Harp announced the Emergency Egress Procedures.

**ROLL CALL**

The Advisory Board members introduced themselves, and a quorum was declared.

**APPROVAL OF MINUTES OF JANUARY 30, 2018**

Dr. Rubin moved to approve the minutes of January 30, 2018. The motion was seconded and carried.

**ADOPTION OF AGENDA**

**DRAFT UAPPROVED**

Ms. Supinger moved to adopt the agenda. The motion was seconded and carried.

**PUBLIC COMMENT ON AGENDA ITEMS**

None

**NEW BUSINESS****1. Periodic Review of Regulations**

Ms. Yeatts reviewed several regulations with the Advisory Board starting with:

18VAC85-40-10, Definitions

18VAC85-40-25, Current name and address, the word “mailed” needed to be replaced with “sent.”

18VAC85-40-35, renewal fee reductions when the Board’s revenue exceeds expenditures by more than 10%.

18VAC-85-40-45, Education requirements

18VAC-85-40-50, Examination requirements

18VAC-85-40-60, Renewal/ Reinstatement of license, fee for reinstatement of a pursuant to §54.1-2408.2 of the Code of Virginia shall be \$2,000.

18VAC-85-40-61, Inactive license

18VAC-85-40-66, Continuing education requirements

18VAC85-40-70, Scope of Practice, to maintain a patient’s record for a minimum of six years following the last patient encounter with exceptions

Ms. Supinger moved to approve the change from “mailed” to “sent.” The motion was seconded and carried.

**2. Virginia’s Respiratory Therapist Workforce: 2017 Elizabeth Carter, PhD**

Dr. Shobo provided a PowerPoint presentation for the Advisory Board that reviewed the trends in the respiratory therapist workforce. She said that the respiratory workforce has declined slightly over the past two years. She mentioned that Virginia respiratory therapists were slightly less likely to hold an Associate degree. There are no changes in the median income of respiratory therapists.

**DRAFT UAPPROVED****3. Board Member Badges**

Dr. Harp told the Advisory Board that the Department of Health Professions would no longer be issuing Board member badges. Board members will now be given a temporary badge when working at DHP which will be turned in upon completion of their duties.

**4. 2019 Meeting Calendar**

The Advisory Board's next meeting is January 22, 2019 at 1:00 p.m.

**5. Election of Officers**

Ms. Supinger nominated Ms. Toomey to serve as Chair of the Advisory Board. The motion was seconded and carried. Dr. Rubin nominated Daniel Gochenour to serve as Vice-Chair of the Advisory Board. The motion was seconded and carried.

**ANNOUNCEMENTS**

Ms. Mason informed the Advisory Board that there are currently 4,016 Respiratory Therapists licensed by the Virginia Board of Medicine.

**NEXT SCHEDULED MEETING**

January 22, 2019 at 1:00 p.m.

DRAFT UNAPPROVED

**ADJOURNMENT**

The meeting of the Advisory Board adjourned at 2:11p.m.

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Shari Toomey, RRT, Chair

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William L. Harp, M.D.,  
Executive Director

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Denise Mason, Licensing Specialist

## Board of Medicine Report of the 2019 General Assembly

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### **HB 1952 Patient care teams; podiatrists and physician assistants.**

*Chief patron:* Campbell, J.L.

*Summary as passed House:*

**Patient care team podiatrist definition; physician assistant supervision requirements.** Establishes the role of "patient care team podiatrist" as a provider of management and leadership to physician assistants in the care of patients as part of a patient care team. The bill modifies the supervision requirements for physician assistants by establishing a patient care team model. The bill directs the Board of Medicine to adopt emergency regulations to implement the provisions of the bill and is identical to SB 1209.

02/22/19 Governor: Acts of Assembly Chapter text (CHAP0137)

### **HB 1970 Telemedicine services; payment and coverage of services.**

*Chief patron:* Kilgore

*Summary as passed:*

**Telemedicine services; coverage.** Requires insurers, corporations, or health maintenance organizations to cover medically necessary remote patient monitoring services as part of their coverage of telemedicine services to the full extent that these services are available. The bill defines remote patient monitoring services as the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload. The bill requires the Board of Medical Assistance Services to include in the state plan for medical assistance services a provision for the payment of medical assistance for medically necessary health care services provided through telemedicine services. This bill is identical to SB 1221.

03/05/19 Governor: Acts of Assembly Chapter text (CHAP0211)

### **HB 1971 Health professions and facilities; adverse action in another jurisdiction.**

*Chief patron:* Stolle



*Summary as introduced:*

**Health professions and facilities; adverse action in another jurisdiction.** Provides that the mandatory suspension of a license, certificate, or registration of a health professional by the Director of the Department of Health Professions is not required when the license, certificate, or registration of a health professional is revoked, suspended, or surrendered in another jurisdiction based on disciplinary action or mandatory suspension in the Commonwealth. The bill extends the time by which the Board of Pharmacy (Board) is required to hold a hearing after receiving an application for reinstatement from a nonresident pharmacy whose registration has been suspended by the Board based on revocation or suspension in another jurisdiction from not later than its next regular meeting after the expiration of 30 days from receipt of the reinstatement application to not later than its next regular meeting after the expiration of 60 days from receipt of the reinstatement application.

02/22/19 Governor: Acts of Assembly Chapter text (CHAP0138)

**HB 2169 Physician assistants; licensure by endorsement.**

*Chief patron:* Thomas

*Summary as passed:*

**Physician assistants; licensure by endorsement.** Authorizes the Board of Medicine to issue a license by endorsement to an applicant for licensure as a physician assistant who (i) is the spouse of an active duty member of the Armed Forces of the United States or the Commonwealth, (ii) holds current certification from the National Commission on Certification of Physician Assistants, and (iii) holds a license as a physician assistant that is in good standing, or that is eligible for reinstatement if lapsed, under the laws of another state.

03/12/19 Governor: Acts of Assembly Chapter text (CHAP0338)

**HB 2184 Volunteer license, special; issuance for limited practice.**

*Chief patron:* Kilgore

*Summary as passed:*

**Volunteer dentists and dental hygienists.** Removes certain requirements for dentists and dental hygienists volunteering to provide free health care for up to three consecutive days to an underserved area of the Commonwealth under the auspices of a publicly supported nonprofit organization that sponsors the provision of health care to populations of underserved people.

03/08/19 Governor: Acts of Assembly Chapter text (CHAP0290)

**HB 2228 Nursing and Psychology, Boards of; health regulatory boards, staggered terms.**

*Chief patron:* Bagby

*Summary as introduced:*

**Composition of the Boards of Nursing and Psychology; health regulatory boards; staggered terms.**

Alters the composition of the Board of Nursing and replaces the requirement that the Board of Nursing meet each January with the requirement that it meet at least annually. The bill also removes specific officer titles from the requirement that the Board of Nursing elect officers from its membership. The bill replaces the requirement that a member of the Board of Psychology be licensed as an applied psychologist with the requirement that that position be filled by a member who is licensed in any category of psychology. The bill also provides a mechanism for evenly staggering the terms of members of the following health regulatory boards, without affecting the terms of current members: Board of Nursing, Board of Psychology, Board of Dentistry, Board of Long-Term Care Administrators, Board of Medicine, Board of Veterinary Medicine, Board of Audiology and Speech-Language Pathology, Board of Pharmacy, and Board of Counseling.

02/27/19 Governor: Acts of Assembly Chapter text (CHAP0169)

**HB 2457 Medicine, osteopathy, podiatry, or chiropractic, practitioners of; inactive license, charity care.**

*Chief patron:* Landes

*Summary as passed:*

**Practitioners of medicine, osteopathy, podiatry, or chiropractic; retiree license.** Provides that the Board of Medicine may issue a retiree license to any doctor of medicine, osteopathy, podiatry, or chiropractic who holds an active, unrestricted license to practice in the Commonwealth upon receipt of a request and submission of the required fee. The bill provides that a person to whom a retiree license has been issued shall not be required to meet continuing competency requirements for the first biennial renewal of such license. The bill also provides that a person to whom a retiree license has been issued shall only engage in the practice of medicine, osteopathy, podiatry, or chiropractic for the purpose of providing charity care or health care services to patients in their residence for whom travel is a barrier to receiving health care.

03/14/19 Governor: Acts of Assembly Chapter text (CHAP0379)

**HB 2557 Drug Control Act; classifies gabapentin as a Schedule V controlled substance.**

*Chief patron:* Pillion

*Summary as passed:*

**Drug Control Act; Schedule V; gabapentin.** Classifies gabapentin as a Schedule V controlled substance. Current law lists gabapentin as a drug of concern. The bill also removes the list of drugs of concern from the Code of Virginia and provides that any wholesale drug distributor licensed and regulated by the Board of Pharmacy and registered with and regulated by the U.S. Drug Enforcement Administration shall have until July 1, 2020, or within six months of final approval of compliance from the Board of Pharmacy and the U.S. Drug Enforcement Administration, whichever is earlier, to comply with storage requirements for Schedule V controlled substances containing gabapentin.

03/05/19 Governor: Acts of Assembly Chapter text (CHAP0214)

**HB 2559 Electronic transmission of certain prescriptions; exceptions.**

*Chief patron:* Pillion

*Summary as passed House:*

**Electronic transmission of certain prescriptions; exceptions.** Provides certain exceptions, effective July 1, 2020, to the requirement that any prescription for a controlled substance that contains an opioid be issued as an electronic prescription. The bill requires the licensing health regulatory board of a prescriber to grant such prescriber a waiver of the electronic prescription requirement for a period not to exceed one year due to demonstrated economic hardship, technological limitations that are not reasonably within the control of the prescriber, or other exceptional circumstances demonstrated by the prescriber. The bill provides that a dispenser is not required to verify whether one of the exceptions applies when he receives a non-electronic prescription for a controlled substance containing an opioid. The bill requires the Boards of Medicine, Nursing, Dentistry, and Optometry to promulgate regulations to implement the prescriber waivers. Finally, the bill requires the Secretary of Health and Human Resources to convene a work group to identify successes and challenges of the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances that contain an opioid and to report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2022.

03/21/19 Governor: Acts of Assembly Chapter text (CHAP0664)

**HB 2731 Lyme disease; disclosure of information to patients.**

*Chief patron:* Edmunds

*Summary as passed House:*

**Lyme disease; disclosure of information to patients.** Requires every laboratory reporting the results of a test for Lyme disease ordered by a health care provider in an office-based setting to include, together with the results of such test provided to the health care provider, a notice stating that the results of Lyme disease tests may vary and may produce results that are inaccurate and that a patient may not be able to rely on a positive or negative result from such test. Such notice shall also include a statement that health care providers are encouraged to discuss Lyme disease test results with the patient for whom the test was ordered. The bill also provides that a laboratory that complies with the provisions of the bill shall be immune from civil liability absent gross negligence or willful misconduct.

03/18/19 Governor: Acts of Assembly Chapter text (CHAP0435)

**SB 1004 Elective procedure, test, or service; estimate of payment amount.**

*Chief patron:* Chase

*Summary as passed:*

**Advance estimate of patient payment amount for elective medical procedure, test, or service; notice of right to request.** Provides that every hospital currently required to provide an estimate of the payment amount for an elective procedure, test, or service for which a patient may be responsible shall also be required to provide each patient with written information regarding his right to request such estimate, to post written information regarding a patient's right to request such estimate conspicuously in public areas of the hospital, and to make such information available on the hospital's website.

03/21/19 Governor: Acts of Assembly Chapter text (CHAP0671)

**SB 1106 Physical therapists & physical therapist assistants; licensure, Physical Therapy Licensure Compact.**

*Chief patron:* Peake

*Summary as introduced:*

**Licensure of physical therapists and physical therapist assistants; Physical Therapy Licensure Compact.** Authorizes Virginia to become a signatory to the Physical Therapy Licensure Compact. The Compact permits eligible licensed physical therapists and physical therapist assistants to practice in Compact member states, provided they are licensed in at least one member state. In addition, the bill requires each applicant for licensure in the Commonwealth as a physical therapist or physical therapist assistant to submit fingerprints and provide personal descriptive information in order for the Board to receive a state and federal criminal history record report for each applicant. The bill has a delayed effective date of January 1, 2020, and directs the Board of Physical Therapy to adopt emergency regulations to implement the provisions of the bill.

03/08/19 Governor: Acts of Assembly Chapter text (CHAP0300)

**SB 1167 Medicaid recipients; treatment involving opioids or opioid replacements, payment.**

*Chief patron:* Chafin

*Summary as passed:*

**Medicaid recipients; treatment involving opioids or opioid replacements; payment.** Prohibits health care providers licensed by the Board of Medicine from requesting or requiring a patient who is a recipient of medical assistance services pursuant to the state plan for medical assistance to pay out-of-pocket costs associated with the provision of service involving (i) the prescription of an opioid for the management of pain or (ii) the prescription of buprenorphine-containing products, methadone, or other opioid replacements approved for the treatment of opioid addiction by the U.S. Food and Drug Administration for medication-assisted treatment of opioid addiction. The bill requires providers who do not accept payment from the Department of Medical Assistance Services (DMAS) who provide such services to patients participating in the Commonwealth's program of medical assistance services to provide written notice to such patient that (a) the Commonwealth's program of medical assistance services covers such health care services and DMAS will pay for such health care services if such health care services meet DMAS's medical necessity criteria and (b) the provider does not participate in the Commonwealth's program of medical assistance and will not accept payment from DMAS for such health care services. Such notice and the patient's acknowledgement of such notice shall be documented in the patient's medical record. This bill is identical to HB 2558.

03/18/19 Governor: Acts of Assembly Chapter text (CHAP0444)

**SB 1439 Death certificates; medical certification, electronic filing.**

*Chief patron:* McClellan

*Summary as passed:*

**Death certificates; medical certification; electronic filing.** Requires the completed medical certification portion of a death certificate to be filed electronically with the State Registrar of Vital Records through the Electronic Death Registration System and provides that, except for under certain circumstances, failure to file a medical certification of death electronically through the Electronic Death Registration System shall constitute grounds for disciplinary action by the Board of Medicine. The bill includes a delayed effective date of January 1, 2020, and a phased-in requirement for registration with the Electronic Death Registration System and electronic filing of medical certifications of death for various categories of health care providers. The bill directs the Department of Health to work with stakeholders to educate and encourage physicians, physician assistants, and nurse practitioners to timely register with and utilize the Electronic Death Registration System.

03/05/19 Governor: Acts of Assembly Chapter text (CHAP0224)

**SB 1547 Music therapists; Board of Health Professions to evaluate regulation.**

*Chief patron:* Vogel

*Summary as passed:*

**Music therapy.** Directs the Board of Health Professions to evaluate whether music therapists and the practice of music therapy should be regulated and the degree of regulation to be imposed. The bill requires the Board to report the results of its evaluation to the Chairmen of the Senate Committee on Education and Health and the House Committee on Health, Welfare and Institutions by November 1, 2019.

03/21/19 Governor: Acts of Assembly Chapter text (CHAP0680)

**SB 1557 Pharmacy, Board of; cannabidiol oil and tetrahydrocannabinol oil, regulation of pharmaceutical.**

*Chief patron:* Dunnavant

*Summary as passed:*

**Board of Pharmacy; cannabidiol oil and tetrahydrocannabinol oil; regulation of pharmaceutical processors.** Authorizes licensed physician assistants and licensed nurse practitioners to issue a written

certification for use of cannabidiol oil and THC-A oil. The bill requires the Board to promulgate regulations establishing dosage limitations, which shall require that each dispensed dose of cannabidiol oil or THC-A oil not exceed 10 milligrams of tetrahydrocannabinol. The bill requires the Secretary of Health and Human Resources and the Secretary of Agriculture and Forestry to convene a work group to review and recommend an appropriate structure for an oversight organization in Virginia and report its findings and recommendations to the Chairmen of the Senate Committees on Agriculture, Conservation and Natural Resources and Education and Health and the House Committees on Agriculture, Chesapeake and Natural Resources and Health, Welfare and Institutions by November 1, 2019.

03/21/19 Governor: Acts of Assembly Chapter text (CHAP0681)

**SB 1760 Diagnostic X-ray machines; operation of machine.**

*Chief patron:* DeSteph

*Summary as introduced:*

**Diagnostic X-ray machines; operation.** Provides that no person who has been trained and certified in the operation of a diagnostic X-ray machine by the manufacturer of such machine is required to obtain any other training, certification, or licensure or be under the supervision of a person who has obtained training, certification, or licensure to operate such a diagnostic X-ray machine, provided that (i) such diagnostic X-ray machine (a) is registered and certified by the Department of Health, (b) is being operated to conduct a body composition scan, and (c) is not operated to determine bone density or in the diagnosis or treatment of a patient and (ii) the subject of the body composition scan is notified of the risks associated with exposure to radiation emitted by the diagnostic X-ray machine.

01/31/19 Senate: Passed by indefinitely in Education and Health with letter (15-Y 0-N)

**SB 1778 Counseling minors; certain health regulatory boards to promulgate regulations.**

*Chief patron:* Newman

*Summary as introduced:*

**Health regulatory boards; conversion therapy.** Directs the Board of Counseling, the Board of Medicine, the Board of Nursing, the Board of Psychology, and the Board of Social Work to each promulgate regulations prohibiting the use of electroshock therapy, aversion therapy, or other physical treatments in the practice of conversion therapy with any person under 18 years of age.

02/06/19 Senate: Left in Education and Health

**Board of Medicine  
Regulatory/Policy Actions – 2019 General Assembly**

**EMERGENCY REGULATIONS:**

Legislative source	Mandate	Promulgating agency	Board adoption date	Effective date Within 280 days of enactment
HB1952	Patient care team – PAs	Medicine	6/13/19 or 8/2/19 (signed 2/22)	<b>11/25/19</b>
HB2559	Waiver for electronic prescribing	Medicine	6/13/19 or 8/2/19 (signed 3/21)	<b>12/24/19</b>

**APA REGULATORY ACTIONS**

Legislative source	Mandate	Promulgating agency	Adoption date	Effective date
HB2457	Retiree license	Medicine	NOIRA – 6/13/19	?

**NON-REGULATORY ACTIONS**

Legislative source	Affected agency	Action needed	Due date
HB1970	Department	Review of telehealth; practice by adjacent physicians	11/1/19
HB2169	Medicine	Review/revision of application content & process to identify & expedite military spouse apps	7/1/19
SB1557	Medicine/Pharmacy/Department	Inclusion of NPs and PAs for registration to issue certifications Participation in workgroup to study oversight organization	7/1/19
SB1760 (not passed)	Department (Medicine)	Study of Xrays in spas – VDH	11/1/19
HJ682 (not passed)	Department	Study of foreign-trained physicians to provide services in rural areas	11/1/19

**Future Policy Actions:**

**HB793 (2018)** - (2) the Department of Health Professions, by **November 1, 2020**, to report to the General Assembly a process by which nurse practitioners who practice without a practice agreement may be included in the online Practitioner Profile maintained by the Department of Health Professions; and (3) the Boards of Medicine and Nursing to report information related to the practice of nurse practitioners without a practice agreement that includes certain data, complaints and disciplinary actions, and recommended modifications to the provisions of this bill to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health and the Chairman of the Joint Commission on Health Care by **November 1, 2021**.

**HB2559 (2019)** - requires the Secretary of Health and Human Resources to convene a work group to identify successes and challenges of the electronic prescription requirement and offer possible recommendations for increasing the electronic prescribing of controlled substances that contain an opioid and to report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by **November 1, 2022**.



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## FAQs for Earning and Reporting CRCEs

- 2

### 1. How many continuing education hours do I get for ACLS, PALS, NRP, and BLS?

Each state licensing board has addressed continuing education for American Heart Association courses differently. Some states have allotted a specific number of continuing education hours for each of these courses. Some states do not directly address the American Heart Association courses in the continuing education requirements. Visit the AARC's [State Licensure Contacts](#) page to locate your state board's website. On that website, you will be able to locate the state board's continuing education requirements. Conversely, you may also contact the state board directly. For states that do not provide a specific number of continuing education hours for the American Heart Association Courses, the course sponsor (hospital/company provider of the course) will need to make a CRCE® application for continuing education hours to the AARC.

### 2. I took a course that was approved by the AARC. How do I add it to my transcript?

The AARC approves courses for CRCE® credit for course sponsors other than the AARC. It is the responsibility of the course sponsor to report an attendance log with participants' names, AARC numbers, email addresses, and session(s) attended. Individual AARC members cannot add attended courses to the AARC transcript.

### 3. Why isn't this course on my CRCE® transcript?

There are many reasons why a course or conference you attended does not appear on your transcript.

- a. Only AARC members can access a transcript. If you are not an AARC member or your AARC membership has lapsed, you will not be able to access the transcript feature.
- b. New members or those that have let their AARC membership lapse will not see CRCE® records from courses they attended prior to joining the AARC or while their membership was inactive on their transcript. Check your membership date to see when you joined.
- c. You did not include your AARC member number on the course roster/registration form. The course sponsors must supply that information in their attendance/completion report for the database to credit your transcript with that course. You will need to contact the course sponsor to report your AARC number with your earned CRCE® before the credits will appear on your transcript if you did not provide it to them initially.
- d. The course sponsor has not yet uploaded the course roster into the AARC database. Depending on the size of the course, submitting a CRCE® course roster can take some time. Please allow at least 30 days after the course/conference for posting of the credits on your transcript. If it is more than 30 days after the course/conference, please contact the course sponsor directly. For independent study (Non-Traditional) courses, please allow at least 60 days for the credit to be posted on your transcript.

### 4. How many hours do I need to renew my state license?

Each state respiratory care board has different requirements for continuing education. Visit the AARC's [State Licensure Contacts](#) page for a detailed listing of state boards, renew periods, continuing education hours, and fees for renewing.

### 5. How many hours do I need to renew my credential with the National Board for Respiratory Care (NBRC)?

The NBRC's Continuing Competency Program requires that respiratory therapists who earned NBRC credentials after July 1, 2002, renew those credentials every 5 years. The respiratory therapist can renew his/her credential(s) by providing proof of at least 30 approved contact hours in that 5 year period; retake and pass the respective examination for the highest credentialed held; or pass an NBRC credentialing examination not previously completed. Approved contact hours for the NBRC Continuing Competency Program include CRCE® approved by the AARC and those accepted by state agencies regulating the respiratory care profession. Specific details about the NBRC Continuing Competency Program, as well as the composition of the CRCE® required, can be found at the [NBRC website](#).

### 6. How many hours do I need to renew my AE-C credential with the National Asthma Educator Certification Board (NAECB)?

The NAECB allows for two methods of renewing the AE-C credential: either retest every 7 years or earn 35 continuing education hours of asthma-specific content every 5 years. You can find more detailed information about renewing your AE-C credential at the [NAECB website](#).

### 7. How do I know if a course is approved by the AARC?

The course sponsor can advertise CRCE® approval on the marketing and advertising materials as well as on the course certificate.

**8. Where do I go to get my certificates of completion for courses I completed through the AARC website?**

If you completed a course in [AARC University](#), you may access your certificate of attendance/completion by going to the [My Course Certificates page](#) and logging in with your AARC username and password.

**9. Why does it say the page has moved when I click on CRCE® Lookup?**

You may receive this message if you need to delete your Web browser's cookies. Cookies help the computer remember your information on the Internet. [Refer to this tutorial](#) if you need help deleting cookies.

**10. Do you send my credits to a 3rd party (e.g., NBRC, CE Broker, etc.)?**

While the AARC does not automatically send your transcript data directly to the NBRC or a state licensing board, on the NBRC website, active AARC members may access the Credential Maintenance page in their NBRC profile, and import data to meet Continuing Competency Program requirements. This is an AARC member only benefit.

**11. What counts as “live credit”?**

Traditional courses, also called “live courses,” are courses that require the learner and provider to interact in real time. They need not be in the same place, but they must be able to communicate either verbally or in writing with each other during the time the learning activity is occurring. Examples of traditional courses offered by the AARC include live webcasts and live conferences. Non-traditional courses, also called independent study courses, are conducted by the learner at his or her own pace. The instructor does not interact with the learner in real time. Examples of non-traditional courses include archived webcasts, text-based courses, and online courses that do not include real-time interaction with the content expert/instructor.

**12. Do archived webcasts count as live credit?**

Archived webcasts are pre-recorded so the viewer does not have access to the presenter to ask questions. Archived webcasts are categorized as non-traditional courses.

**13. How many questions are on my test?**

The number of questions on the test is dependent upon the amount of CRCE® that accompanies the successful completion of the course. Typically, the post-tests for archived webcasts and CRCE through the Journal include 10 questions. Tests for courses that offer higher numbers of CRCE® may include more than 10 questions.

**14. How many times can I take my test?**

Each participant may attempt the course post-test twice.

**15. I took this course last year. Can I take it again for credit?**

You may re-enroll in the same course after January 1 of each year. Upon successful completion of the course, your transcript will reflect the CRCE® However, some state licensing boards and/or the National

Board for Respiratory Care (NBRC) may not accept the same course for credit multiple times in the license or credential renewal period.

**16. I want to sponsor a continuing education course to provide CRCE® for respiratory therapists. What do I do?**

You can find all of the information necessary to apply for CRCE® as a course sponsor on the [CRCE® Application Overview](#) page.

**CRCE Transcripts**

- [FAQs for Earning and Reporting CRCEs](#)



Virginia Administrative Code  
Title 18. Professional and Occupational Licensing  
Agency 85. Board of Medicine  
Chapter 120. Regulations Governing the Licensure of Athletic Trainers

## 18VAC85-120-75. Temporary Authorization to Practice.

Upon written request from an applicant and his employer and for good cause shown, an applicant who provides documentation of current NATABOC certification and, if licensed or certified by another jurisdiction in the United States, documentation that his license or certificate is current and unrestricted, may be granted temporary authorization to practice as an athletic trainer for 45 days pending submission of all other required documentation and issuance of a license. At the discretion of the board, additional time, not to exceed 15 days, may be allowed to complete the application process.

### Statutory Authority

§§ 54.1-2400 and 54.1-2957.4 of the Code of Virginia.

### Historical Notes

Derived from Volume 20, Issue 24, eff. September 8, 2004; amended, Virginia Register Volume 29, Issue 25, eff. September 26, 2013.

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Virginia Administrative Code  
Title 18. Professional and Occupational Licensing  
Agency 85. Board of Medicine  
Chapter 120. Regulations Governing the Licensure of Athletic Trainers

## 18VAC85-120-80. Provisional Licensure.

- A. An applicant who has been approved by NATABOC to sit for the certification examination may be granted a provisional license to practice athletic training under the supervision and control of an athletic trainer.
- B. The graduate shall submit an application for a provisional license to the board for review and approval by the Chair of the Advisory Board on Athletic Training or his designee.
- C. The provisional license shall expire six months from issuance or upon receipt of notification of a failing score on the NATABOC certification examination or upon licensure as an athletic trainer by the board, whichever comes first.

### **Statutory Authority**

§§ 54.1-2400 and 54.1-2957.4 of the Code of Virginia.

### **Historical Notes**

Derived from Volume 17, Issue 17, eff. June 6, 2001; amended, Virginia Register Volume 20, Issue 23, eff. August 25, 2004; Volume 27, Issue 10, eff. March 3, 2011; Volume 29, Issue 25, eff. September 26, 2013.

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Virginia Administrative Code  
Title 18. Professional and Occupational Licensing  
Agency 85. Board of Medicine  
Chapter 80. Regulations Governing the Practice of Occupational Therapy

## 18VAC85-80-45. Practice by a Graduate Awaiting Examination Results.

A. A graduate of an accredited occupational therapy educational program may practice with the designated title of "Occupational Therapist, License Applicant" or "O.T.L.-Applicant" until he has received a failing score on the licensure examination from NBCOT or for six months from the date of graduation, whichever occurs sooner. The graduate shall use one of the designated titles on any identification or signature in the course of his practice.

B. A graduate of an accredited occupational therapy assistant educational program may practice with the designated title of "Occupational Therapy Assistant-License Applicant" or "O.T.A.-Applicant" until he has received a failing score on the licensure examination from NBCOT or for six months from the date of graduation, whichever occurs sooner. The graduate shall use one of the designated titles on any identification or signature in the course of his practice.

### Statutory Authority

§ 54.1-2400 of the Code of Virginia.

### Historical Notes

Derived from Volume 19, Issue 01, eff. October 23, 2002; amended, Virginia Register Volume 26, Issue 11, eff. March 3, 2010; Volume 30, Issue 24, eff. August 27, 2014.

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5/15/2019

Virginia Administrative Code  
Title 18. Professional and Occupational Licensing  
Agency 85. Board of Medicine  
Chapter 140. Regulations Governing the Practice of Polysomnographic Technologists

## 18VAC85-140-45. Practice As a Student or Trainee.

### PART II. REQUIREMENTS FOR LICENSURE AS A POLYSOMNOGRAPHIC TECHNOLOGIST

A student enrolled in an educational program in polysomnographic technology or a person engaged in a traineeship is not required to hold a license to practice polysomnographic technology, provided that such student or trainee is under the direct supervision of a licensed polysomnographic technologist or a licensed doctor of medicine or osteopathic medicine.

1. Any student or trainee shall be identified to patients as a student or trainee in polysomnographic technology.
2. A student or trainee is required to have a license to practice after 18 months from the start of the educational program or traineeship or six months from the conclusion of such program or traineeship, whichever is earlier.

#### Statutory Authority

§§ 54.1-2400 and 54.1-2957.15 of the Code of Virginia.

#### Historical Notes

Derived from Volume 35, Issue 04, eff. November 14, 2018.

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Virginia Administrative Code  
Title 18. Professional and Occupational Licensing  
Agency 85. Board of Medicine  
Chapter 50. Regulations Governing the Practice of Physician Assistants

## 18VAC85-50-55. Provisional Licensure.

Pending the outcome of the next examination administered by the NCCPA, an applicant who has met all other requirements of 18VAC85-50-50 at the time his initial application is submitted may be granted provisional licensure by the board. The provisional licensure shall be valid until the applicant takes the next subsequent NCCPA examination and its results are reported, but this period of validity shall not exceed 30 days following the reporting of the examination scores, after which the provisional license shall be invalid.

### **Statutory Authority**

§§ 54.1-2400 and 54.1-2949 through 54.1-2953 of the Code of Virginia.

### **Historical Notes**

Derived from Volume 13, Issue 21, eff. August 6, 1997; amended, Virginia Register Volume 14, Issue 21, eff. August 5, 1998.

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5/15/2019

Virginia Administrative Code  
Title 18. Professional and Occupational Licensing  
Agency 85. Board of Medicine  
Chapter 170. Regulations Governing the Practice of Genetic Counselors

## 18VAC85-170-60. Licensure Requirements.

A. An applicant for a license to practice as a genetic counselor shall provide documentation of (i) a master's degree from a genetic counseling training program that is accredited by the Accreditation Council of Genetic Counseling and (ii) a current, valid certificate issued by the ABGC or ABMG to practice genetic counseling.

B. Pursuant to § 54.1-2957.19 D of the Code of Virginia, applicants for licensure who do not meet the requirements of subsection A of this section may be issued a license provided they (i) apply for licensure before December 31, 2018; (ii) comply with the board's regulations relating to the NSGC Code of Ethics; (iii) have at least 20 years of documented work experience practicing genetic counseling; (iv) submit two letters of recommendation, one from a genetic counselor and another from a physician; and (v) have completed, within the last five years, 25 hours of continuing education approved by the NSGC or the ABGC. For the purpose of this subsection, the board deems the provisions of Part IV (18VAC85-170-110 et seq.) of this chapter to be consistent with the NSGC Code of Ethics.

C. An applicant for a temporary license shall provide documentation of having been granted the active candidate status by the ABGC. Such license shall expire 12 months from issuance or upon failure of the ABGC certification examination, whichever comes first.

### **Statutory Authority**

§§ 54.1-2400 and 54.1-2957.18 of the Code of Virginia.

### **Historical Notes**

Derived from Volume 33, Issue 19, eff. June 14, 2017; amended, Virginia Register Volume 34, Issue 01, eff. October 4, 2017; Volume 35, Issue 09, eff. February 10, 2019.

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Virginia Administrative Code  
Title 18. Professional and Occupational Licensing  
Agency 85. Board of Medicine  
Chapter 170. Regulations Governing the Practice of Genetic Counselors

## 18VAC85-170-125. Responsibilities of a Temporary Licensee.

A. A person holding a temporary license as a genetic counselor shall practice under the clinical supervision of a genetic counselor or a physician licensed in the Commonwealth.

B. Clinical supervision shall require that:

1. The supervisor and temporary licensee routinely meet to review and evaluate patient care and treatment; and
2. The supervisor reviews notes on patient care entered by the temporary licensee prior to reporting study results and making recommendations to a patient. Such review shall be documented by some method in a patient record.

### Statutory Authority

§§ 54.1-2400 and 54.1-2957.19 of the Code of Virginia.

### Historical Notes

Derived from Volume 33, Issue 19, eff. June 14, 2017.

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*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 22, 2019**

9960 Mayland Drive, Suite 300  
Henrico, VA 23233-1463

(804) 367-4600 (TEL)  
(804) 527-4426 (FAX)  
email: [medbd@dhp.virginia.gov](mailto:medbd@dhp.virginia.gov)

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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.

"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 2019, 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 fee for a returned check shall be \$35.
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.

**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:

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.

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.

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.