



Rhode Island Department of Health

PUBLIC NOTICE

The Director of the Rhode Island Department of Health has determined to amend the rules and regulations listed below to remove the specific dollar value of all fees for licensing, laboratory and administrative services provided by the Department of Health from the individual regulations and reference all such fees to a new consolidated fee regulation (to be promulgated separately). These amendments are proposed pursuant to the authority contained in Public Law 2012-241, enacted by the General Assembly on 15 June 2012, and the relevant sections of the respective professional practice and licensure acts.

The following seventy-five (75) regulations are proposed to be amended:

1. Food Code
2. Rules and Regulations Establishing Educational and Experience Requirements for Registration as a Sanitarian
3. Rules and Regulations for Asbestos Control
4. Rules and Regulations for Bottled Water
5. Rules and Regulations for Certifying Analytical Laboratories
6. Rules and Regulations for Determination of Need for New Health Care Equipment and New Institutional Health Services
7. Rules and Regulations for Lead Poisoning Prevention
8. Rules and Regulations for Licensing Assisted Living Residences
9. Rules and Regulations for Licensing Athletic Trainers
10. Rules and Regulations for Licensing Birth Centers
11. Rules and Regulations for Licensing Chemical Dependency Professionals
12. Rules and Regulations for Licensing Clinical Laboratories and Stations
13. Rules and Regulations for Licensing Clinical Social Workers and Independent Clinical Social Workers
14. Rules and Regulations for Licensing Doctors of Acupuncture and Acupuncture Assistants
15. Rules and Regulations for Licensing Home Nursing Care Providers and Home Care Providers
16. Rules and Regulations for Licensing Hospice Care
17. Rules and Regulations for Licensing Interpreters for the Deaf
18. Rules and Regulations for Licensing Kidney Disease Treatment Centers
19. Rules and Regulations for Licensing Massage Therapists
20. Rules and Regulations for Licensing Mental Health Counselors and Marriage and Family Therapists
21. Rules and Regulations for Licensing Occupational Therapists and Occupational Therapy Assistants
22. Rules and Regulations for Licensing of Hospitals
23. Rules and Regulations for Licensing of Midwives
24. Rules and Regulations for Licensing of Nursing Facilities
25. Rules and Regulations for Licensing of Nursing Home Administrators
26. Rules and Regulations for Licensing Physical Therapists and Physical Therapist Assistants
27. Rules and Regulations for Licensing Psychologists
28. Rules and Regulations for Licensing Rehabilitation Hospital Centers

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29. Rules and Regulations for Licensing Respiratory Care Practitioners
30. Rules and Regulations for Licensing Speech Pathologists and Audiologists
31. Rules and Regulations for Licensing Swimming and Wading Pools, Hot Tubs, and Spas
32. Rules and Regulations for Licensure and Discipline of Chiropractic Physicians
33. Rules and Regulations for Limited Medical Registration
34. Rules and Regulations for Radon Control
35. Rules and Regulations for the Certification of Administrators of Assisted Living Residences
36. Rules and Regulations for the Certification of Health Plans
37. Rules and Regulations for the Control of Radiation
38. Rules and Regulations for the Licensing of Freestanding Ambulatory Surgical Centers
39. Rules and Regulations for the Licensing of Freestanding Emergency Care Facilities
40. Rules and Regulations for the Licensing of Nurses and Standards for the Approval of Basic Nursing Education Programs
41. Rules and Regulations for the Licensing of Nursing Service Agencies
42. Rules and Regulations for the Licensing of Organized Ambulatory Care Facilities
43. Rules and Regulations for the Licensing of Podiatrists
44. Rules and Regulations for the Licensing of Radiographers, Nuclear Medicine Technologists, Radiation Therapists and Radiologist Assistants
45. Rules and Regulations for the Licensure and Discipline of Physicians
46. Rules and Regulations for the Licensure of Barbers, Hairdressers/Cosmeticians, Manicurists, Estheticians, and Instructors
47. Rules and Regulations for the Licensure of Clinical Laboratory Science Practitioners
48. Rules and Regulations for the Licensure of Physician Ambulatory Surgery Centers and Podiatry Ambulatory Surgery Centers
49. Rules and Regulations for the Licensure of Physician Assistants
50. Rules and Regulations for the Licensure of Veterinarians
51. Rules and Regulations for the Registration of Body Piercing Technicians and Body Piercing Establishments
52. Rules and Regulations for the Registration of Distributors of Controlled Substances in Rhode Island
53. Rules and Regulations for the Registration of Tanning Facilities
54. Rules and Regulations for the Registration of Tattoo Artists and Tattoo Parlors
55. Rules and Regulations for the Utilization Review of Health Care Services
56. Rules and Regulations Governing Vital Statistics
57. Rules and Regulations Pertaining to Certification of Managers in Food Safety
58. Rules and Regulations Pertaining to Dentists, Dental Hygienists, and Dental Assistants
59. Rules and Regulations Pertaining to Embalmers, Funeral Directors, and Funeral Service Establishments
60. Rules and Regulations Pertaining to Opticians
61. Rules and Regulations Pertaining to Optometrists
62. Rules and Regulations Pertaining to Permits for Screening Programs
63. Rules and Regulations Pertaining to Pharmacists, Pharmacies and Manufacturers, Wholesalers, and Distributors
64. Rules and Regulations Pertaining to Public Drinking Water
65. Rules and Regulations Pertaining to Rhode Island Certificates of Registration for Nursing Assistants, Medication Aides, and the Approval of Nursing Assistant and Medication Aide Training Programs
66. Rules and Regulations Pertaining to the Certification of Public Drinking Water Supply Treatment and Public Water Supply Transmission and Distribution Operators

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67. Rules and Regulations Pertaining to the Licensing of Dietitians/Nutritionists
 68. Rules and Regulations Pertaining to the Medical Examiner System
 69. Rules and Regulations Pertaining to the Newborn Metabolic, Endocrine, and Hemoglobinopathy Screening Program and the Newborn Hearing Loss Screening Program
 70. Rules and Regulations Pertaining to the Processing and Distribution of Shellfish
 71. Rules and Regulations Prescribing Minimum Standards for Processing, Storage and Transportation of Fish and Fishery Products
 72. Rules and Regulations Related to the Licensure of Hearing Aid Dealers and Fitters
 73. Rules and Regulations Related to the Medical Marijuana Program
 74. Rules and Regulations Related to the Practice of Electrolysis
 75. Rules and Regulations Relating to Emergency Medical Services
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Notice is hereby given in accordance with the provisions of §42-35-3(a)(2) of the Rhode Island General Laws, as amended, that the Director is affording all interested persons the opportunity to submit data, views, or arguments in writing on this matter. Opportunity for public hearing shall be granted if requested by twenty-five (25) persons, by a government subdivision or agency, or by an association having not less than twenty-five (25) members. *Otherwise, no hearing shall be convened.* Should a hearing be requested by twenty-five (25) persons, by a government subdivision or agency, or by an association having not less than twenty-five (25) members, *a hearing shall be scheduled only for the regulation(s) for which the request for hearing was received.* All regulations for which a public hearing is not requested will be filed with the Rhode Island Secretary of State pursuant to Chapter 42-35 of the Rhode Island General Laws, as amended, shortly after the **10 September 2012** deadline (as below).

Such input or requests for public hearing must be received in writing **no later than Monday, 10 September 2012**. Such input or requests should be addressed to: Michael Fine, M.D., Director, Rhode Island Department of Health, Three Capitol Hill, Room #401, Providence, Rhode Island 02908-5097.

In the development of these amendments, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach, duplication, or overlap was identified based upon available information.

Copies of all regulations are available for public inspection in the Cannon Building, Room #201, Rhode Island Department of Health, Three Capitol Hill, Providence, Rhode Island 02908-5097, on the Secretary of State's website: <http://www.sos.ri.gov/rules/>, by calling 401-222-7767, or by e-mail to Bill.Dundulis@health.ri.gov.

Signed this 3rd day of August 2012

Original signed by Michael Fine, MD

Michael Fine, M.D., Director of Health

RULES AND REGULATIONS FOR LICENSING RESPIRATORY CARE PRACTITIONERS

[R23-39-RCP]

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



DEPARTMENT OF HEALTH

July 1988

AS AMENDED:

May 2001

November 2001

January 2002 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)

January 2007 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)

September 2007

January 2012 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)

August 2012 (Proposed)

COMPILER'S NOTES:

Proposed Additions: Underlined

Proposed Deletions: ~~Strikeouts~~

INTRODUCTION

These *Rules and Regulations For Licensing Respiratory Care Practitioners [R23-39-RCP]* are promulgated pursuant to the authority conferred under section 23-39-6 (6) of the General Laws of Rhode Island, as amended, are established for the purpose of adopting prevailing standards for the licensure of respiratory care practitioners in this state.

Pursuant to the provision of section 42-35-3(c) of the General Laws of Rhode Island, as amended, the following issues were given consideration in arriving at the regulations: (1) alternative approaches to the regulations; and (2) duplication or overlap with other state regulations. Based on available information, no known duplication, overlap, or alternative approach was identified.

These amended regulations shall supersede all previous *Rules and Regulations For Licensing Respiratory Care Practitioners* promulgated by the Department of Health and filed with the Secretary of State.

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PART I *Definitions*

Section 1.0 *Definitions*

Wherever used in these rules and regulations the following terms shall be construed as follows:

- 1.1 **"Act"** means Chapter 23-39 of the General Laws of Rhode Island, entitled "Respiratory Care Act."
- 1.2 **"Board"** means the Board of Respiratory Care established in accordance with the provisions of section 23-39-5 of the Act.
- 1.3 **"Department"** means the Rhode Island Department of Health.
- 1.4 **"Director"** means the Director of the Rhode Island Department of Health.
- 1.5 **"Division"** means the Division of Professional Regulation of the Rhode Island Department of Health.
- 1.6 **"Respiratory care"** (including respiratory therapy and inhalation therapy) means a health profession, under qualified medical direction, employed in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the cardiopulmonary system and associated aspects of other system function.
- 1.7 **"Respiratory care practitioner"** means a person who is licensed to practice respiratory care in Rhode Island. The respiratory care practitioner may transcribe and implement a physician's written and verbal orders pertaining to the practice of respiratory care as defined herein.
- 1.8 **"Respiratory care training program"** means a program accredited or recognized by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) in collaboration with the Committee on Accreditation for Respiratory Care (CoARC) or other such accrediting agency as may be approved by the Board.

PART II *Licensure Requirements for Respiratory Care Practitioners*

Section 2.0 *General Requirements*

- 2.1 No person shall practice respiratory care or represent himself or herself to be a respiratory care practitioner unless he or she is licensed as a respiratory care practitioner in accordance with the provisions of the Act and the regulations herein, except as otherwise provided by the Act.
 - 2.1.1 Nothing in the provisions of the Act and the regulations herein is intended to limit, preclude or otherwise interfere with the practices of other persons and health providers licensed by appropriate agencies of Rhode Island, self-care by a patient or gratuitous care by a friend or family member who does not represent or hold himself or herself to be a respiratory care practitioner or respiratory care services in case of an emergency in accordance with section 23-39-4 of the Act.
 - 2.1.2 Exempt from the provisions of these rules and regulations are individuals enrolled in a respiratory care training program whereby said individuals are not prohibited from performing those duties essential for completion of a student's clinical service, provided, that the duties are performed under the supervision or direction of a physician or licensed respiratory care practitioner and the individual is identified as a "student respiratory care practitioner" in accordance with professional accreditation standards.
 - 2.1.3 Furthermore, no person shall use any title or abbreviation to indicate that he or she is a licensed respiratory care practitioner unless licensed as a respiratory care practitioner under the statutory and regulatory provisions herein.

Section 3.0 *Qualifications for Licensure*

- 3.1 An applicant seeking licensure to practice respiratory care in this state must:
 - a) be of good moral character;
 - b) have successfully completed a respiratory care training program as defined in section 1.8 herein or such other respiratory training program as approved by the Board;
 - c) have successfully passed the National Board for Respiratory Care (NBRC) entry-level examination;
 - d) hold a certificate as a Certified Respiratory Therapist (CRT) by the National Board for Respiratory Care (NBRC) or hold a certificate as a Registered Respiratory Therapist (RRT) by the National Board for Respiratory Care (NBRC).
- 3.2 Respiratory care providers who are licensed or otherwise regulated to practice under the laws of another state or territory or the District of Columbia, and who have applied for licensure in this state, may, upon receiving an authorization from the Division, perform as a respiratory care practitioner under the supervision of a qualified and licensed respiratory care practitioner until such time as he/she is licensed. If such applicant fails to receive licensure when the Board reviews the application, all aforementioned privileges shall automatically cease upon notice to the applicant.

Section 4.0 *Application for Licensure and Fees*

- 4.1 Any applicant desiring to become licensed as a respiratory care practitioner in this state shall make application to the Board on forms provided by the Division. Said form shall be completed, notarized and shall be accompanied by the following documents and fees (non-refundable and non-returnable):
- a) two (2) letters of reference from reputable individuals other than relatives and at least one (1) of which shall be from a practicing respiratory care practitioner;
 - b) i) ***For U.S. Citizens:*** a certified copy of birth certificate;
ii) ***For Foreign Graduates:*** if a certified copy of birth certificate cannot be obtained, immigration papers or resident alien card or such other birth verifying papers acceptable to the Division;
 - c) a recent identification photograph of the applicant, head and shoulder front view approximately 2X3 inches in size;
 - d) a chronological resume of experience from the time of graduation from the training program in respiratory care to the date of application for licensure;
 - e) a statement from the board of respiratory care in each state in which the applicant has held or holds licensure or registration to be submitted to the Division of this state attesting to the licensure status of the applicant during the time period applicant held licensure or registration in said state;
 - f) supporting certified transcripts of education credentials as required in the appropriate section of 3.0. Such documentation must consist of original statements and/or photocopies bearing the signature of the dean or director of the respiratory care training program and the imprint of the school seal or other supporting documentation as approved by the Board;
 - g) the results of the entry-level examination submitted to the Division directly by the National Board for Respiratory Care entry-level examination or notarized copy of certification as a Certified Respiratory Therapist (CRT) by the National Board for Respiratory Care (NBRC) or notarized copy of certification as a Registered Respiratory Therapist (RRT) by the National Board for Respiratory Care (NBRC);
 - h) the application fee of ~~one hundred seventy dollars (\$170.00), made payable by check to the General Treasurer, state of Rhode Island~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health*; and
 - i) such other information as may be deemed necessary and appropriate by the Board.

Section 5.0 *Examination*

- 5.1 ***By Examination:*** Applicants shall be required to pass the National Board for Respiratory Care entry-level examination to test the applicant's knowledge and skills to practice respiratory care in this state pursuant to the statutory and regulatory provisions.
- 5.2 ***By Re-Examination:*** An applicant who fails to successfully pass the National Board for

Respiratory Care entry-level examination may be entitled to re-examination in accordance with the policies of the National Board for Respiratory Care Examiners.

- 5.3 Sites and schedules of examination may be obtained directly from the national examination service or from the Division.

Section 6.0 *Issuance and Renewal of License and Fee*

- 6.1 Upon completion of the aforementioned requirements of section 4.0, the Board may recommend to the Director that a license be issued to those applicants found to have satisfactorily met all the requirements herein. Said license unless suspended or revoked shall expire biennially (every two years) on 1 September.
- 6.2 On or before the first day of July of every two (2) years, the Administrator of the Division shall mail an application for renewal of license to every person to whom a license has been issued or renewed during the past two (2) years. Every person licensed who intends to practice as a respiratory care practitioner shall file a renewal application fully executed together with the renewal fee of ~~one hundred thirty dollars (\$130.00)~~ as set forth in the Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health, submitted to the Division on or before the first day of August biennially (every two (2) years).
- 6.3 Upon receipt of a renewal application and payment of fee, the accuracy of the application shall be verified and a license renewal shall be granted effective 1 September in that year for a two (2) year period, unless sooner suspended or revoked.

Section 7.0 *Graduate Respiratory Care Practitioners*

- 7.1 Every graduate of a board approved respiratory care school who has filed a respiratory care practitioner application for licensure, may upon receiving a receipt (graduate permit) from the Division for said application and documents, perform as a respiratory care practitioner under the supervision of a respiratory care practitioner licensed in this state.
- 7.1.1 During this interim period the graduate practitioner shall identify himself or herself only as a "graduate respiratory care practitioner."
- 7.1.2 If a graduate respiratory care practitioner fails to take the entry-level examination within ninety (90) days from the effective date of graduate status, without due cause or fails to pass the entry-level examination, and fails to be granted a license, all aforementioned privileges shall automatically cease upon notice to the applicant.

Section 8.0 *Inactive Status*

- 8.1 Upon request, the Division shall grant inactive status to a licensee who does not intend to practice his or her profession within this state during the period covered by the inactive status. Said person may be reinstated without payment of a penalty fee upon application and presentation of evidence of completion of such requirements, and payment of current license renewal fee.

8.2 Upon reinstatement to active status, a licensee must show proof of having completed continuing education during the two (2) years immediately preceding reinstatement in such amount as is prescribed in section 10.0 herein.

Section 9.0 *Practice of Respiratory Care*

9.1 Respiratory care provided by respiratory care practitioners shall be consistent with prevailing standards of practice.

Section 10.0 *Continuing Education Requirements*

10.1 Applicants for biennial licensure renewal shall meet continuing education requirements as prescribed herein.

10.2 On application for renewal of license, respiratory care practitioners shall attest to completion of twelve (12) hours biennially in discipline-specific offerings (see below) that may include, but not be limited to: formal presentations, inservice programs, conferences, and/or self-study courses, such as distance learning and on-line courses. Such programs or offerings shall be approved or sponsored by a Board-approved organization (see section 10.4 below).

10.3 Hours of continuing education shall be recognized by the Board as follows:

<p>Category I: Formal continuing education programs that may consist of workshops, inservice programs; professional continuing education activities and scientific meetings and self-directed continuing education activities that may consist of local, regional, national symposia, colloquia, journal clubs, self-study courses, on-line courses, distance learning activities and/or institutes; or re-credentialing examinations through the National Board for Respiratory Care (NBRC).</p>	<p>Credit: One (1) hour for each hour attended, except for NBRC re-credentialing examinations that carry the specific number of credit hours approved by the American Association for Respiratory Care (AARC)</p>
<p>Category II : Formal presentations by the licensee at a conference/seminar where continuing education credit has been approved by one of the sponsoring organizations cited in section 10.4 herein</p>	<p>Credit: Two (2) hours for each hour of instruction; four (4) hours for two (2) hours of instruction; six (6) hours for three (3) hours of instruction; up to a maximum of six (6) hours per two (2) year cycle</p>

10.4 Continuing education programs or offerings sponsored or approved by the following organizations are deemed to be approved by the Board:

- American Academy of Pediatrics
- American Association for Respiratory Care
- American College of Allergy, Asthma, and Immunology
- American College of Chest Physicians
- American Heart Association
- American Hospital Association

- American Lung Association
- American Medical Association
- American Society of Anesthesiologists
- American Society of Electroneurodiagnostic Technologists
- American Thoracic Society
- National Institute of Health/National Heart Lung Blood Institute
- New England Society of Electroneurodiagnostic Technologists
- Rhode Island Medical Society or other state medical society
- Rhode Island State Nurses Association or other state nurses association
- Or others as may be approved by the Board.

10.5 Discipline-specific offerings or programs for respiratory care practitioners are defined to include the following:

Role Components Professional Development Criteria

Patient Care	<p>Scientific knowledge, clinical care, and/or critical thinking skills to provide care for patients in the following disease management or health promotion areas:</p> <ul style="list-style-type: none"> • Cardiopulmonary • Pediatrics • Gerontology • Respiratory • Neonatology • Neurology <p>Advanced knowledge and/or skills to develop clinical expertise within multiple practice arenas (e.g., critical care units, emergency department, rehabilitation, subacute, skilled nursing facilities, ambulatory and home care environments) including, but not limited to, the following therapeutic and diagnostic modalities:</p> <ul style="list-style-type: none"> • airway management • arterial blood gases • cardiopulmonary pharmacology • smoking cessation • spirometry testing • therapeutic modality related to cardiopulmonary care • ventilator management <p>Enhanced skills in patient assessment and care related to:</p> <ul style="list-style-type: none"> • patient rights and ethical issues • community-based resources to manage the continuum of care • sleep disorders • functional assessment and discharge planning
Education	<p>Patient and family educational assessment and teaching skills Delegation and supervision skills Health care team resources and consultant role development Publication, presentation skills</p>

Role Components Professional Development Criteria

Research

Application and evaluation of patient care models:

- managed care/capitated reimbursement
- coordinated care and case management
- disease management

Protocol development

Continuous quality improvement methods and measures

Outcome measures and performance improvements

Data and variance analysis

Research methods and study design

Proposal and grant writing

- 10.6 It shall be the sole responsibility of the individual respiratory care practitioner to obtain documentation (e.g., course descriptions, proof of attendance) from the sponsoring organization, agency, or institution of his/her participation in a continuing education program and/or activity. These documents shall be retained by each licensee for no less than four (4) years and are subject to random audit by the Department.
- 10.7 A licensee who fails to complete the continuing education requirements described herein may be subject to disciplinary action pursuant to section 23-39-14 of the Act.

PART III *Violations / Sanctions / Severability*

Section 11.0 *Violations and Sanctions*

- 11.1 Any violation of the provisions of the Act and the rules and regulations herein, shall be cause for the Board to deny, revoke or suspend an individual's license or impose such other disciplinary action pursuant to section 23-39-14 of the Act, if the Board finds an applicant or a licensed respiratory care practitioner has been found guilty of unprofessional conduct by reason of any one or more of the following causes:
- a) fraud in the procurement of any license under the statutory and regulatory provisions herein;
 - b) imposition of any disciplinary action upon a person by any agency of another state which regulates respiratory care but not to exceed the period or extent of such action;
 - c) conviction of a crime which substantially relates to the qualifications, functions or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction;
 - d) impersonating or acting as a proxy for an applicant in any examination given under the Act and the regulations herein;
 - e) habitual or excessive use of intoxicants or drugs;
 - f) gross negligence in his or her practice as a respiratory care practitioner;
 - g) violating any of the provisions of the Act or any of the rules and regulations herein or aiding or abetting any person to violate the provisions of or any rules or regulations adopted thereunder under the Act;
 - h) engaging in acts of unprofessional conduct which includes, but is not limited to, deviating from the prevailing standards of respiratory care practice; and
 - i) committing any fraudulent, dishonest or corrupt act which is substantially related to the qualifications, functions, or duties of respiratory care practitioners.

Section 12.0 *Rules Governing Practices and Procedures*

- 12.1 All hearings and reviews required under the provisions of Chapter 23-39 of the Act shall be held in accordance with established Board practices, the provisions of the Act and the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)*.

Section 13.0 *Severability*

- 13.1 If any provisions of these rules and regulations or the application thereof to any persons or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.

REFERENCES

1. "Respiratory Care Act.", Chapter 23-39 of the Rhode Island General Laws, as amended.
2. "Administrative Procedures Act", Chapter 42-35 of the General Laws of Rhode Island, as amended.
3. *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)*, Rhode Island Department of Health, October 2000 and subsequent amendments thereto.
4. National Board for Respiratory Care website may be accessed at: **www.nbrc.org**
(Examination applications and practice examinations are available for downloading from this site).

Tuesday, July 31, 2012

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