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 Notice ID(s): 3161
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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

| | |
|---------------------------------|---|
| Agency/Board/Commission: | Board of Respiratory Care |
| Division: | |
| Contact Person: | Samuel L. Moore, Senior Associate General Counsel |
| Address: | 665 Mainstream Drive, Nashville, TN 37243 |
| Phone: | 615-741-1611 |
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

| | |
|---------------------|--|
| ADA Contact: | ADA Coordinator |
| Address: | 710 James Robertson Parkway Andrew Johnson Building, 5 th Floor, Nashville, TN 37243 |
| Phone: | 615-741-6350 |
| Email: | Tina.M.Harris2@tn.gov |

Hearing Location(s) (for additional locations, copy and paste table)

| | |
|---------------|--|
| Address 1: | Metro Center |
| Address 2: | 665 Mainstream Drive |
| City: | Nashville, Tennessee |
| Zip: | 37228 |
| Hearing Date: | November 12, 2020 |
| Hearing Time: | 9:00am |
| | <input checked="" type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT |

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

| Chapter Number | Chapter Title |
|----------------|--|
| 1330-01 | General Rules and Regulations Governing Respiratory Care Practitioners |
| Rule Number | Rule Title |
| 1330-01-.03 | Delivery of Respiratory Equipment to a Patient's Place of Residence |
| 1330-01-.09 | Renewal of License |

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

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

Rule Amendment

Rule 1330-01-.03, Title, is amended by deleting the words "delivery of" and "to a" in the title and adding the words "used by a patient in the" so that as amended the new title shall read:

Respiratory Equipment Used by a Patient in the Patient's Place of Residence.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-102, 63-27-104, 63-27-105, 63-27-110, and 63-27-117.

Rule 1330-01-.03, paragraph (1), is amended by deleting the word "When" and replacing it with the language "With respect to," by deleting the language "is delivered and installed in a," and replacing it with the language "used by a patient in the," adding the language "which shall include, but not be limited to, a home residence, private dwelling, nursing home facility, skilled nursing facility, assisted living, hospital, or other place where the patient resides," and deleting the language "because they are part of the administration of medical gasses," and replacing it with the language "regardless of whether the acts are performed in the patient's place of residence or in another setting," and is further amended in subparagraph (d) by adding the language "and infection prevention," so that, as amended, paragraph (1) shall read:

- (1) With respect to respiratory equipment used by a patient in the patient's place of residence, which shall include, but not be limited to, a home residence, private dwelling, nursing home facility, skilled nursing facility, assisted living, hospital, or other place where the patient resides, the following acts constitute the practice of respiratory care regardless of whether the acts are performed in the patient's place of residence or in another setting:
 - (a) Initial patient assessment;
 - (b) Attachment of the respiratory equipment to the patient;
 - (c) Ongoing assessment of the patient's response to the administration of the medical gas;
 - (d) Initial and ongoing instruction and education of the patient (and of the patient's family or other caregiver, where relevant) with respect to the role of the respiratory equipment in managing the patient's disease or condition and infection prevention; and
 - (e) Recommendation to the physician of needed modifications in the physician's order.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-102, 63-27-104, 63-27-105, 63-27-110, and 63-27-117.

Rule 1330-01-.03, paragraph (2), is amended by deleting the word "When" and replacing it with the language "With respect to," by deleting the language "is delivered and installed in a patient's place of residence," and replacing it with the language "used by a patient in the patient's place of residence, as defined in paragraph (1) above," is further amended in subparagraph (c), subpart 1., by adding the language "Oxygen," "pressure regulators/flow controllers to deliver a," "of oxygen," "to the patient through," and "only;" is amended in subparagraph (c), subpart 3., by removing the word "with" and adding the language "to deliver a," "of oxygen," "to the patient through," and "only," is amended in subparagraph (c), subpart 4., by removing the word "with" and adding the language "to deliver a," "of oxygen," "to the patient through," and "only; and," is amended in subparagraph (c), subpart 6., by adding the language "for nasal cannula," is amended in subparagraph (c), by deleting subparts 2., 5., and 7. in their entirety, and is amended in subparagraph (g) by adding the language "but not including the setting of adjustments," so that, as amended, paragraph (2) shall read:

- (2) With respect to respiratory equipment used by a patient in the patient's place of residence, as defined in paragraph (1) above, the following acts do not constitute the practice of respiratory care:

- (a) Delivery of respiratory equipment and supplies (initial and replacement) to the patient's place of residence;
- (b) Assembly of respiratory equipment in the patient's place of residence;
- (c) Explanation to the patient of the proper operation and maintenance of the following respiratory equipment:
 - 1. Oxygen cylinders used with pressure regulators/flow controllers to deliver a low flow of oxygen (set at less than 6.00 liters per minute) to the patient through nasal cannula only;
 - 2. Home liquid oxygen systems used to deliver a low flow of oxygen (set at less than 6.00 liters per minute) to the patient through nasal cannula only;
 - 3. Oxygen concentrators used to deliver a low flow of oxygen (set at less than 6.00 liters per minute) to the patient through nasal cannula only; and
 - 4. Humidifiers for nasal cannula.
- (d) Initial inspection and assessment of the environment in which the respiratory equipment is to be used;
- (e) Exchange of empty medical gas cylinders;
- (f) Refilling of liquid oxygen containers; and
- (g) Servicing (including repair and maintenance) of respiratory equipment, but not including the setting of adjustments.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-102, 63-27-104, 63-27-105, 63-27-110, and 63-27-117.

Rule 1330-01-.03, paragraph (3), is amended by deleting the language "in a patient's place of residence," and replacing it with the language "and to be used by a patient in the patient's place of residence, as defined in paragraph (1) above," is amended in subparagraph (e) by adding the word "and," and is amended by deleting subparagraph (f) in its entirety, so that, as amended, paragraph (3) shall read:

- (3) With respect to the following respiratory equipment when delivered and installed, and to be used by a patient in the patient's place of residence, as defined in paragraph (1) above, all acts except delivery, repair and maintenance constitute the practice of respiratory care:
 - (a) Continuous Positive Airway Pressure Devices;
 - (b) Bi-Level Positive Airway Pressure Devices;
 - (c) Ventilators;
 - (d) Apnea monitors;
 - (e) High-flow (6.00 liters per minute or higher) nasal cannula; and
 - (f) All other respiratory equipment not listed in subparagraph (2)(c).

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-102, 63-27-104, 63-27-105, 63-27-110, and 63-27-117.

Rule 1330-01-.03 is amended by adding a new paragraph (5), so that as amended, new paragraph (5) shall read:

- (5) Nothing in paragraphs (1) through (4) shall prohibit any person licensed or certified to practice any of the other health-related professions in this state under any law from engaging in the practice for which such person is licensed or certified.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-27-102, 63-27-104, 63-27-105, 63-27-110, and 63-27-117.

Rule 1330-01-.09, Renewal of a License, paragraph (2), subparagraph (a), is amended by deleting the language "all past due registration/" and replacing it with the word "the," is amended by deleting the plural "s" and adding the language "pursuant to Rule 1330-01-.06," and deleting the word "and," so that, as amended, paragraph (2), subparagraph (a), shall read:

- (a) Obtaining and fully completing the Board's Reinstatement Application and submitting it along with payment of the renewal fee, pursuant to Rule 1330-01-.06, to the Board office;

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-27-102, 63-27-104, 63-27-105, 63-27-109, 63-27-113, and 63-27-116.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 9-7-2020

Signature: 

Name of Officer: Samuel L. Moore

Senior Associate General Counsel

Title of Officer: Department of Health

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Tre Hargett
Secretary of State

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