

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

RESPIRATORY CARE - GENERAL RULES

Filed with the secretary of state on October 28, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16145, 16148, 16174, 16287, and 18709 of the public health code, 1978 PA 368, MCL 333.16145, 333.16148, 333.16174, 333.16287, and 333.18709, and Executive Reorganization Order Nos. 1991-9, 1996-2, 2003-1, and 2011-4, MCL 338.3501, 445.2001, 445.2011, and 445.2030)

R 338.2201, R 338.2201a, R 338.2205, R 338.2206, and R 338.2207 of the Michigan Administrative Code are amended, R 338.2201b is added, and R 228.2202b is rescinded, as follows:

PART 1. GENERAL PROVISIONS

R 338.2201 Definitions.

Rule 2201. (1) As used in these rules:

- (a) "Board" means the board of respiratory care
- (b) "Code" means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.
- (c) "Department" means the department of licensing and regulatory affairs.
- (d) "Endorsement" means the acknowledgement that the licensing criteria in 1 jurisdiction is substantially equivalent to the criteria established and described in section 16186 of the code, MCL 333.16186.

(2) The terms defined in the code have the same meanings when used in these rules.

R 338.2201a Training standards for identifying victims of human trafficking; requirements.

Rule 2201a. (1) Pursuant to section 16148 of the code, MCL 333.16148, an individual licensed or seeking licensure shall complete training in identifying victims of human trafficking that meets the following standards:

- (a) Training content must cover all of the following:
 - (i) Understanding the types and venues of human trafficking in Michigan or the United States.
 - (ii) Identifying victims of human trafficking in health care settings.
 - (iii) Identifying the warning signs of human trafficking in health care settings for adults and minors.

- (iv) Resources for reporting the suspected victims of human trafficking.
- (b) Acceptable providers or methods of training include any of the following:
 - (i) Training offered by a nationally recognized or state-recognized, health-related organization.
 - (ii) Training offered by, or in conjunction with, a state or federal agency.
 - (iii) Training obtained in an educational program that has been approved by the department in consultation with the board for initial licensure, or by a college or university.
 - (iv) Reading an article related to the identification of victims of human trafficking that meets the requirements of subdivision (1)(a) of this subrule and is published in a peer review journal, health care journal, or professional or scientific journal.
- (c) Acceptable modalities of training includes any of the following:
 - (i) Teleconference or webinar.
 - (ii) Online presentation.
 - (iii) Live presentation.
 - (iv) Printed or electronic media.
- (2) The department may select and audit a sample of individuals and request documentation of proof of completion of training. If audited by the department, an individual shall provide an acceptable proof of completion of training, including either of the following:
 - (a) Proof of completion certificate issued by the training provider that includes the date, provider name, name of training, and individual's name.
 - (b) A self-certification statement by an individual. The certification statement must include the individual's name and either of the following:
 - (i) For training completed pursuant to subrule (1)(b)(i) to (iii) of this rule, the date, training provider name, and name of training.
 - (ii) For training completed pursuant to subrule (1)(b)(iv) of this rule, the title of article, author, publication name of peer review journal, health care journal, or professional or scientific journal, and date, volume, and issue of publication, as applicable.
- (3) Pursuant to section 16148 of the code, MCL 333.16148, the requirements specified in subrule (1) of this rule apply to license renewals beginning December 2018 and initial licenses issued after March 16, 2021.

R 338.2201b Telehealth.

- Rule 2201b. (1) Consent for treatment must be obtained before providing a telehealth service pursuant to section 16284 of the code, MCL 333.16284.
- (2) Evidence of consent for treatment must be maintained in a patient's medical record and retained in compliance with section 16213 of the code, MCL 333.16213.
- (3) A respiratory therapist providing any telehealth service shall do both of the following:
 - (a) Act within the scope of his or her practice.
 - (b) Exercise the same standard of care applicable to a traditional, in-person health care service.

PART 2. LICENSURE

R 338.2202b. Rescinded.

R 338.2205 Licensure by endorsement; respiratory therapist.

Rule 2205. (1) An applicant for a respiratory therapist license by endorsement, in addition to meeting the requirements of the code and the administrative rules promulgated under the code, shall comply with all of the following:

(a) Submit a completed application on a form provided by the department, together with the requisite fee.

(b) Hold an active license, registration, or certification in good standing from another state immediately preceding the date of filing an application for licensure by endorsement.

(c) Provide verification of his or her license, registration, or certification from the licensing agency of each state in which the applicant holds, or has ever held, a license, registration, or certification to practice respiratory care. If applicable, verification must include the record of any disciplinary action taken or pending against the applicant.

(2) In addition to complying with the requirements of subrule (1) of this rule, if the applicant has been licensed for less than 5 years immediately preceding the date of the application, he or she shall comply with all of the following:

(a) Submit educational information that satisfies the requirements of R 338.2202.

(b) Submit NBRC examination and certification information that satisfies the requirements of R 338.2202.

(c) Be of good moral character.

PART 3. EDUCATION

R 338.2206 Accreditation standards; adoption by reference.

Rule 2206. (1) The department in consultation with the board approves, and adopts by reference, the following standards for accrediting respiratory therapist educational programs from the Commission on Accreditation for Respiratory Care (CoARC). Copies of these standards may be obtained at cost from CoARC, 1248 Harwood Rd., Bedford, Texas 76021-4244, or at no cost from the CoARC website, www.coarc.com. Copies may be obtained at a cost of 10 cents per page from the Michigan Board of Respiratory Care, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan 48909. Any respiratory therapist educational program that is accredited by CoARC is a respiratory therapist educational program approved by department in consultation with the board.

(a) "Accreditation Policies and Procedures Manual," March 14, 2020.

(b) "Accreditation Standards for Entry into Respiratory Care Professional Practice," effective January 1, 2018.

(c) "Accreditation Standards for Degree Advancement Programs in Respiratory Care," effective January 1, 2018.

(2) The department in consultation with the board adopts by reference the procedures and criteria for recognizing accrediting organizations of the Council of Higher Education Accreditation (CHEA), effective June 28, 2010, and the procedures and criteria for recognizing accrediting agencies of the United States Department of Education, effective July 1, 2010, as contained in 34 CFR part 602. The CHEA recognition standards may be

obtained from CHEA, One Dupont Circle NW, Suite 510, Washington, DC 20036-1110, or from the council's website at www.chea.org at no cost. The federal recognition criteria may be obtained at no cost from the United States Department of Education's website at: www.ed.gov. Copies of the standards and criteria recognizing accrediting agencies used by CHEA and the Department of Education are available for inspection and distribution at a cost of 10 cents per page from the Board of Respiratory Care, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, 611 West Ottawa, P.O. Box 30670, Lansing, Michigan 48909.

PART 4. RELICENSURE

R 338.2207 Relicensure.

Rule 2207. An applicant for relicensure whose license has lapsed, under section 16201(3) or (4) of the code, MCL 333.16201, as applicable, may be relicensed by complying with the following requirements as noted by (√):

(1) For an applicant who has let his or her license lapse and who does not hold a current and valid respiratory care license, registration, or certification in another state of the United States or province of Canada:	Lapsed 3 Years or less	Lapsed more than 3 Years
(a) Submit a completed application on a form provided by the department, together with the requisite fee.	√	√
(b) Establish that the applicant is of good moral character.		√
(c) Submit fingerprints as set forth in section 16174(3) of the code, MCL 333.16174.		√
(d) Provide to the department documentation that the applicant passed the NBRC certification examination within the 2 years immediately preceding the application for relicensure.		√
(e) An applicant's respiratory care license, registration, or certification in good standing must be verified by the licensing agency of any state of the United States or province of Canada in which the applicant ever held a respiratory care license, registration, or certification. Verification must include the record of any disciplinary action taken or pending against the applicant.	√	√

(2) For an applicant who has let his or her license lapse and holds a current and valid respiratory care license, registration, or certificate within another state of the United States or province of Canada:		
(a) Submit a completed application on a form provided by the department, together with the requisite fee.	√	√
(b) Establish that the applicant is of good moral character.		√
(c) Submit fingerprints as set forth in section 16174(3) of the code, MCL 333.16174.		√
(d) An applicant's respiratory care license, registration, or certification in good standing must be verified by the licensing agency of any state of the United States or province of Canada in which the applicant holds or has ever held a respiratory care license, registration, or certification. Verification must include the record of any disciplinary action taken or pending against the applicant.	√	√