

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING**  
**CHAPTER 23 RESPIRATORY CARE PRACTITIONER**  
**PART 6 INITIAL APPLICATION AND RENEWAL OF TEMPORARY PERMITS FOR**  
**STUDENTS, STUDENT EXTERNS, AND GRADUATES**

**16.23.6.1 ISSUING AGENCY:** New Mexico Regulation and Licensing Department in consultation with the Advisory Board of Respiratory Care Practitioners.  
[16.23.6.1 NMAC - Rp, 16.23.6.1 NMAC, 04/21/2022]

**16.23.6.2 SCOPE:** The provisions of Part 6 of Chapter 23 apply to respiratory care program student externs or graduates applying for temporary permits to work for remuneration under the training, direction, and supervision of a New Mexico licensed respiratory care practitioner or New Mexico licensed physician who has agreed to be the applicant's training supervisor in a supervisory facility.  
[16.23.6.2 NMAC - Rp, 16.23.6.2 NMAC, 04/21/2022]

**16.23.6.3 STATUTORY AUTHORITY:** Part 6 of Chapter 23 is promulgated pursuant to the Respiratory Care Act, Section 61-12B-6 NMSA 1978.  
[16.23.6.3 NMAC - Rp, 16.23.6.3 NMAC, 04/21/2022]

**16.23.6.4 DURATION:** Permanent.  
[16.23.6.4 NMAC - Rp, 16.23.6.4 NMAC, 04/21/2022]

**16.23.6.5 EFFECTIVE DATE:** April 21, 2022 unless a later date is cited at the end of a section.  
[16.23.6.5 NMAC - Rp, 16.23.6.5 NMAC, 04/21/2022]

**16.23.6.6 OBJECTIVE:** The objective of Part 6 of Chapter 23 is to establish the qualification requirements and application procedures for a student extern or graduate of a respiratory care program to obtain a temporary permit under the provisions of the Respiratory Care Act in order to become employed in the furnishing of respiratory care under the limitations described herein.  
[16.23.6.6 NMAC - Rp, 16.23.6.6 NMAC, 04/21/2022]

**16.23.6.7 DEFINITIONS:** All definitions related to this section are in 16.23.1.7 NMAC.  
[16.23.6.7 NMAC - Rp, 16.23.6.7 NMAC, 04/21/2022]

**16.23.6.8 APPLICATION REQUIREMENTS FOR STUDENTS:** Persons enrolled in an approved respiratory care training program who are performing respiratory care services in a supervisory facility as part of the training, but receiving no remuneration for those services, are not required to have a temporary permit issued by the department.  
[16.23.6.8 NMAC - Rp, 16.23.6.8 NMAC, 04/21/2022]

**16.23.6.9 APPLICATION REQUIREMENTS FOR STUDENT EXTERNS:** The department, in consultation with the board, will issue temporary permits to respiratory care student externs enrolled in a traditional or non-traditional respiratory care training program approved as set forth in Paragraph (4) of Subsection A and Paragraph (5) of Subsection R of 16.23.1 NMAC, or by the board and who provide satisfactory evidence of the following:

- A. Verification of current respiratory care program enrollment sent directly by the educational institution to the department.
- B. A color passport-type photograph taken within the past year.
- C. A notarized statement or letter sent by the applicant's direct supervisor confirming the location and status of the applicant's employment.
- D. An agreement signed by the proposed training supervisor made under penalty of perjury, which certifies that the supervisor will provide training and direct supervision which meets the requirements of these regulations.
- E. A temporary permit application form approved and provided by the department, completed by the applicant, and signed by the applicant attesting that the information on the application is complete under penalty of perjury.

**F.** Payment to the board in the amount set forth in Subsection A of 16.23.2.8 NMAC.  
[16.23.6.9 NMAC - Rp, 16.23.6.9 NMAC, 04/21/2022]

**16.23.6.10 APPLICATION REQUIREMENTS FOR GRADUATES:** The department, in consultation with the board, will issue non-renewable temporary permits to non-licensed graduates from an approved respiratory care training and education program (see Subsections E and GG of 16.23.6.1 NMAC), and who provide the following:

- A.** the required items listed in of Subsections B, C, D and E of 16.23.6.9 NMAC;
  - B.** a copy of the applicant's graduation certificate or diploma from an approved respiratory care training and educational program; or
  - C.** the applicant's graduate transcript sent directly to the department by the educational institution; or an official copy of the transcripts sent directly from the program; or a letter sent directly from the program director prior to matriculation; and
  - D.** proof of good faith attempts and reasonable progress in pursuing the NBRC credentialing as a RRT, by providing a copy of the letter scheduling the applicant for the NBRC, or RRT credentialing examination if the applicant has not taken the credentialing examination previously but, is scheduled to sit for it.
- [16.23.6.10 NMAC - Rp, 16.23.6.10 NMAC, 04/21/2022]

**16.23.6.11 INITIAL TEMPORARY PERMIT ISSUANCE UPON APPROVAL:** After the applicant has met all the requirements for a temporary permit, and the application has received approval by the department, in consultation with the board, the applicant will be issued a temporary permit for one year.

- A.** The temporary permit is only valid if the conditions of the permit remain unchanged.
  - B.** A temporary permit will be sent by the department to the person on record as the permittee's training supervisor.
- [16.23.6.11 NMAC - Rp, 16.23.6.11 NMAC, 04/21/2022]

**16.23.6.12 [RESERVED]**

[16.23.6.12 NMAC - Rp, 16.23.6.12 NMAC, 04/21/2022]

**16.23.6.13 LIMITATIONS ON STUDENT EXTERN TEMPORARY PERMITS:** Student externs and graduates with temporary permits will be limited in the performance of respiratory care to those competence levels that have written verification and in accordance with the safe practice and patient care safety regulations of the facility.

- A.** Temporary permits are only valid for the performance of respiratory care under the direct supervision of the training supervisor who signed the supervisor's agreement portion of the applicant's application for the temporary permit.
- B.** Any change in supervision or in employment by either the permittee or the training supervisor invalidates the permit and must be reported to the department. Since the training supervisor is responsible for the respiratory care administered by the permittee, it is advisable for the training supervisor in this circumstance to document to the department that he or she is no longer professionally responsible for the permittee.
- C.** A temporary permit issued to a respiratory care student extern is immediately invalid upon the student extern's withdrawal from the respiratory care training and education program.
- D.** A student extern temporary permit may not be renewed more than two times.

[16.23.6.13 NMAC - Rp, 16.23.6.13 NMAC, 04/21/2022]

**16.23.6.14 [RESERVED]**

[16.23.6.14 NMAC - Rp, 16.23.6.14 NMAC, 04/21/2022]

**16.23.6.15 RE-ENROLLMENT IN NEW PROGRAM:** If an applicant has failed or withdrawn from a program and at a later date enrolls in a *new* approved respiratory care program, he or she may apply for a *new* permit under the new program.

- A.** With the application, the applicant must provide a letter to the department explaining the circumstances of withdrawal from the previous program and of enrollment in the new program.
- B.** The applicant must meet all the application requirements set forth in 16.23.6.9 NMAC.
- C.** The previous temporary permit number will be reissued.

**D.** All applicable provisions in 16.23.6 NMAC and 16.23.7 NMAC will apply to the new temporary permit.  
[16.23.6.15 NMAC - Rp, 16.23.6.15 NMAC, 04/21/2022]

**16.23.6.16 LICENSE REQUIRED UPON CREDENTIALING:** Any respiratory care training program graduate who holds a temporary permit and has successfully passed the NBRC, RRT credentialing examination must apply for and receive a respiratory care practitioner's license before he or she may be recognized as a RCP, and may practice as such, independent of training supervision in New Mexico.  
[16.23.6.16 NMAC - Rp, 16.23.6.16 NMAC, 04/21/2022]

**16.23.6.17 [RESERVED]**  
[16.23.6.17 NMAC - Rp, 16.23.6.17 NMAC, 04/21/2022]

**16.23.6.18 [RESERVED]**  
[16.23.6.18 NMAC - Rp, 16.23.6.18 NMAC, 04/21/2022]

**16.23.6.19 DIRECT SUPERVISION IN PRACTICE:** The training supervisor must hold a current license as a RCP in New Mexico, and shall train the temporary permittee in the performance of respiratory care functions until the training supervisor determines that the permittee is competent to perform those functions independently. The degree of independence extended to the permittee is contingent upon the supervised training received by the permittee from the training supervisor who is ultimately medically and legally liable for the actions of the permittee.

**A.** The training supervisor is the agent of the facility and trains the trainee permittee in accordance with the safe practice and patient care safety standards of the facility.

**B.** Before the permittee is allowed to perform respiratory care functions independently, the provisions of 16.23.6.13 NMAC require that the training supervisor file with the facility a written verification that the permittee is competent to perform respiratory care functions.

**C.** When the facility allows the permittee to perform the approved respiratory care functions on patients, the facility assumes responsibility as well.

[16.23.6.19 NMAC - Rp, 16.23.6.19 NMAC, 04/21/2022]

**16.23.6.20 BACK-UP FOR TRAINING SUPERVISOR:**

**A.** The training supervisor shall have a written back-up system to ensure that there is a licensed RCP on site who is privileged to perform all of the duties the institution assigns to a licensed RCP.

**B.** The training supervisor is ultimately responsible for the actions of the permittee.  
[16.23.6.20 NMAC - Rp, 16.23.6.20 NMAC, 04/21/2022]

**16.23.6.21 [RESERVED]**  
[16.23.6.21 NMAC - Rp, 16.23.6.21 NMAC, 04/21/2022]

**16.23.6.22 TEMPORARY STUDENT PERMIT EXPIRATION:**

**A.** Temporary permits are issued for a period of one year, and will expire on the last day of the month in which the initial permit was issued.

**B.** Renewed temporary permits will also expire on the last day of the same month in which the permit was initially issued.

**C.** The number of permits possible will be a total of three maximum regardless of the period of unemployment while the permittee is enrolled in the respiratory care training program.

[16.23.6.22 NMAC - Rp, 16.23.6.22 NMAC, 04/21/2022]

**16.23.6.23 RENEWAL REQUIREMENTS AND PROCESS FOR STUDENT TEMPORARY PERMITS:**

**A.** At least 45 days before the temporary permit expiration date, the department will mail the permittee a temporary permit renewal notice and an application form to apply for permit renewal.

**B.** Renewal application notices will be mailed to the last residential address on file with the department. It is the permittee's responsibility to request a renewal form if one has not been received 30 days prior to the permit expiration date.

C. The department will send the permittee's training supervisor a copy of the renewal notice, which was sent to the permittee.

D. All applicants for temporary permit renewal must meet the following requirements:

(1) Complete and sign a renewal application form approved by the department.

(2) Submit a check or money order payable to the board for the required fee as provided in

16.23.4.8 NMAC, whichever is applicable.

[16.23.6.23 NMAC - Rp, 16.23.6.23 NMAC, 04/21/2022]

**16.23.6.24 APPROVAL REQUIRED:** All temporary permit renewal requests are subject to individual review and approval by the department, in consultation with the board. If a temporary permit renewal application is approved, a renewal temporary permit will be mailed to the permittee.

[16.23.6.24 NMAC - Rp, 16.23.6.24 NMAC, 04/21/2022]

**16.23.6.25 VERIFICATION OF RENEWAL TO EMPLOYER:** A copy of the renewed temporary permit must be kept on file with the temporary permittee's employer. The department will mail a temporary permit to the training supervisor.

[16.23.6.25 NMAC - Rp, 16.23.6.25 NMAC, 04/21/2022]

**16.23.6.26 FINAL PERMIT - NO RENEWAL:** Forty-five days prior to the expiration date of the third and final permit (initial permit plus two renewals), the permittee and the permittee's training supervisor will be notified that the permittee's permit lapse is imminent, and that the privileges allowed by the permit will no longer be authorized.

A. In order to continue practicing in the profession, the permittee must complete the process for practitioner license application as set forth in 16.23.3 NMAC.

B. Any licensed practitioner who aids and abets the continued practice of a person whose permit privileges have lapsed shall be subject to disciplinary action by the department for violation of the Respiratory Care Act and Subsection H of 16.23.17.8 NMAC.

[16.23.6.26 NMAC - Rp, 16.23.6.26 NMAC, 04/21/2022]

#### **History of 16.23.6 NMAC:**

##### **Pre-NMAC History:**

The material in Part 6 was derived from regulations previously filed with the State Records Center and Archives Center by former department name Health and Environment Department, rule numbers, HED-85-1 (HSD), "Regulations Governing the Respiratory Care Act," filed 1/22/1985; HED-87-3 (HSD), "Regulations Governing the Respiratory Care Act," filed 5/11/1978; and by department name Regulation & Licensing Department, former division name, Boards & Commissions Division rule number BCD 87-3, "Regulations Governing the Respiratory Care Act," filed 12/10/1987. Applicable provisions were also filed by department name Regulation and Licensing Department, Respiratory Care Advisory Board in rule numbers, Rule 91-1, "Definitions," filed 8/20/1991 and Rule 1, "Definitions," filed 3/22/1995; Rule 91-4, "Application Procedure," filed on 8/20/1991; Rule 91-3, "Temporary Permits," filed on 8/20/1991; and Rule 3, "Temporary Permits," filed on 10/7/1992.

##### **HISTORY OF REPEALED MATERIAL:**

16.23.6 NMAC, "Temporary Permits", filed 6/6/2002 - Repealed effective 7/15/2017.

16.23.6 NMAC, "Temporary Permits", filed 06/15/2017 - Repealed effective 04/21/2022.

**Other History:** 16 NMAC 23.6, "Temporary Permits", was renumbered to 16.23.6 NMAC, filed on 6/6/2000.

16.23.6 NMAC, "Temporary Permits", (filed 6/6/2000) was replaced by 16.23.6 NMAC, "Temporary Permits, effective 7/15/2017.

16.23.6 NMAC, "Temporary Permits", (filed 06/15/2017) was replaced by 16.23.6 NMAC, "Temporary Permits, effective 04/21/2022.