

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING**  
**CHAPTER 23 RESPIRATORY CARE PRACTITIONER**  
**PART 6 TEMPORARY PERMITS**

**16.23.6.1 ISSUING AGENCY:** New Mexico Regulation and Licensing Department, Respiratory Care Advisory Board P.O. Box 25101 Santa Fe, New Mexico 87504.  
[16.23.6.1 NMAC - Rp, 16.23.6.1 NMAC, 7/15/2017]

**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, 7/15/2017]

**16.23.6.3 STATUTORY AUTHORITY:** Part 6 of Chapter 23 is promulgated pursuant to the Respiratory Care Act, Paragraph (3) of Subsection A of Section 61-12B-6 NMSA 1978 and Subsection B of Section 61-12B-9, NMSA 1978.  
[16.23.6.3 NMAC - Rp, 16.23.6.3 NMAC, 7/15/2017]

**16.23.6.4 DURATION:** Permanent.  
[16.23.6.4 NMAC - Rp, 16.23.6.4 NMAC, 7/15/2017]

**16.23.6.5 EFFECTIVE DATE:** July 15, 2017, unless a later date is cited at the end of a section.  
[16.23.6.5 NMAC - Rp, 16.23.6.5 NMAC, 7/15/2017]

**16.23.6.6 OBJECTIVE:** The objective of Part 6 of Chapter 23 is to establish the qualification requirements and 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, 7/15/2017]

**16.23.6.7 DEFINITIONS:**

**A. "Direct supervision"** means direction and control by a training supervisor over a student extern temporary permittee or a graduate temporary permittee while the permittee is providing respiratory care procedures under the authority of the training supervisor's license.

**B. "Graduate"** means a non-licensed person who has completed an approved respiratory care training program and is employed by a supervisory facility to provide respiratory care for remuneration and in accordance with the provisions for a temporary permit issued under these regulations.

**C. "Licensing period for extern permits"** means a one year period from the date of issuance to the last day of the same month, one year later.

**D. "Licensing period for graduate permits"** means six months from the date of application and is not renewable; or until receipt of failing national board of respiratory care (NBRC) registered respiratory therapist (RRT) exam results. Initial applicants who do not become licensed within one year of becoming national board of respiratory care (NBRC) credentialed are issued a one year graduate permit from the date of application.

**E. "Non-traditional training program"** refers to a respiratory care training program in which a person receives on-the-job training in respiratory care from a supervising medical director, a supervising physician, or a licensed respiratory care practitioner, and in which the trainee may receive compensation while in such a training program.

**F. "Permittee"** means a person who has been granted a temporary permit by the department, in consultation with the board.

**G. "Student"** means a person enrolled in an approved respiratory care training and education program and who receives *no remuneration* for respiratory care services performed in a supervisory facility as part of an approved respiratory care training program.

**H. "Student extern"** means a person who is engaged by a supervisory facility to provide respiratory care *for remuneration* while enrolled in an approved respiratory care training and education program, and in accordance with the provisions for a temporary permit issued under these regulations.

**I. “Supervisory facility”** means the employer of a temporary permit holder.

**J. “Traditional training program”** refers to a respiratory care training program that provides classroom instruction and clinical experience only to students or student externs under direct supervision of a licensed and responsible professional.

**K. “Training supervisor”** means a New Mexico licensed respiratory care practitioner licensed as a certified respiratory therapist (CRT), registered respiratory therapist (RRT) or a New Mexico licensed physician who agrees to be responsible for the respiratory care administered by student externs and graduates while these individuals are employed by a supervisory facility and are being trained there.

[16.23.6.7 NMAC - Rp, 16.23.6.7 NMAC, 7/15/2017]

**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, 7/15/2017]

**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 Subsections E and GG of 16.23.1 NMAC, 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.** A notarized agreement signed by the proposed training supervisor 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 by the department, completed by the applicant, and signed by the applicant in the presence of a notary public.

**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, 7/15/2017]

**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 national board of respiratory care (NBRC) credentialing as a registered respiratory therapist (RRT), by providing a copy of the letter scheduling the applicant for the national board of respiratory care (NBRC) certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credentialing exam if the applicant has not taken the credentialing exam before, but is scheduled to sit for it.

[16.23.6.10 NMAC - Rp, 16.23.6.10 NMAC, 7/15/2017]

**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, 7/15/2017]

**16.23.6.12 ADDRESS OR EMPLOYMENT CHANGES:** The permittee must keep the department informed immediately of any changes in residential and employment addresses and phone numbers so that renewal notices and department correspondence will be received by the permittee.  
[16.23.6.12 NMAC - Rp, 16.23.6.12 NMAC, 7/15/2017]

**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, 7/15/2017]

**16.23.6.14 [RESERVED]**

**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 Part 6 and Part 7 will apply to the new temporary permit.  
[16.23.6.15 NMAC - Rp, 16.23.6.15 NMAC, 7/15/2017]

**16.23.6.16 LICENSE REQUIRED UPON CERTIFICATION:** Any respiratory care training program graduate who holds a temporary permit and has successfully passed the national board of respiratory care (NBRC) certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credentialing exam must apply for and receive a respiratory care practitioner's license before he or she may be recognized as a respiratory care practitioner (RCP), and may practice as such, independent of training supervision in New Mexico.  
[16.23.6.16 NMAC - Rp, 16.23.6.16 NMAC, 7/15/2017]

**16.23.6.17 DUPLICATE PERMIT OR NEW PERMIT WITH NAME CHANGE:** In the event a temporary permit is lost or destroyed, or the permittee has had a legal name change, the same procedures provided for issuance of a duplicate or new license for name change in 16.23.4.14 NMAC & 16.23.4.15 NMAC must be followed by the permittee. The fee listed in 16.23.2.8 NMAC shall apply in either case.  
[16.23.6.17 NMAC - Rp, 16.23.6.17 NMAC, 7/15/2017]

**16.23.6.18 [RESERVED]**

**16.23.6.19 DIRECT SUPERVISION IN PRACTICE:** The training supervisor may be a certified respiratory therapist (CRT) or (registered respiratory therapist (RRT) 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, 7/15/2017]

**16.23.6.20 BACK-UP SYSTEM IN TRAINING:** It makes good medical and legal sense for the training supervisor to have a back-up training system as he or she cannot be available 24 hours a day and may or may not be in the room or on the facility premises when the permittee is performing the approved respiratory care functions.

**A.** The training supervisor shall have a written back-up system to include respiratory, nursing, and medical staff to be available for the permittee if he or she is faced with a problem or determines that a respiratory care procedure that he or she has not yet received approval to perform independently is immediately necessary for a patient.

**B.** The back-up system shall provide written procedures available for the permittee. For instance, for instruction or assistance by phone, page, intercom, etc., from the training supervisor, or a respiratory care practitioner, a charge nurse, or any physician in the facility.

**C.** The training supervisor is ultimately responsible for the actions of the permittee.  
[16.23.6.20 NMAC - Rp, 16.23.6.20 NMAC, 7/15/2017]

**16.23.6.21 INCOMPLETE APPLICATIONS PURGED:** Incomplete applications for licensure will be purged from board files two years from the date the first item of documentation was received.

[16.23.6.21 NMAC - Rp, 16.23.6.21 NMAC, 7/15/2017]

#### **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.

**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.