

**DEPARTMENT OF HEALTH AND MENTAL HYGIENE  
COMMISSIONER OF HEALTH AND MENTAL HYGIENE**

**NOTICE OF ADOPTION  
OF THE REPEAL OF CHAPTER 5 AND CHAPTER 8  
OF TITLE 24 OF THE RULES OF THE CITY OF NEW YORK**

In compliance with §1043 (a) of the New York City Charter (the “Charter”), a notice of intention to repeal Chapter 5 and Chapter 8 of Title 24 of the Rules of the City of New York (“RCNY”) was published in the City Record on April 7, 2013. The notice of intention indicated that no public hearing would be held, and that any comments on the proposed repeal should be submitted on or before April 9, 2013. No comments were received.

**Statement of Basis and Purpose**

Statutory Authority

The repeal of Chapter 5 and Chapter 8 of Title 24 of the Rules of the City of New York is authorized by §§556 and 1043 of the New York City Charter (the “Charter”).

- Section 556 of the Charter authorizes the Department of Health and Mental Hygiene (the “Department”) to regulate all matters affecting health in the city of New York.
- Section 1043 of the Charter gives the Department rulemaking powers.

Background

Chapter 5 (Inhalation Therapy Service) and Chapter 8 (Examination, Licensing and Procedure Relating to Motion Picture Theatre Matrons) of Title 24 of the Rules of the City of New York are being repealed as both provisions are outdated and no longer needed.

**Repeal Chapter 5 of Title 24 of the Rules of the City of New York**

Chapter 5, licensing suppliers (‘purveyors’) and persons who administer “inhalation therapy” and regulating how equipment containing medical gases is to be safely used and maintained was added to the Department’s rules in 1943 to implement §17-335 (formerly §561-3.0) of the Administrative Code of the City of New York (Administrative Code). At the time the law was enacted and these rules were adopted there were no other applicable federal and state laws and regulations. This is no longer the case, and both the manufacture and administration of medical gases are regulated by the federal and state governments. Currently manufacturing of containers and gases used for medical purposes is regulated by the U.S. Food and Drug Administration and the gases must conform to the quality standards established in the US Pharmacopeia. People qualified to administer medical gases to patients are licensed professionals, including respiratory therapists and respiratory therapy technicians, regulated in New York State by Article 164 of the State

Education Law. Use and handling of tanks holding gases for medical uses is regulated in hospitals by the State Department of Health, and flammable gases must be used in accordance with applicable fire codes. Although the Department continues to issue a small number -- less than a dozen -- inhalation therapy purveyor and therapist licenses per year, it has not had the expertise or resources to enforce its rules for many years, and as these rules are no longer current, are duplicative of other law, and no longer necessary this Chapter is being repealed.

#### Repeal Chapter 8 of Title 24 of the Rules of the City of New York

In 1937, Chapter 2 of Title 20 (Consumer Affairs) of the City's Administrative Code was amended to add a new Subchapter 1 (Motion Picture Exhibitions), licensing motion picture theatres, and a new Subchapter 2 (Admission of Children) to regulate admission of children to motion picture theatres without adult escorts. Chapter 8 of the Department's rules was adopted in 1943 to provide for examination and licensing requirements for motion picture theatre matrons to implement Administrative Code §20-209 (formerly §B 32-30.0) of Subchapter 2. After both subchapters were repealed in 1995, no further matron licenses were issued by the Department. Accordingly, this chapter is being repealed.

The rule is as follows:

Section 1. Chapter 5 (Inhalation Therapy Service) of Title 24 of the Rules of the City of New York is repealed.

§2. Chapter 8 (Examination, Licensing and Procedure Relating to Motion Picture Matrons) of Title 24 of the Rules of the City of New York, is repealed.