

TITLE 54
PROFESSIONS, VOCATIONS, AND BUSINESSES

CHAPTER 43
RESPIRATORY CARE PRACTICE ACT

54-4301. SHORT TITLE. This act shall be known and may be cited as the "Respiratory Care Practice Act."

[54-4301, added 2021, ch. 21, sec. 2, p. 54.]

54-4302. LEGISLATIVE INTENT. To promote the highest degree of professional conduct on the part of persons providing respiratory care to the public and to assure the availability of respiratory care services of high quality to persons in need of such services, it is the intent of the legislature to provide for the licensure and regulation of persons offering respiratory care services to the public.

[54-4302, added 2021, ch. 21, sec. 2, p. 55.]

54-4303. DEFINITIONS. As used in this chapter:

- (1) "Board" means the state board of medicine.
- (2) "Certified respiratory therapist" or "CRT" means the professional designation earned by a person who has successfully completed the entry level examination required by the board.
- (3) "Licensure board" means the licensure board established by this chapter.
- (4) "Polysomnographic technician" means a person who holds a permit and meets requirements as set forth in section [54-4307](#), Idaho Code.
- (5) "Polysomnographic technologist" means a person who holds a permit and meets requirements as set forth in section [54-4307](#), Idaho Code.
- (6) "Polysomnography" means the process of analysis, attended monitoring, and recording of physiologic data during sleep and wakefulness to assist in the assessment and diagnosis of sleep/wake disorders and other disorders, syndromes, and dysfunctions that are sleep-related, manifest during sleep, or disrupt normal sleep/wake cycles and activities.
- (7) "Polysomnography-related respiratory care services" means the limited practice of respiratory care in the provision of polysomnography services.
- (8) "Practice of respiratory care" means the provision of cardiopulmonary care services as directed by a qualified health care practitioner licensed in the state, including but not limited to the diagnostic and therapeutic use of the following:
 - (a) Except for the purpose of anesthesia, administration of medical gases, aerosols, and humidification;
 - (b) Environmental control mechanisms and hyperbaric therapy;
 - (c) Pharmacologic agents related to respiratory care procedures;
 - (d) Mechanical or physiological ventilatory support;
 - (e) Bronchopulmonary hygiene;
 - (f) Cardiopulmonary resuscitation;
 - (g) Maintenance of artificial airways;
 - (h) Specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of pulmonary abnormalities, including measurement

of ventilatory volumes, pressures, and flows, collection of specimens of blood and blood gases, expired and inspired gas samples, respiratory secretions, and pulmonary functioning testing;

(i) Hemodynamic and other related physiologic measurements of the cardiopulmonary system;

(j) Accepting and carrying out a practitioner's written, verbal, or telephonic prescription or order specifically relating to respiratory care in a hospital or other health care setting; and

(k) Functioning in situations of patient contact requiring individual judgment in administering respiratory care under the general supervision of a qualified practitioner.

(9) "Registered respiratory therapist" or "RRT" means the professional designation earned by a person who has successfully completed the written registry and clinical simulation examinations administered by the national board for respiratory care.

(10) "Respiratory care" means the treatment, management, diagnostic testing, monitoring, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system.

(11) "Respiratory care practitioner" means a person who has been issued a license or permit by the board under the provisions of this chapter to practice respiratory care under the general supervision of a licensed physician or other authorized licensed health care professional.

(12) "Sleep disorder center or laboratory" means a facility for sleep-related disorders that provides polysomnography and is under the supervision of a physician or medical director licensed in the state of Idaho.

(13) "Written registry and clinical simulation examinations" means the certification examinations administered by a board-approved national accrediting organization.

[54-4303, added 2021, ch. 21, sec. 2, p. 55.]

54-4304. LICENSURE BOARD. (1) The licensure board shall consist of five (5) members appointed by the board, including three (3) licensed respiratory therapists, one (1) licensed respiratory therapist who is also a permitted polysomnographic technologist, and one (1) member of the public. All members shall be residents of Idaho at the time of their appointments and for their terms of service.

(2) In making appointments to the licensure board, the board shall give consideration to recommendations made by the Idaho society for respiratory care, the Idaho sleep professionals association, or other professional organizations or individuals.

(3) Licensure board members shall serve terms not to exceed three (3) years. No person shall be appointed to serve more than two (2) terms. In the event of death, resignation, or removal of any member before the expiration of the term to which appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(4) The board may, upon recommendation of the licensure board, or upon its own motion, remove any member of the licensure board, for cause, prior to the expiration of the member's term.

(5) The licensure board shall at least annually hold a meeting and elect a chairperson who shall preside at meetings of the licensure board. In the event the chairperson is not present at any licensure board meeting, the licensure board may by majority vote of the members present appoint a temporary chairperson.

(6) A majority of the members of the licensure board shall constitute a quorum. Other meetings may be convened at the call of the chairperson or the written request of any two (2) licensure board members.

(7) Each member of the licensure board shall be compensated as provided in section [59-509](#)(n), Idaho Code.

[54-4304, added 2021, ch. 21, sec. 2, p. 56.]

54-4305. BOARD OF MEDICINE AND LICENSURE BOARD -- POWERS AND DUTIES -- FUNDS. (1) The board shall administer, coordinate, and enforce the provisions of this chapter and, for that purpose, may hire such employees as may be necessary. The licensure board shall make recommendations to, and consult with, the board concerning qualification of applicants for licensure, issuance of licenses, revocation of licenses, and rules to be promulgated under this chapter.

(2) The board may, upon recommendation of the licensure board, adopt rules pursuant to [chapter 52, title 67](#), Idaho Code, necessary to implement the provisions of this chapter, including but not limited to rules relating to professional licensure examination, the establishment of ethical standards of practice, disciplinary proceedings, and license suspension or revocation for persons holding a license or permit to practice in this state under the provisions of this chapter.

(3) The licensure board shall hold meetings, conduct hearings, and keep records and minutes as are necessary to carry out its functions.

(4) All fees received under the provisions of this chapter shall be deposited in the state treasury to the credit of the state board of medicine fund created in section [54-1809](#), Idaho Code. All costs and expenses incurred by the board and licensure board under the provisions of this chapter shall be a charge against and paid from said fund for such purposes. The funds collected pursuant to this chapter shall be immediately available for the administration of this chapter. In no instance shall the state board of medicine fund be obligated to pay any claims that, in aggregate with claims already allowed, exceed the income to the state board of medicine fund that has been derived from the application of this chapter. Moneys paid into the state board of medicine fund pursuant to this chapter are hereby continuously appropriated to the board for expenditure in the manner prescribed in this chapter to defray the expenses of the board and licensure board in carrying out and enforcing the provisions of this chapter.

[54-4305, added 2021, ch. 21, sec. 2, p. 56.]

54-4306. LICENSE OR PERMIT REQUIRED -- PROVISIONAL LICENSE OR PERMIT. (1) Except as otherwise provided in this chapter, it shall be unlawful for any person to practice or offer to practice respiratory care or polysomnography-related respiratory care or for a person or entity to represent a person to be a respiratory care or polysomnography-related respiratory care practitioner unless such person is licensed or holds a valid permit under the provisions of this chapter or is exempt from the requirements of this chapter.

(2) The board may issue provisional licenses or permits to graduates of approved respiratory care or polysomnography-related respiratory care education programs seeking to qualify for licensure pursuant to this chapter. Provisional licenses and permits shall be issued upon such terms and conditions as the board may determine necessary to ensure safe and qualified

performance of respiratory care or polysomnography-related respiratory care functions. The issuance of a provisional license or permit shall be as set forth in this chapter and pursuant to board rule.

[54-4306, added 2021, ch. 21, sec. 2, p. 57.]

54-4307. POLYSOMNOGRAPHY-RELATED RESPIRATORY CARE. (1) Only persons who are licensed as respiratory care practitioners or who are exempt from licensure pursuant to section [54-4312](#), Idaho Code, or who hold a permit issued by the board under the provisions of this chapter may provide polysomnography-related respiratory care services.

(2) An applicant for a permit to provide polysomnography-related respiratory care services must:

(a) Submit an application to the board on forms prescribed by the board and pay the permit fee required under this chapter;

(b) Not have been convicted of an offense or disciplined by a licensing body in a manner that bears, in the judgment of the board, a demonstrable relationship to the provision of polysomnography-related respiratory care services;

(c) Be a high school graduate or have passed a general educational development (GED) examination and earned a GED certificate; and

(d) Be currently certified in cardiopulmonary resuscitation.

(3) A polysomnographic technologist applicant must have successfully completed the certification examination approved by the board.

(4) A polysomnographic technician applicant must have successfully completed a polysomnography program of not less than one (1) year duration, associated with a nationally accredited educational facility.

[54-4307, added 2021, ch. 21, sec. 2, p. 57.]

54-4308. REQUIREMENTS FOR LICENSURE. (1) A person who meets the requirements for licensure under the provisions of this section and who is not exempt from the requirements of this chapter pursuant to section [54-4312](#), Idaho Code, shall apply to the licensure board for the issuance of a license. The completed application shall be on a form provided by the board.

(2) The board shall issue a license to an applicant if the applicant makes a satisfactory showing to the licensure board that he has:

(a) Not been convicted of a crime deemed relevant in accordance with section [67-9411](#)(1), Idaho Code;

(b) Not been subjected to disciplinary action in any state or territory of the United States or in any foreign country arising from a showing of gross negligence or intentional misconduct directly related to the provision of respiratory care; and

(c) Successfully received respiratory care credentialing by a board-approved national accrediting organization.

[54-4308, added 2021, ch. 21, sec. 2, p. 57.]

54-4309. ISSUANCE OF LICENSE OR PERMIT. The board shall issue a license to any person who meets the requirements of this chapter upon payment of the prescribed fees. The board may, in its discretion, by rule or regulation, provide for the proration of fees charged in conjunction with the initial application by a person for a license if such license shall, upon issuance,

remain valid for less than one (1) full calendar year before the required renewal date as provided for in section [54-4310](#), Idaho Code.

[54-4309, added 2021, ch. 21, sec. 2, p. 58.]

54-4310. LICENSE OR PERMIT EXPIRATION AND RENEWAL. (1) A license or permit issued under the provisions of this chapter shall be subject to renewal every one (1) or two (2) years and shall expire unless renewed in the manner prescribed by the rules of the licensure board upon payment of a renewal fee.

(2) Each individual applicant for renewal of an active license shall, on or before the expiration of the license, submit satisfactory proof to the licensing board of successful completion of no fewer than twelve (12) hours of board-approved continuing education in addition to any other requirements for renewal.

(3) Upon application, the board shall grant inactive status to the holder of a license who does not practice or provide respiratory care.

(4) The board shall establish the following fees relating to licensing, which fees shall be established in an amount sufficient to defray all costs necessary for the administration of this chapter:

- (a) Initial license and examination fee;
- (b) Renewal of license fee;
- (c) Inactive license fee; and
- (d) Provisional license or permit fee.

(5) No license that has been expired for more than twenty-four (24) months may be renewed. The applicant shall comply with the requirements of section [54-4308](#), Idaho Code, for obtaining an initial license.

[54-4310, added 2021, ch. 21, sec. 2, p. 58.]

54-4311. SUSPENSION AND REVOCATION OF LICENSE OR PERMIT -- REFUSAL TO RENEW. (1) Subject to the provisions of [chapter 52, title 67](#), Idaho Code, the board may deny a license or permit or refuse to renew a license or permit, may suspend or revoke a license or permit, or may impose probationary conditions if the holder of a license or permit or applicant for a license or permit has been found guilty of conduct that has endangered or is likely to endanger the health, welfare, or safety of the public. Such conduct includes but is not limited to:

- (a) Obtaining a license or permit by means of fraud, misrepresentation, or concealment of material facts;
- (b) Violating any of the grounds for discipline set forth in the rules established by the board;
- (c) Being convicted of a crime that would have a direct and adverse bearing on the licensee's or permit holder's ability to practice or perform respiratory care competently;
- (d) The unauthorized practice of medicine;
- (e) Violating any provision of this chapter or any of the rules and regulations promulgated by the board under the authority of this chapter; or
- (f) Being found mentally incompetent by a court of competent jurisdiction or being found mentally incompetent or unfit by the board to provide respiratory care.

(2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license or permit may be ordered by the

board after a hearing in the manner provided by this chapter and the rules adopted by the board.

[54-4311, added 2021, ch. 21, sec. 2, p. 58.]

54-4312. EXEMPTIONS. (1) Nothing in this chapter is to be construed as preventing or restricting the performance of respiratory care or requiring licensure or a permit pursuant to this chapter:

(a) Of any person authorized in this state under any other law who carries out only those professional duties and functions for which such person has been specifically trained and for which professional designations are conferred;

(b) Of certified pulmonary function technologists and registered pulmonary function technologists who carry out only those professional duties and functions for which such persons have been specifically trained and for which such professional designations are conferred;

(c) Of any person employed as a respiratory therapist by the government of the United States or any agency thereof if such person practices or provides respiratory care solely under the direction or control of the organization by which such person is employed;

(d) Of any person actively pursuing in good faith a full-time supervised course of study leading to a degree or certificate in respiratory care in an American medical association accredited or approved educational program, or the equivalent as determined by the board, where the practice or provision of respiratory care by such person is supervised by a respiratory care practitioner or by a licensed physician;

(e) Of any person performing respiratory care in the state for purposes of continuing education, consulting, or training, if these services are performed for no more than thirty (30) days in a calendar year in association with a respiratory care practitioner licensed under this chapter or in association with a licensed physician, if:

(i) The person is licensed as a respiratory care practitioner or the equivalent, as determined by the board, in good standing in another state or the District of Columbia or in a territory of the United States; or

(ii) The person is a certified respiratory therapist or registered respiratory therapist; or

(f) Of any person who administers cardiopulmonary resuscitation in an emergency situation.

(2) A person claiming an exemption under subsection (1) (c) or (1) (e) of this section shall apply for a license or a permit as provided for in this chapter in the event the facts upon which such claim for exemption is based change or cease to exist eliminating the grounds for such claim for exemption. Such application shall be filed with the board as soon as possible after the loss of the claim to exemption but no later than thirty (30) calendar days after the right to the exemption ceases. Such person may practice or perform respiratory care after the loss of such exemption and prior to application for or issuance by the board of a license or permit only under the direct supervision of a respiratory care practitioner or a licensed physician.

(3) A person claiming exemption under the provisions of subsection (1) (d) of this section shall cease to be eligible for such exemption if such person ceases to actively pursue the required course of study for a period of time in excess of one hundred twenty (120) consecutive calendar days and

immediately upon receipt of the degree or certificate for which such person pursued the course of study.

(4) The burden of proving the existence of facts entitling a person to an exemption under this section shall be upon the person claiming the exemption.

(5) The provisions of this chapter shall not prohibit hospitals from employing individuals to provide respiratory care services who are exempt from the licensing requirements of this chapter. The provisions of this chapter shall not prohibit any hospital from training qualified personnel to provide respiratory care if the trainee would be exempt under subsection (1) (a) or (1) (d) of this section, provided that said training and respiratory care services are done under the supervision of a licensed physician or a respiratory care practitioner.

[54-4312, added 2021, ch. 21, sec. 2, p. 59.]

54-4313. MISREPRESENTATION -- CONSUMER PROTECTION ACT. (1) The board may bring any action in the district court for a temporary restraining order, preliminary injunction, or permanent injunction against any person who violates the provisions of this chapter, who falsely holds himself out as a respiratory care practitioner, or who practices or provides respiratory care in violation of this chapter.

(2) Any person who falsely holds himself out as a respiratory care practitioner shall be guilty of using a method, act, or practice that is declared to be unlawful as provided in [chapter 6, title 48](#), Idaho Code.

[54-4313, added 2021, ch. 21, sec. 2, p. 60.]

54-4314. PENALTIES. Any person who violates any provision of this chapter shall, upon conviction, be guilty of a misdemeanor.

[54-4314, added 2021, ch. 21, sec. 2, p. 60.]

54-4315. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this chapter.

[54-4315, added 2021, ch. 21, sec. 2, p. 60.]