

PART V
RESPIRATORY THERAPY

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468.35 Short title.--This part shall be known and may be cited as the "Respiratory Care Act."

History.--ss. 1, 3, ch. 84-252; s. 4, ch. 91-429.

468.351 Purpose and intent; application.--

(1)(a) The purpose in enacting this part is to provide for the licensure of persons who deliver respiratory care services and who meet certain requirements. The delivery of respiratory care

services by persons licensed pursuant to this part shall not be construed to permit the practice of medicine.

(b) It is the finding of the Legislature that the delivery of respiratory care services by unskilled and incompetent persons presents a danger to the public health and safety. Because it is difficult for the public to make informed choices related to respiratory care services and since the consequences of wrong choices can seriously endanger public health and safety, it is the intent of the Legislature to prohibit the delivery of respiratory care services by persons who are determined to possess less than minimum competencies or who otherwise present a danger to the public.

(2) It is the intent of the Legislature that the department regulate blood gas laboratories and that the supervision of health care practitioners performing blood gas analysis and specimen collection for the purpose of such analysis be specified in rules pursuant to the applicable practice act. Further, it is the intent of the Legislature that personnel licensed pursuant to this part shall be exempt from the licensure provisions of chapter 483.

History.--ss. 1, 3, ch. 84-252; s. 1, ch. 86-60; s. 1, ch. 87-553; s. 4, ch. 91-429; s. 129, ch. 97-264.

468.352 Definitions.--As used in this part, the term:

(1) "Board" means the Board of Respiratory Care.

(2) "Certified respiratory therapist" means any person licensed pursuant to this part who is certified by the National Board for Respiratory Care or its successor; who is employed to deliver respiratory care services, under the order of a physician licensed pursuant to chapter 458 or chapter 459, in accordance with protocols established by a hospital or other health care provider or the board; and who functions in situations of unsupervised patient contact requiring individual judgment.

(3) "Critical care" means care given to a patient in any setting involving a life-threatening emergency.

(4) "Department" means the Department of Health.

(5) "Direct supervision" means practicing under the direction of a licensed, registered, or certified respiratory therapist who is physically on the premises and readily available, as defined by the board.

(6) "Physician supervision" means supervision and control by a physician licensed under chapter 458 or chapter 459 who assumes the legal liability for the services rendered by the personnel employed in his or her office. Except in the case of an emergency, physician supervision requires the easy availability of the physician within the office or the physical presence of the physician for consultation and direction of the actions of the persons who deliver respiratory care services.

(7) "Practice of respiratory care" or "respiratory therapy" means the allied health specialty associated with the cardiopulmonary system that is practiced under the orders of a physician licensed under chapter 458 or chapter 459 and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the board, including the assessment, diagnostic evaluation, treatment, management, control, rehabilitation, education, and care of patients in all care settings.

(8) "Registered respiratory therapist" means any person licensed under this part who is registered by the National Board for Respiratory Care or its successor, and who is employed to deliver respiratory care services under the order of a physician licensed under chapter 458 or chapter 459, in accordance with protocols established by a hospital or other health care provider or the board, and who functions in situations of unsupervised patient contact requiring individual judgment.

(9) "Respiratory care practitioner" means any person licensed under this part who is employed to deliver respiratory care services, under direct supervision, pursuant to the order of a physician licensed under chapter 458 or chapter 459.

(10) "Respiratory care services" includes:

(a) Evaluation and disease management.

(b) Diagnostic and therapeutic use of respiratory equipment, devices, or medical gas.

(c) Administration of drugs, as duly ordered or prescribed by a physician licensed under chapter 458 or chapter 459 and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the board.

(d) Initiation, management, and maintenance of equipment to assist and support ventilation and respiration.

(e) Diagnostic procedures, research, and therapeutic treatment and procedures, including measurement of ventilatory volumes, pressures, and flows; specimen collection and analysis of blood for gas transport and acid/base determinations; pulmonary-function testing; and other related physiological monitoring of cardiopulmonary systems.

(f) Cardiopulmonary rehabilitation.

(g) Cardiopulmonary resuscitation, advanced cardiac life support, neonatal resuscitation, and pediatric advanced life support, or equivalent functions.

(h) Insertion and maintenance of artificial airways and intravascular catheters.

(i) Education of patients, families, the public, or other health care providers, including disease process and management programs and smoking prevention and cessation programs.

(j) Initiation and management of hyperbaric oxygen.

History.--ss. 1, 3, ch. 84-252; s. 2, ch. 86-60; s. 2, ch. 87-553; s. 4, ch. 91-429; s. 135, ch. 94-218; s. 291, ch. 97-103; s. 130, ch. 97-264; s. 176, ch. 99-397; s. 109, ch. 2001-277; s. 1, ch. 2004-299.

468.353 Board of Respiratory Care; powers and duties.--

(1) The board is authorized to establish minimum standards for the delivery of respiratory care services and to adopt those rules necessary to administer this part.

(2) The board may administer oaths, summon witnesses, and take testimony in all matters relating to its duties under this part.

(3) The board may adopt rules to administer this part, including rules governing the investigation, inspection, and review of schools and colleges that offer courses in respiratory care in order to ascertain their compliance with standards established by the board or appropriate accrediting agencies.

History.--ss. 1, 2, 3, ch. 84-252; ss. 4, 5, ch. 91-429; s. 25, ch. 95-146; s. 177, ch. 99-397.

468.354 Board of Respiratory Care; organization; function.--

(1) There is created within the department, the Board of Respiratory Care, composed of seven members appointed by the Governor and confirmed by the Senate.

(2) The board shall include:

(a) A registered respiratory therapist.

(b) A certified respiratory therapist.

(c) A respiratory care professional from each of the following areas:

1. Respiratory care education.

2. Respiratory care management and supervision.

3. Homecare/subacute.

(d) Two consumer members, who are residents of this state and have never been licensed as health care practitioners.

Each respiratory care professional on the board must have been actively engaged in the delivery of respiratory care services in this state for at least 4 consecutive years prior to appointment.

(3)(a) Except as provided in paragraph (b), the term of office for each board member shall be 4 years. No member shall serve for more than two consecutive terms. Any time there is a vacancy

to be filled, all professional organizations dealing with respiratory therapy incorporated within the state as not for profit which register their interest shall recommend at least twice as many persons to fill the vacancy as the number of vacancies to be filled, and the Governor may appoint from the submitted list, in his or her discretion, any of those persons so recommended. The Governor shall, insofar as possible, appoint persons from different geographical areas.

(b) To achieve staggering of terms, within 120 days after July 1, 1999, the Governor shall appoint the board members as follows:

1. Two members shall be appointed for terms of 2 years.
2. Two members shall be appointed for terms of 3 years.
3. Three members shall be appointed for terms of 4 years.

(c) All provisions of chapter 456, relating to boards apply to this part.

(4)(a) The board shall annually elect from among its members a chair and vice chair.

(b) The board shall meet at least twice a year and shall hold additional meetings as are deemed necessary. Four members of the council constitute a quorum.

(c) Unless otherwise provided by law, a board member shall be compensated \$50 for each day he or she attends an official board meeting and for each day he or she participates in any other board business. A board member shall also be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of the state shall require the prior approval of the ¹State Surgeon General.

(5) The board may recommend to the department a code of ethics for those persons licensed pursuant to this part.

History.--ss. 1, 2, 3, ch. 84-252; s. 3, ch. 86-60; s. 3, ch. 87-553; ss. 4, 5, ch. 91-429; s. 25, ch. 95-146; s. 292, ch. 97-103; s. 131, ch. 97-264; s. 57, ch. 99-5; s. 178, ch. 99-397; s. 11, ch. 2000-159; s. 142, ch. 2000-160; s. 80, ch. 2001-62.

¹**Note.**--Chapter 2007-40 redesignated the Secretary of Health as the State Surgeon General.

468.355 Licensure requirements.--To be eligible for licensure by the board, an applicant must be an active "certified respiratory therapist" or an active "registered respiratory therapist" as designated by the National Board for Respiratory Care, or its successor.

History.--ss. 1, 3, ch. 84-252; s. 4, ch. 86-60; s. 4, ch. 91-429; s. 132, ch. 97-264; s. 179, ch. 99-397; s. 110, ch. 2001-277; s. 2, ch. 2004-299.

468.358 Licensure by endorsement.--

(1) Licensure as a certified respiratory therapist shall be granted by endorsement to an individual who holds the "Certified Respiratory Therapist" credential issued by the National Board for

Respiratory Care or an equivalent credential acceptable to the board. Licensure by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

(2) Licensure as a registered respiratory therapist shall be granted by endorsement to an individual who holds the "Registered Respiratory Therapist" credential issued by the National Board for Respiratory Care or an equivalent credential acceptable to the board. Licensure by this mechanism requires verification by oath and submission of evidence satisfactory to the board that such credential is held.

(3) An individual who has been granted licensure, certification, registration, or other authority, by whatever name known, to deliver respiratory care services in another state or country may petition the board for consideration for licensure in this state and, upon verification by oath and submission of evidence of licensure, certification, registration, or other authority acceptable to the board, may be granted licensure by endorsement.

(4) Licensure shall not be granted by endorsement as provided in this section without the submission of a proper application and the payment of the requisite fees therefor.

History.--ss. 1, 3, ch. 84-252; s. 6, ch. 86-60; s. 4, ch. 91-429; s. 135, ch. 97-264; s. 112, ch. 2001-277.

468.359 Assumption of title and use of abbreviations.--

(1) Only persons who are licensed pursuant to this part as respiratory care practitioners have the right to use the title "Respiratory Care Practitioner" and the abbreviation "RCP."

(2) Only persons who are licensed pursuant to this part as registered respiratory therapists have the right to use the title "Registered Respiratory Therapist" and the abbreviation "RRT" when delivering services pursuant to this part.

(3) Only persons who are licensed pursuant to this part as certified respiratory therapists have the right to use the title "Certified Respiratory Therapist" and the abbreviation "CRT" when delivering services pursuant to this part.

(4) No person in this state shall deliver respiratory care services; advertise as, or assume the title of, respiratory care practitioner, certified respiratory therapist, or registered respiratory therapist; or use the abbreviation "RCP," "CRT," or "RRT" that would lead the public to believe that such person is licensed pursuant to this part unless such person is so licensed; or take any other action that would lead the public to believe that such person is licensed pursuant to this part unless such person is so licensed.

History.--ss. 1, 3, ch. 84-252; s. 7, ch. 86-60; s. 4, ch. 91-429; s. 136, ch. 97-264; s. 113, ch. 2001-277.

468.36 Current address.--Every licensee shall file with the department the licensee's current residence address as defined by board rule.

History.--ss. 1, 3, ch. 84-252; s. 4, ch. 91-429; s. 293, ch. 97-103; s. 137, ch. 97-264.

468.361 Renewal of licensure; continuing education.--

- (1) The department shall provide by rule a method for the biennial renewal of licensure at fees set by the board.
- (2) The board shall prescribe by rule continuing education requirements, not to exceed 24 hours biennially, as a condition for renewal of licensure. The program criteria with respect thereto shall be approved by the board.
- (3) The board shall approve continuing education courses which may be accepted in meeting the requirements of this part. Providers of such courses shall also be approved by the board.
- (4) The board may make exceptions from the requirements of this section in emergency or hardship cases.

History.--ss. 1, 3, ch. 84-252; s. 4, ch. 91-429; s. 197, ch. 94-119; s. 138, ch. 97-264.

468.363 Reactivation of licensure; continuing education.--The board shall prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license may not exceed 12 classroom hours for each year the license was inactive.

History.--ss. 1, 3, ch. 84-252; s. 4, ch. 91-429; s. 198, ch. 94-119; s. 139, ch. 97-264.

468.364 Fees; establishment; disposition.--

- (1) The board shall establish by rule fees for the following purposes:
 - (a) Application, a fee not to exceed \$50.
 - (b) Initial licensure, a fee not to exceed \$200.
 - (c) Renewal of licensure, a fee not to exceed \$200 biennially.
 - (d) Renewal of inactive licensure, a fee not to exceed \$50.
 - (e) Reactivation, a fee not to exceed \$50.
- (2) The fees established pursuant to subsection (1) shall be based upon the actual costs incurred by the department in carrying out its responsibilities under this part.
- (3) All moneys collected by the department under this part shall be deposited as required by s. 456.025.

History.--ss. 1, 3, ch. 84-252; s. 5, ch. 87-553; s. 18, ch. 88-205; s. 4, ch. 91-429; s. 140, ch. 97-264; s. 84, ch. 98-166; s. 181, ch. 99-397; s. 143, ch. 2000-160.

468.365 Disciplinary grounds and actions.--

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(a) Procuring, attempting to procure, or renewing a license as provided by this part by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having licensure, certification, registration, or other authority, by whatever name known, to deliver respiratory care services revoked, suspended, or otherwise acted against, including the denial of licensure, certification, registration, or other authority to deliver respiratory care services by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to respiratory care services or to the ability to deliver such services.

(d) Willfully making or filing a false report or record, willfully failing to file a report or record required by state or federal law, or willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records include only those reports or records which require the signature of a respiratory care practitioner or respiratory therapist licensed pursuant to this part.

(e) Circulating false, misleading, or deceptive advertising.

(f) Unprofessional conduct, which includes, but is not limited to, any departure from, or failure to conform to, acceptable standards related to the delivery of respiratory care services, as set forth by the board in rules adopted pursuant to this part.

(g) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances, as set forth by law, for any purpose other than a legitimate purpose.

(h) Willfully failing to report any violation of this part.

(i) Violating a lawful order of the board or department previously entered in a disciplinary hearing.

(j) Engaging in the delivery of respiratory care services with a revoked, suspended, or inactive license.

(k) Permitting, aiding, assisting, procuring, or advising any person who is not licensed pursuant to this part, contrary to this part or to any rule of the department or the board.

(l) Failing to perform any statutory or legal obligation placed upon a respiratory care practitioner or respiratory therapist licensed pursuant to this part.

(m) Accepting and performing professional responsibilities which the licensee knows, or has reason to know, she or he is not competent to perform.

(n) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience, or licensure to perform them.

(o) Gross or repeated malpractice or the failure to deliver respiratory care services with that level of care, skill, and treatment which is recognized by a reasonably prudent respiratory care practitioner or respiratory therapist with similar professional training as being acceptable under similar conditions and circumstances.

(p) Paying or receiving any commission, bonus, kickback, or rebate to or from, or engaging in any split-fee arrangement in any form whatsoever with, a person, organization, or agency, either directly or indirectly, for goods or services rendered to patients referred by or to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. The provisions of this paragraph shall not be construed to prevent the licensee from receiving a fee for professional consultation services.

(q) Exercising influence within a respiratory care relationship for the purpose of engaging a patient in sexual activity. A patient is presumed to be incapable of giving free, full, and informed consent to sexual activity with the patient's respiratory care practitioner or respiratory therapist.

(r) Making deceptive, untrue, or fraudulent representations in the delivery of respiratory care services or employing a trick or scheme in the delivery of respiratory care services if such a scheme or trick fails to conform to the generally prevailing standards of other licensees within the community.

(s) Soliciting patients, either personally or through an agent, through the use of fraud, deception, or otherwise misleading statements or through the exercise of intimidation or undue influence.

(t) Failing to keep written respiratory care records justifying the reason for the action taken by the licensee.

(u) Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the licensee or a third party, which includes, but is not limited to, the promoting or selling of services, goods, appliances, or drugs.

(v) Performing professional services which have not been duly ordered by a physician licensed pursuant to chapter 458 or chapter 459 and which are not in accordance with protocols established by the hospital, other health care provider, or the board, except as provided in ss. 743.064, 766.103, and 768.13.

(w) Being unable to deliver respiratory care services with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material

as a result of any mental or physical condition. In enforcing this paragraph, the department shall, upon probable cause, have authority to compel a respiratory care practitioner or respiratory therapist to submit to a mental or physical examination by physicians designated by the department. The cost of examination shall be borne by the licensee being examined. The failure of a respiratory care practitioner or respiratory therapist to submit to such an examination when so directed constitutes an admission of the allegations against her or him, upon which a default and a final order may be entered without the taking of testimony or presentation of evidence, unless the failure was due to circumstances beyond her or his control. A respiratory care practitioner or respiratory therapist affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent delivery of respiratory care services with reasonable skill and safety to her or his patients. In any proceeding under this paragraph, neither the record of proceedings nor the orders entered by the board shall be used against a respiratory care practitioner or respiratory therapist in any other proceeding.

(x) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

(3) The board shall not reinstate licensure, or cause a license to be issued to a person it has deemed unqualified, until such time as it is satisfied that such person has complied with all the terms and conditions set forth in the final order and that the respiratory care practitioner or respiratory therapist is capable of safely engaging in the delivery of respiratory care services.

(4) The board may, by rule, establish guidelines for the disposition of disciplinary cases involving specific types of violations. Such guidelines may include minimum and maximum fines, periods of supervision on probation, or conditions upon probation or reissuance of a license.

History.--ss. 1, 3, ch. 84-252; s. 8, ch. 86-60; s. 4, ch. 91-429; s. 38, ch. 95-144; s. 295, ch. 97-103; s. 141, ch. 97-264; s. 85, ch. 98-166; s. 182, ch. 99-397; s. 144, ch. 2000-160; s. 40, ch. 2001-277; s. 16, ch. 2005-240.

468.366 Penalties for violations.--

(1) It is a violation of law for any person, including any firm, association, or corporation, to:

(a) Sell or fraudulently obtain, attempt to obtain, or furnish to any person a diploma, license, or record, or aid or abet in the sale, procurement, or attempted procurement thereof.

(b) Deliver respiratory care services, as defined by this part or by rule of the board, under cover of any diploma, license, or record that was illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation.

(c) Deliver respiratory care services, as defined by this part or by rule of the board, unless such person is duly licensed to do so under the provisions of this part or unless such person is exempted pursuant to s. 468.368.

(d) Use, in connection with his or her name, any designation tending to imply that he or she is a respiratory care practitioner or a respiratory therapist, duly licensed under the provisions of this part, unless he or she is so licensed.

(e) Advertise an educational program as meeting the requirements of this part, or conduct an educational program for the preparation of respiratory care practitioners or respiratory therapists, unless such program has been approved by the board.

(f) Knowingly employ unlicensed persons in the delivery of respiratory care services, unless exempted by this part.

(g) Knowingly conceal information relative to any violation of this part.

(2) Any violation of this section is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--ss. 1, 3, ch. 84-252; s. 9, ch. 86-60; s. 4, ch. 91-429; s. 296, ch. 97-103; s. 142, ch. 97-264; s. 58, ch. 2000-318.

468.367 Injunctive relief.--The department may, in its discretion, in lieu of or in addition to any remedy set forth in this part, file a proceeding in the name of the state seeking issuance of a restraining order, an injunction, or a writ of mandamus against any person who is or has been violating any of the provisions of this part or the lawful rules, orders, or subpoenas of the department or board.

History.--ss. 1, 3, ch. 84-252; s. 4, ch. 91-429.

468.368 Exemptions.--This part may not be construed to prevent or restrict the practice, service, or activities of:

(1) Any person licensed in this state by any other law from engaging in the profession or occupation for which he or she is licensed.

(2) Any legally qualified person in the state or another state or territory who is employed by the United States Government or any agency thereof while such person is discharging his or her official duties.

(3) A friend or family member who is providing respiratory care services to an ill person and who does not represent himself or herself to be a respiratory care practitioner or respiratory therapist.

(4) An individual providing respiratory care services in an emergency who does not represent himself or herself as a respiratory care practitioner or respiratory therapist.

(5) Any individual employed to deliver, assemble, set up, or test equipment for use in a home, upon the order of a physician licensed pursuant to chapter 458 or chapter 459. This subsection does not, however, authorize the practice of respiratory care without a license.

(6) Any individual certified or registered as a pulmonary function technologist who is credentialed by the National Board for Respiratory Care for performing cardiopulmonary diagnostic studies.

(7) Any student who is enrolled in an accredited respiratory care program approved by the board, while performing respiratory care as an integral part of a required course.

(8) The delivery of incidental respiratory care to noninstitutionalized persons by surrogate family members who do not represent themselves as registered or certified respiratory care therapists.

(9) Any individual credentialed by the Underseas Hyperbaric Society in hyperbaric medicine or its equivalent as determined by the board, while performing related duties. This subsection does not, however, authorize the practice of respiratory care without a license.

History.--ss. 1, 3, ch. 84-252; s. 10, ch. 86-60; s. 6, ch. 87-553; s. 4, ch. 91-429; s. 297, ch. 97-103; s. 143, ch. 97-264; s. 3, ch. 2004-299.

468.369 Payment or reimbursement by hospitals of costs of compliance with part.--A hospital shall not be required to pay for or reimburse any person for the costs of compliance with any of the requirements of this part, including costs of continuing education.

History.--ss. 1, 3, ch. 84-252; s. 4, ch. 91-429.