

BOARD OF RESPIRATORY CARE LAWS AND RULES

Objectives:

The goal of this two hours continuing education program is to familiarize respiratory care practitioners, in the state of Florida, with the laws and rules that govern their profession. After completing this presentation, the participant would be able to:

- Explain the purpose and intent of the law
- List the duties of the Florida Board of Respiratory Care
- List requirements for licensure, renewal and reactivation
- Explain the requirements for continuing education
- Describe disciplinary guidelines and recommended penalties
- To review what constitutes Unprofessional Conduct, and the code of ethics as defined by the American Association of Respiratory Care.
- Differentiate the roles of the AARC, FSRC, C.E.Broker, JACHO, CoArc, NBRC.
- Know where to find a current copy of the Respiratory Care Act.

Content:

This self-study program contains information that can be found on the RC Practice Act. The Florida Statutes and Administrative Law Code provide information that pertains to the practice of respiratory care in Florida. The Practice Act document can be found on the Florida Board of Respiratory Care (<http://floridasrespiratorycare.gov/>) and the FSRC website. The RC Practice Act outlines the laws and rules that govern the Respiratory profession. It highlights the connection with the Board of Respiratory Care and its responsibilities to administer and enforce the act.

Maintaining an understanding of the Florida Respiratory Care Act and its rules is essential to your practice. Lawmakers can legislate changes to the laws and the board can change the rules. The state recognized how difficult it can be for a practicing respiratory therapist to keep up, and as of 2015, is requiring all respiratory therapists licensed in the state of Florida to complete a two-hour course on the laws and rules that govern the practice of respiratory therapy in Florida as part of the 24 hours of continuing education each practitioner must complete during each renewal period. This two-hour course includes information from Florida Statutes Chapter 456, which applies to all licensed healthcare professionals, Chapter 468, Part V, The Respiratory Care Act and Chapter 64B32 of the Florida Administrative Code.

This program would help you review the Disciplinary Guidelines, Continuing Educational Requirements, and fees associated with the practice of Respiratory Care in Florida.

Definitions:

It is important to understand the terms used by the government to regulate respiratory therapy practice. For purposes of clarity, the following terms and phrases used throughout this program are defined below.

- **Biennium:** Two calendar years
- **Board:** Board of Respiratory Care
- **Certified Respiratory Therapist:** Person certified by the National Board for Respiratory Care who is employed to deliver respiratory care services under the order of the physician licensed under Florida Statutes, Chapter 458 or 459, and who operates in unsupervised situations that require clinical judgment.
- **Department:** Department of Health
- **Direct supervision:** Practicing under direction of a licensed, certified or registered respiratory therapist who is physically on the premises and available if necessary.
- **Physician supervision:** Practicing under direction of a licensed physician, under Florida Statutes Chapter 458 or 459, who assumes legal liability for the respiratory care practitioner employed in his/her office and who is readily available if necessary. With the exception of emergencies, the supervising physician must be easily available within the office or present for consultation and direction.
- **Respiratory Care or Respiratory Therapy:** Allied health specialty associated with the cardiopulmonary system and practiced under orders of a physician, in accordance with policies and procedures established by the healthcare delivery system or the board. Practice includes assessment, diagnostic evaluation, treatment, management, control, rehabilitation, education and care of patients in all healthcare settings.
- **Registered Respiratory Therapist:** Person registered by NBRC who is employed to deliver respiratory care services under the order of a licensed physician and who operates in unsupervised patient situations that require clinical judgment.
- **Respiratory care practitioner:** Licensed respiratory therapist employed to deliver respiratory care services under direct supervision.
- **Respiratory care services:** evaluation and disease management; diagnostic and therapeutic use of respiratory equipment, devices or medical gas; administration of drugs prescribed by a licensed physician in accordance with established policies and procedures; initiation, management and maintenance of equipment to support ventilation; diagnostic and therapeutic treatment and procedures, including determination of acid-base status, pulmonary function testing and other physiologic monitoring of the cardiopulmonary system; cardiopulmonary rehabilitation; cardiopulmonary resuscitation, advanced cardiac life support, neonatal advanced

life support and pediatric advanced life support; insertion and maintenance of artificial airways and intravascular catheters; education of patients, families, healthcare providers and the public to include disease management and tobacco prevention and cessation; initiation and management of hyperbaric oxygen (Florida Status, Chapter 468.352)

- **Critical Care:** care given to a patient in any setting involving a life-threatening emergency.

Purpose and Intent of the Respiratory Care Act

The Respiratory Care Act exists to provide licensure to persons who meet a specific set of requirements that allows them to deliver respiratory care. In an effort to protect public health and safety, the act establishes minimum competencies to prevent incompetent or unskilled people from delivering respiratory care. The act also regulates blood gas laboratories and the healthcare practitioners who perform blood gas collection and analysis. (Florida Statutes, Chapter 468.351)

Florida Board of Respiratory Care

The purpose of the Board of Respiratory Care is to establish minimum standards for the practice of respiratory care. This includes adopting rules, administering oaths, summoning witnesses and taking testimony in matters related to its duties. It also may adopt rules to administer the governing of investigations, inspections, and review of schools and colleges offering respiratory care to ensure their compliance with the standards the board and accrediting agencies have set.

The board is made up of seven members that are appointed by the governor and confirmed by the Florida state senate. Each board member serves a four-year term. Members may not serve for more than two consecutive terms. When a vacancy occurs, nonprofit respiratory therapy organizations incorporated within the state who has registered their interest can recommend at least twice as many people to fill the vacancy as the number of vacancies available on the board. The governor can appoint a candidate to this list, although he or she is not required to do so. However, every effort should be made to appoint people from different geographical areas of the state.

The seven members include:

- One registered respiratory therapist (RRT)
- One certified respiratory therapist (CRT)
- Two consumer members who are Florida residents who have never been licensed healthcare providers
- One respiratory therapist from the specialty areas of education, management and supervision, and home care or subacute care.

All respiratory therapists on the board must have been in practice for a minimum of four consecutive years prior to their appointment. A chair and a vice-chair are elected from the board by its members.

The board must meet twice per year but can hold more meetings as needed. At least four board members must be in attendance in order to constitute a quorum.

Board members are compensated \$50 per day for each day attending a board meeting or when participating in any other board business. Members can also receive reimbursement for expenses related to board activities. However, any out-of-state travel requires approval by the State Surgeon General (Florida Statutes, Chapters 468.353 and 354).

New test for CRT/RRT

The Registry Examination System was developed to objectively measure essential knowledge, skills, and abilities required of advanced respiratory therapists, and to set uniform standards for measuring such knowledge. Effective January 2015, the name of one of the examinations that candidates take to earn the Registered Respiratory Therapist credential changes from the Written Registry Examination to the Therapist Multiple-Choice Examination (TMC). The Therapist Multiple-Choice Examination is designed to objectively measure essential knowledge, skills, and abilities required of entry-level respiratory therapists, as well as determine eligibility for the Clinical Simulation Examination (CSE). The CRT and/or RRT credentials are used as the basis for the licensure in all of the 49 states that regulate the practice of respiratory care.

What are the examination fees?

The Therapist Multiple-Choice Examination will cost \$190 for new applicants and \$150 for repeat applicants. These are the same costs for the current CRT Examination. The Clinical Simulation Examination will remain at \$200 for both new and repeat applicants.

Cut Scores

There are two established cut scores for the Therapist Multiple-Choice Examination. Candidates may become eligible to take the Clinical Simulation Examination by achieving the higher cut score on the Therapist Multiple-Choice Examination. The passing point associated with RRT eligibility is higher than the passing point associated with the CRT credential. Individuals who attempt and pass the Therapist Multiple-Choice Examination at the higher cut score and attempt and pass the Clinical Simulation Examination will be awarded the Registered Respiratory Therapist (RRT) credential.

What do the cut scores mean?

There will be two established cut scores for the Therapist Multiple-Choice Examination. If a candidate achieves the lower cut score, they will earn the CRT credential. If a candidate

achieves the higher cut score, they will earn the CRT credential AND become eligible for the Clinical Simulation Examination (provided that those eligibility requirements are met and the candidate is eligible to earn the RRT credential).

The NBRC does not publish cut scores for any examination. Candidates will receive information about their score after completing the examination.

The test consists of:

The Therapist Multiple-Choice Examination consists of 160 multiple-choice questions (140 scored items and 20 pretest items) distributed among three major content areas: Patient Data Evaluation and Recommendations, Troubleshooting and Quality Control of Equipment and Infection Control, and Initiation and Modification of Interventions. Therapist Multiple-Choice candidates will be given three hours to complete the examination.

Clinical Sims

The Clinical Simulation Examination consists of 22 problems (20 scored items and 2 pretest items). The clinical setting and patient situation for each problem are designed to simulate reality and be relevant to the clinical practice of respiratory care. Candidates will be given four hours to complete the CSE.

Licensure by endorsement

Licensure by endorsement will be granted to any respiratory care practitioner (RCP) who meets the following criteria:

- Possesses a verified CRT or RRT credential issued by the NBRC (or equivalent credential accepted by the board), with the appropriate submission of evidence and verification by oath
- Is not disqualified by reason of a violation of Chapter 456 or Chapter 468, Part V, Florida Statutes
- Has submitted the appropriate application
- Has paid the appropriate fees

Candidates who have been granted licensure in another state or country must petition the board in order to be granted licensure by endorsement in Florida (Florida Statutes, Chapter 468.358).

The board sets fees based on actual costs incurred carrying out its responsibilities, but according to statute, they cannot exceed certain amounts. For instance, the application fee cannot exceed \$50, the initial licensure cannot exceed \$200, renewal fees cannot exceed \$200 biennially, and neither renewal of an inactive license nor a reactivation fee can exceed \$50 (Florida Statutes, Chapter 468.364).

An applicant who has not practiced respiratory care for two or more years is required to complete a board-approved comprehensive review course. The review course must be at least 14 hours long and include the following topics:

- Patient assessment (3 hours)
- Hemodynamics (2 hours)
- Respiratory equipment (2 hours)
- Mechanical ventilation (2 hours)
- Pulmonary function (1 hour)
- Arterial blood gases (1 hour)
- Airway care (1 hour)
- Emergency care/special procedures (1 hour)
- General respiratory care, including medication (1 hour)

Use of Titles and Abbreviations

Only therapists licensed by the state as respiratory care practitioners can use that title or the abbreviation RCP, only those licensed as a registered respiratory therapist can use that term or RRT, and only those licensed as certified respiratory therapists can use that title or CRT when delivering services. Unless the person is licensed under the Respiratory Care Act, he or she is not permitted to deliver services, advertise for services or assume these titles (Florida Statutes, Chapters 468.359).

NBRC rules if you are licensed after July 1, 2002

The only credentials that must meet Continuing Competency Program (CCP) requirements are those earned as of July 1, 2002. These credentials are subject to expiration. If you hold a credential that does not have an expiration date, then it is a lifetime credential and not subject to expiration.

What happens if my credential expires?

If you are within 6 months of credential expiration, you have the option of entering your CEUs online and paying a \$250 reinstatement fee. Please note: this is a completely online process and CEUs must have been earned during the 5-year credential term. If the grace period option is not utilized, you have two years following expiration to apply for testing and to reinstate your credential. You will be required to pay the new application fee and a \$150 expired credential fee. If you successfully complete the examination, your credential will be reinstated without having to meet the then-current admission requirements. However, if two years lapse and you have not successfully passed the examination, you are required to apply as a new applicant and meet all admission policies in effect at that time. Please note: if you have more than one expired credential, you must apply for and pass all examinations to reinstate all expired credentials

Credential(s) Held that have an expiration date Composition of CEUs Required

CRT only	30 hours general respiratory care subjects
RRT (including CRT)	30 hours general respiratory care subjects
CPFT only	30 hours pulmonary function or pulmonary diagnostic technology subjects
RPFT (including CPFT)	30 hours pulmonary function or pulmonary diagnostic technology subjects
RRT-ACCS	15 hours general respiratory care subjects and 15 hours adult critical care subjects
CRT or RRT and CPFT or RPFT	15 hours general respiratory care subjects and 15 hours pulmonary function or pulmonary diagnostic technology subjects
CRT-NPS or RRT-NPS and CPFT or RPFT	10 hours general respiratory care subjects, 10 hours neonatal/pediatric subjects, and 10 hours pulmonary function or pulmonary diagnostic technology subjects

CRT-SDS or RRT-SDS and CPFT or RPFT

10 hours general respiratory care subjects, 10 hours sleep disorders testing and therapeutic intervention subjects, and 10 hours pulmonary function or pulmonary diagnostic technology subjects

What CE courses will the NBRC accept toward compliance with the Continuing Competency Program (CCP)?

The NBRC will accept any course that is accepted by your state licensing board for purposes of respiratory care licensure. If your state licensing board has no requirements, the NBRC will accept any course approved by the AARC.

Current Address

Every licensed respiratory therapist is required to file a current residential address with the department (Florida Statutes, Chapters 468.36).

License Renewal

Florida Respiratory Care licenses are renewed biennially at fees that are set by the board. Current fees are \$120 for a renewal, \$50 for a reactivation of the license, \$50 for renewal of an inactive license and \$25 to replace a lost license. The board will mail an application for renewal to each licensee during the renewal period.

Continuing education is necessary for respiratory therapists to maintain competence and keep abreast of new developments in the field of respiratory care. The board and the legislature have determined that 24 contact hours of continuing education per biennium are required as a condition of license renewal (one contact hour is equivalent to 50 minutes). The board must approve both continuing education courses and providers. Florida's board-approved courses can be found at www.cebroker.com.

The board may make exceptions to the continuing education requirement in the case of an emergency or a hardship (Florida Statutes, Chapter 468.361). The exception may include a waiver of all or a portion of the requirements or granting a time extension to complete them. Requests for exceptions must be made in writing. Emergency or hardship cases include long-term personal illness, caring for someone who is suffering a long-term illness, unavailability of courses or technology, or financial or legal hardship.

The 24-hour continuing education requirement must include a two-hour course in medical error prevention and a two-hour course on Florida laws and rules. These two required courses count toward

the 16 contact hours that are directly related to respiratory care. Eight general hours of courses not directly applicable to respiratory care, such as management, research, educational techniques or personal growth, are permissible but not required. All continuing education may come from direct care delivery education.

Continuing Education

Continuing Education Requirements ^{6,7}		
Subject area	Hours Required (24 total)	Information
Laws and Rules	2	Brings licensee up to date on laws and rules of the board
Preventing Medical Errors	2	Must include medication errors, including missed treatments, documentation errors, equipment errors, patient errors and communication errors
HIV/AIDS	3 in first biennium; 3- hour renewal if licensed in the second half of the biennium*	Optional in subsequent renewals for no more than 5 hours; must include content on transmission, infection control, clinical management and prevention
Direct Delivery of Respiratory Care	16	Must pertain to direct delivery of care to patients
Nondirect patient care	None (optional)	May include risk management, personal growth, educational techniques, etc.
*Respiratory therapists licensed in the second half of the renewal period who are renewing for the first time are required to complete three hours of HIV/AIDS education. They also must complete the two-hour medical error course. ⁶ They are not required to take any other courses. For subsequent renewals, respiratory therapists may take an HIV/AIDS course that does not exceed five hours (64B32-6.001). ⁷		

People changing status from CRT to RRT are not exempt from continuing education requirements. Basic Life Support training does not count toward fulfilling the continuing education requirements.

There are other ways to fulfill the continuing education requirement besides completing a CE course. Other options include:

- Attending public board meetings (to a maximum of eight hours)
- Successful completion of an NBRC exam (to a maximum of two to three hours, depending on the exam)
- Completing respiratory care courses (taken for the first time) from an accredited educational institution

- ACLS, PALS and neonatal resuscitation certification or recertification (to a maximum of 16 hours for certification and eight hours for recertification)
- Presenting CE content as a lecturer or author for the initial presentation but not for subsequent presentations (to a maximum of 12 per biennium)
- Serving as a board member on a Probable Cause Panel (to count as two contact hours of medical errors and three contact hours of direct patient care credit)

Licensees should keep documented proof of completion of courses for four years in case of an audit by the board. This may include receipts, vouchers, certificates or other papers. The state considers the failure to document compliance with the continuing education requirements or the furnishing of false or misleading information regarding compliance grounds for disciplinary action.

If a licensed respiratory therapist fails to renew an active or inactive license before the expiration date, the license will be placed in delinquent status, which will become null and void if it is not renewed before expiration of the current licensure cycle.

The first mandatory reporting cycle for respiratory therapists is the June 1, 2013, to May 31, 2015, biennium. The Florida Department of Health, Division of Medical Quality Assurance verifies that continuing education requirements have been met. CE Broker is the official CE/CME electronic tracking system for Florida's healthcare professionals and the Florida Department of Health. Healthcare professionals in the state have been encouraged to begin reporting CE hours to CE Broker as they renew their licenses. The state implemented this in two phases. As of April 30, 2015, the voluntary phase ends. In phase two, practitioners must report courses taken before their license can be renewed. CE providers have up to 90 days to report credits earned to CE Broker. The board encourages respiratory therapists to verify that all courses taken have been recorded before attempting to renew a license.

A basic account at CE Broker is free and all licensed RTs in the state already have one. Additional subscription options are available. Once the CE hours have been reported and verified, the renewal process should progress easily, either online or by mail.

Licensees may renew online if they do not need to change the status of the license, have a credit or debit card to pay for the renewal and the license status is not active military. The board mails each licensee a user ID and password. The renewal process typically takes about 10 to 15 minutes. Additional fees will be added if the license is delinquent. If a license has been designated as null and void, the respiratory therapist must contact the board.

License Reactivation

Licensees whose status has been retired for less than five years may change their status to active by meeting the following requirements:

- Pay renewal fees imposed on an active status license for all biennial periods where the licensee's status was retired

- Provide evidence of licensure as a CRT or RRT
- Meet continuing education requirements for each biennium in which the licensee's status was retired
- Complete a two-hour, board-approved course on preventing medical errors

Therapists who have been retired status licensees for more than five years must meet the requirements above and complete a 14-hour, board-approved comprehensive review course. The course must be taken within six months of reactivating the license. Topics include patient assessment, hemodynamics, pulmonary function, arterial blood gases, respiratory equipment, airway care, mechanical ventilation, emergency care and special procedures and general respiratory care, including medications (Florida Administrative Code, 64B32-4.002).

Statutes limit the board to requiring not more than 12 classroom hours for each year the license was inactive when a candidate is preparing to reactivate a license.

Military Spouses Exemption

A licensee whose spouse is a member of the U.S. Armed Forces also is exempt from licensure renewal requirements for any period of time that he or she does not reside in Florida due to the spouse's military duties. Absences must be documented and the board should be notified of a change in status within six months of the licensee's return to Florida or if the spouse is discharged from active duty. If the change of status occurs during the second year of the biennial, the licensee is exempt from the continuing education requirement for that biennial (FL Administrative Code, 64B32-1.010).

Disciplinary Guidelines

Florida statutes specify a number of grounds for denying a license to someone or for taking disciplinary action. Violations of the Respiratory Care Act include the following:

- Obtaining or attempting to secure a license by fraud, bribery or through an error of the board
- Having licensure, certification or regulatory actions taken against the licensee by another jurisdiction
- Having a guilty finding or a plea of nolo contendere to a crime related to the practice of respiratory care
- Intentionally failing to file a report as required or intentionally making a false or fraudulent report
- Willfully filing a false report required by state or federal law, impeding or obstructing the filing of a legitimate report, or inducing someone else to do so
- Circulating false or misleading advertising
- Engaging in unprofessional conduct, which includes any departure from or failure to conform to acceptable standards in the delivery of respiratory care services as outlined by the board
- Using a controlled substance, including attempting to engage in the possession, sale or distribution of controlled substances
- Failing to report another licensee's violation
- Violating a lawful order from the board or a department that had previously entered into a disciplinary hearing

- Practicing without a license, including a revoked, suspended or inactive license
- Assisting, aiding or advising another practitioner in practicing without a license
- Failing to meet a legal obligation
- Practicing beyond the level of competence
- Delegating professional duties to an unqualified person
- Malpractice or failing to deliver care with the skill level recognized by a reasonably prudent respiratory care provider with similar professional training and under similar conditions and circumstances
- Accepting gratuities, kickbacks, commissions, bonuses or fee-splitting agreements directly or indirectly for services or goods provided to patients (this does not include receiving a fee for professional consulting services)
- Engaging in sexual misconduct with a patient; it is the state's position that a patient is incapable of giving free, full and informed consent to sexual activity with a respiratory therapist
- Making fraudulent representation in the practice of respiratory care
- Improper soliciting of patients in making false representations or by engaging in intimidation or undue influence
- Failing to maintain written medical records
- Exerting influence on patients for financial gain
- Performing professional duties outside the scope of practice
- Delivering unsafe care to patients due to illness or the use of alcohol, drugs, chemicals or other materials. The department can require a respiratory therapist to undergo a mental or physical examination by physicians designated by the department, with the licensee bearing the cost of the exams. The licensee's failure to comply with the request constitutes an admission of the allegations, unless the circumstances causing the inability to undergo the exam were outside of the licensee's control. Respiratory therapists can at reasonable intervals be afforded an opportunity to demonstrate the ability to resume competent care delivery.
- Violating any provisions of the Florida Statutes applicable to healthcare professionals or respiratory therapy

Additionally, the board is able to create disciplinary guidelines. Examples of these mentioned in the rules include:

- Being convicted of or pleading nolo contendere or guilty to a felony, unless the sentence and probationary period ended more than 15 years prior to applying for licensure
- Committing an act considered unprofessional conduct
- Violating the Code of Ethics
- Being guilty of a crime relating to the practice of respiratory care
- Failing to report a conviction
- Performing respiratory care on the wrong patient, at the wrong site and/or using the wrong procedure
- Testing positive in a mandatory drug screen
- Practicing respiratory care with an inactive or retired license
- Leaving a foreign body in a patient
- Termination for cause from the Florida state Medicaid programs or federal Medicare program (FL Administrative Code, 64B32-5.001)

According to statutes, it is also against the law for any person, firm, association or corporation to engage in a number of practices. A violation of this section is considered a third-degree felony. These include someone or an entity that:

- Sells or fraudulently obtains or attempts to obtain a diploma, license or record
- Delivers care under cover of an illegally obtained diploma, license or record
- Delivers care if not licensed
- Uses any designation implying being a licensed respiratory therapy practitioner if that is not the case
- Advertises an educational program as meeting the requirements of the Florida rules and laws when it does not
- Knowingly employs unlicensed people to deliver respiratory care services, unless exempted
- Knowingly conceals information relative to a violation

Penalties for Violations

Penalties for the violations listed above increase in severity from the first to the third offense, with the maximum penalty being license revocation. Penalties include suspension, probation and fines of up to \$10,000. Fines imposed by the board must be paid within 30 days of the final order. In addition to the penalty; the board will recover the costs of an investigation and prosecution of the case.

The board will consider the following when determining sanctions against a licensee:

- Danger posed to the public
- Length of time since the violation
- Number of licensee's previous violations
- Length of time the licensee has practiced respiratory therapy
- Damage to the patient, including physical, mental and emotional aspects
- Deterrent effect of the sanction
- Effect of the penalty on the licensee's ability to earn a living
- Rehabilitation efforts on the part of the licensee
- Mitigating or aggravating circumstances (FL Administrative Code, 64B32-5.001 and 5.002)

The Department of Health may file a proceeding in the name of the state seeking issuance of a restraining order, an injunction or a writ of mandamus against anyone who is or has been violating any of the provisions of the Florida Statute pertaining to respiratory therapy or the lawful rules, orders or subpoenas of the department or board.

Recommended Range of Penalties

Chapter 64B32-5 of the Florida Administrative Code outlines disciplinary guidelines. However, the rules do not limit the board's ability to dispose of disciplinary actions by stipulation, agreed settlement or consent order or to pursue collateral civil or criminal actions.¹⁰ The following descriptions come directly from the Florida rules.

Attempting to obtain a license by fraud or bribery or through an error:

- First offense: From one year probation with a condition to revoke the license and a fine of from \$250 to \$1,000
- Second offense: From revoking the license with the ability to reapply and a fine of from \$2,000 to \$6,000
- Third offense: From revocation with no ability to reapply and a fine of from \$6,000 to \$10,000
- The fine is increased to \$10,000 if the violation is not through an error

Actions taken by another jurisdiction:

- First offense: From imposition of discipline comparable to that which would have been imposed if it had occurred in Florida to suspension of the license until the other jurisdiction unencumbers the license, and an administrative fine from \$300 to \$1,000. Impaired practitioners can be ordered into the Professionals Resource Network, a program for impaired healthcare professionals (more information later in the module)
- Second offense: Same as a first, but the fine range increases to from \$1,000 to \$2,000
- Third offense: Same as the minimum with the possibility of revocation of the license, plus a fine of from \$2,000 to \$10,000

Guilty of a crime relating to the practice or ability to practice respiratory therapy:

- First offense: From six-month probation, with conditions to revoke the license, and a fine of from \$300 to \$1,000. Board-ordered probation cannot be less than court-ordered sanctions
- Second offense: From one-year suspension and \$5,000 fine to revocation of the license and a \$10,000 fine

Willfully failing to file a report:

- First offense: From six-month to one-year probation with conditions and a fine of from \$300 to \$1,000
- Second offense: From one-year probation with conditions to six-month suspension and a fine of from \$500 to \$3,000
- Third offense: From one-year suspension to revocation and a fine of from \$3,000 to \$10,000
- If the offense is fraud-related or for willfully making a fraudulent report, the fine is increased to \$10,000 per count or offense

False or deceptive advertising:

- First offense: From reprimand to one-year suspension and a fine of from \$250 to \$1,000
- Second offense: From one-year probation with conditions to one-year suspension and a fine of from \$500 to \$3,000
- Third offense: From one-year suspension to revocation and a fine of from \$3,000 to \$10,000

Unprofessional conduct:

- First offense: From a minimum of one-year probation with conditions to revocation and a fine of from \$300 to \$2,000
- Second offense: From a one-year suspension to revocation and a fine of from \$2,000 to \$10,000

Use of controlled substances:

- First offense: From a minimum six-month probation with conditions to revocation and a fine of from \$1,000 to \$5,000; board-ordered probation cannot be for less time than court-ordered sanctions
- Second offense: From one-year suspension to revocation and a fine of from \$5,000 to \$10,000

Failure to report another licensee in violation:

- First offense: From a letter of concern to six-month probation with conditions and a fine of from \$300 to \$1,000
- Second offense: From six-month probation with conditions to one-year suspension and a fine of from \$500 to \$3,000
- Third offense: From one-year suspension to revocation and a fine of from \$3,000 to \$10,000

Violation of a board or department order or failure to comply with a subpoena:

- First offense: From a reprimand to six-month suspension and a fine of from \$300 to \$1,000; for failure to comply with subpoena, a \$250 minimum fine and a 90-day suspension and thereafter until compliance
- Second offense: From one-year suspension to revocation and a fine of from \$2,000 to \$10,000

Unlicensed practice:

- First offense: A reprimand to six-month suspension, followed by one-year probation with conditions and a fine of from \$500 to \$1,000
- Second offense: From six-month suspension to revocation and a fine of from \$2,000 to \$10,000
- Third offense: Revocation with no ability to reapply and a fine of from \$5,000 to \$10,000

Aiding unlicensed practice:

- First offense: From a minimum of one-year probation with conditions to six-month suspension followed by one-year probation with conditions and a fine of from \$500 to \$3,000
- Second offense: From six-month suspension followed by one-year probation with conditions to revocation and a fine of from \$2,000 to \$10,000
- Third offense: From one-year suspension followed by two-year probation with conditions to revocation with no ability to reapply and a fine of from \$6,000 to \$10,000

Failure to perform a legal obligation:

- First offense: From a reprimand to revocation and a fine of from \$300 to \$1,000
- Second offense: From a one-year probation with conditions to six-month suspension and a fine of from \$500 to \$5,000
- Third offense: From one-year suspension to revocation with no ability to reapply and a fine of from \$3,000 to \$10,000

Practicing beyond one's competence level:

- First offense: From reprimand to one-year suspension followed by one-year probation and a fine of from \$300 to \$2,000
- Second offense: From six-month suspension followed by one-year probation with conditions to revocation and a fine of from \$1,000 to \$10,000

- Third offense: From one-year suspension followed by two-year probation to revocation with no ability to reapply and a fine of from \$3,000 to \$10,000

Delegation of professional responsibilities to an unqualified person:

- First offense: From one-year probation with conditions to revocation and an administrative fine of from \$300 to \$1,000
- Second offense: From six-month suspension followed by one-year probation with conditions to revocation and a fine of from \$1,000 to \$10,000
- Third offense: From one-year suspension followed by two-year probation to revocation with no ability to reapply and a fine of from \$3,000 to \$10,000

Malpractice:

- First offense: From one-year probation with conditions to revocation and a fine of from \$500 to \$2,000
- Second offense: From two-year probation with conditions to revocation and a fine of from \$2,000 to \$10,000
- Third offense: From one-year suspension followed by two-year probation to revocation with no ability to reapply and a fine of from \$3,000 to \$10,000

Kickbacks or split-fee arrangements:

- First offense: From refund of fees billed and six-month suspension followed by at least one-year probation with conditions to revocation and a fine of from \$300 to \$3,000
- Second offense: From one-year suspension followed by two-year probation with conditions to revocation with no ability to reapply and a fine of from \$2,000 to \$10,000

Exercising influence or engaging patient in sex:

- First offense: From one-year suspension followed by at least one-year probation with conditions and possible referral to the Professional Resource Network (PRN) to revocation and a fine of from \$500 to \$2,000
- Second offense: From one-year suspension followed by at least one-year probation with conditions to revocation with no ability to reapply and possible referral to the PRN and a fine of from \$1,000 to \$10,000

Deceptive, untrue or fraudulent representations in the practice of respiratory care:

- First offense: From a minimum one-year probation with conditions to revocation and a fine of \$10,000 or more per count or offense
- Second offense: From two-year probation with conditions to revocation with no ability to reapply and a fine of \$10,000 per count or offense

Improper solicitation of patients:

- First offense: From a minimum one-year probation with conditions to revocation and a fine of from \$300 to \$1,000
- Second offense: From two-year probation with conditions to revocation and a fine of from \$2,000 to \$10,000

- Third offense: From one-year suspension followed by two-year probation to revocation with no ability to reapply and a fine of from \$3,000 to \$10,000
- If the violation is for fraud or soliciting patients by making a false or fraudulent representation, the fine is increased to \$10,000 per count or offense

Failure to keep written medical records:

- First offense: From a letter of concern to one-year suspension followed by a minimum one-year probation with conditions and a fine of from \$300 to \$1,000
- Second offense: From two-year probation with conditions to revocation and a fine of from \$2,000 to \$10,000
- Third offense: From one-year Second offense: From a reprimand to two-year probation with conditions and a fine of from \$500 to \$5,000
- Third offense: From six-month suspension followed by one-year probation to revocation and a fine of from \$3,000 to \$10,000

Exercising influence on patient for financial gain:

- First offense: From refund of fees billed and a minimum one-year probation with conditions to two-year suspension and a fine of from \$500 to \$3,000
- Second offense: From refund of fees billed and two-year probation with conditions to revocation and a fine of from \$2,000 to \$10,000
- Third offense: From refund of fees billed and one-year suspension followed by two-year probation to revocation with no ability to reapply and a fine of from \$3,000 to \$10,000

Performing professional services not authorized by a physician:

- First offense: From a reprimand to one-year suspension followed by a minimum of one-year probation with conditions and a fine of from \$300 to \$1,000
- Second offense: From six-month probation with conditions to revocation and a fine of from \$1,000 to \$10,000
- Third offense: From six-month suspension followed by one-year probation to revocation with no ability to reapply and a fine of from \$3,000 to \$10,000

Inability to practice respiratory care with skill and safety:

- First offense: From referral to PRN for submission to a mental or physical exam directed towards the problem and/or one-year probation with conditions to revocation and a fine of from \$100 to \$1,000
- Second offense: From referral to PRN and/or two-year probation with conditions to revocation and a fine of from \$300 to \$5,000

Violation of Florida statutes and rules:

- First offense: From a reprimand to revocation and a fine of from \$300 to \$2,000
- Second offense: From six-month probation with conditions to revocation and a fine of from \$1,000 to \$10,000
- Third offense: From one-year probation with conditions to revocation and a fine of from \$2,000 to \$10,000

Improper interference with an investigation, inspection or discipline:

- First offense: From six-month probation with conditions to revocation and a fine of from \$500 to \$5,000
- Second offense: From six-month suspension followed by one-year probation with conditions to revocation with no ability to reapply and a fine of from \$1,000 to \$10,000

Failure to report conviction or plea:

- First offense: From reprimand to six-month suspension and a fine of from \$300 to \$1,000
- Second offense: From one-year probation with conditions to revocation with no ability to reapply and a fine of from \$1,000 to \$10,000

Wrong patient, wrong site or wrong or unauthorized procedure:

- First offense: From one-year probation with conditions to revocation and a fine of from \$500 to \$2,000
- suspension followed by two-year probation to revocation with no ability to reapply and a fine of from \$3,000 to \$10,000

Leaving a foreign body in a patient:

- First offense: From one-year probation with conditions to revocation and a fine of from \$500 to \$2,000
- Second offense: From two-year probation with conditions to revocation and a fine of from \$2,000 to \$10,000
- Third offense: From one-year suspension followed by two-year probation to revocation with no ability to reapply and a fine of from \$3,000 to \$10,000

Testing positive in a pre-employment drug screen:

- First offense: From six-month probation with referral to PRN to revocation employment condition and/or and a fine of from \$500 to \$2,000
- Second offense: From one-year probation with conditions and referral to PRN to revocation and a fine of from \$1,000 to \$10,000

Termination of a PRN contract:

- Reprimand to revocation, plus a fine of from \$250 to \$2,000

Practicing with a delinquent, retired or inactive status license:

- Reprimand to revocation, plus a fine of from \$2,000 to \$10,000 (if fraud is shown, a \$10,000 fine per count)

Failure to notify a patient through written or oral notice of the type of license the practitioner holds:

- First offense: Read laws and rules and submit an affidavit attesting that the licensee has read the laws and rules
- Second offense: A fine of from \$100 to \$500

A felony offense under a variety of Florida statutes:

- Any offense: The board is prohibited from issuing or renewing a license, certificate or registration unless the sentence and any subsequent period of probation for such conviction or pleas ended more than 15 years prior to the date of the application

Terminated for cause from the Florida Medicaid program pursuant to Section 409.91 of the state statutes, Oversight of the integrity of the Medicaid program.

- Any offense: The board is prohibited from issuing or renewing a license, certificate or registration unless the applicant has been in good standing with the Florida Medicaid program for the most recent five years

Terminated for cause, pursuant to the appeals procedures established by the state or federal government, from any other state Medicaid program or the federal Medicare program:

- Any offense: The board is prohibited from issuing or renewing a license, certificate or registration unless the applicant has been in good standing with a state Medicaid program or the federal Medicare program for the most recent five years and the termination occurred at least 20 years prior to the date of the application.

Unprofessional Conduct

The state considers unprofessional conduct to be “any departure from or failure to conform to acceptable standards related to the delivery of respiratory care services.” That level of skill and treatment must meet the standard of what a reasonably prudent respiratory therapist would consider acceptable under similar conditions and circumstances. Examples of unprofessional conduct may include:

- Violating confidentiality of patient information
- Misrepresenting facts when applying for a job as a respiratory therapist
- Providing false or incorrect information to an employer about licensure, certification or registration
- Leaving an assignment before advising the appropriate supervisor
- Failing to report another respiratory therapist in violation of laws or rules governing the profession
- Using foul or abusive language in public or patient care areas

Code of Ethics

The American Association for Respiratory Care Code of Ethics has been adopted by the board by reference as the Florida Respiratory Care Act Code of Ethics. It states:

“Licensed Respiratory Care Practitioners engaged in the performance of respiratory care shall comply with the following standards of practice:

- Demonstrate behavior that reflects integrity, supports objectivity, and fosters trust in the practice of respiratory care and respiratory care practitioners.
- Actively maintain and continually improve their professional competence, and represent it accurately.

- Perform only those procedures or functions in which they are individually competent and which are within their scope of accepted and responsible practice.
- Respect and protect the legal and personal rights of patients, including the right to privacy, informed consent and refusal of treatment.
- Hold in strict confidence all privileged information concerning the patient and observe the confidentiality of healthcare information law.
- Provide care without discrimination on any basis, with respect for the rights and dignity of all individuals.
- Promote disease prevention and wellness.
- Refuse to participate in illegal or unethical acts.
- Expose the illegal, unethical or incompetent acts of others and report such behavior to the Board.
- Follow sound scientific procedures and ethical principles in research.
- Avoid any form of conduct that creates a conflict of interest, and follow the principles of ethical business behavior.
- Encourage and promote appropriate stewardship of resources.
- Not accept gratuities for preferential consideration of the patient.
- Uphold the dignity and honor of the profession and abide by its ethical principles.
- Promote healthcare delivery through improvement of the access, efficacy and cost of patient care.”

HIV/AIDS: Knowledge of Antibody Status

Licensees are encouraged to determine their HIV status and to comply with the requirements of the PRN if they test positive. The PRN identifies available resources for impaired (whether by substance abuse, physical and/or mental conditions) physicians and healthcare providers and provides assistance so that practitioners can return to a full life and effective professional practice.

Mediation

Board rules allow for mediation, an informal and nonadversarial process to encourage and facilitate resolution of a legally sufficient complaint and reach a mutually acceptable agreement. The board considers the following offenses as appropriate for meditation:

- First-time violations of failure to respond to a continuing education audit
- Failure to notify the department of a change of address
- Issuance of a bad check to the department
- Violation of continuing education requirements
- Unprofessional conduct violations
- Exercising influence on a patient to exploit the patient for financial gain
- Failure to pay required fees and/or fines in a timely matter

Citations

The board has determined that certain violations do not pose a substantial threat to public health or safety. Citations must be paid and corrected within 90 days of issuance. Citations include:

- Failure to document continuing education, including mandatory courses
- Unprofessional conduct
- Failure to notify the board of current address
- Failure to keep written respiratory care records
- Circulating misleading advertising
- Exploiting patients for financial gain
- Ignoring CE audit notification
- Failure to pay costs incurred by the department if a check was not honored for insufficient funds
- Failure to pay required fees or fines within the appropriate time frame (FL Administrative Code, 64B32-5.007)

The board will issue a notice of noncompliance as a first response to a minor rule violation, such as failure to notify the board of an address change or unintentionally issuing a bad check to the department. If the licensee does not take action to correct the violation within 15 days, the board will either issue a citation or initiate regular disciplinary proceedings.

Probable Cause Panel

The board's Probable Cause Panel is responsible for determining probable cause to issue an administrative complaint against a respiratory therapist. The chair appoints a minimum of two people to the panel and designates its chair. The panel must include either current board members or current and former board members. The panel should also include a consumer member and a licensed respiratory therapist, if they are available, but these members are not required. Once the panel has been formed, members must serve at least six months. Determination about whether there is probable cause that a violation was committed is made by majority vote of the Probable Cause Panel (FL Administrative Code, 64B32-7.001).

Professionals Resource Network

The nonprofit Professionals Resource Network is one of two state programs for impaired health professionals. The other is the Intervention Project for Nurses. PRN was originally created to serve physicians but has evolved to serve other healthcare professionals, who participate voluntarily.

PRN's mission is "to protect the health, safety and welfare of the public, while at the same time to support the integrity of the healthcare team and other professionals. Through a complex and comprehensive statewide system, the Professionals Resource Network has the ability for early identification, intervention and appropriate referral of all licensed healthcare professionals and other professionals (nurses have their own program) who are affected with all impairment types, inclusive of those arising from physical conditions, mental/emotional problems, and chemical dependency/abuse. When indicated, post-evaluation/treatment and monitoring afford healthcare practitioners and other

professionals the earliest and safest opportunity to reintegrate with the healthcare team while protecting both the confidentiality of the participant and the safety of the public.”

Anyone concerned that a healthcare professional (other than a nurse) may have an impairment affecting his or her ability to provide safe care can make a report to PRN and/or the Department of Health. People also can refer themselves. Once a referral has been made and sufficient evidence provided, PRN will provide an independent evaluation by a Department Approved Provider and give the referred professional three options for evaluators. The evaluations may be as short as an office visit or as long as a week in an inpatient center. A second opinion evaluation is allowed if the referred professional disagrees with the recommendations.

When treatment is recommended, PRN will offer the professional three options based on the illness, the treatment needed, the intensity of treatment and the geographic location. Participants pay the providers and there is no charge for PRN’s coordination. Charitable and loan funds are available for verified hardships. At first the impaired professional may be restricted from practice and when authorized by PRN may be able to return with limitations.

Exemptions

Exemptions to the Florida respiratory care statutes exist. Exemptions are not designed to prevent or restrict the practice, service or activities of a variety of people, including the following:

- Anyone licensed in the state by another law from engaging in his or her respected profession
- Anyone legally qualified as a respiratory therapist in another state or territory and employed by the U.S. government or agency of the federal government while that person is carrying out his or her official duties
- A friend or family member providing respiratory care services to an ill person, as long as he or she does not represent himself or herself as a respiratory care practitioner
- Someone assisting in an emergency, as long as he or she does not represent himself or herself as a respiratory care practitioner
- Someone employed to set up or test equipment for home use under the orders of a licensed physician (however, that person may not provide respiratory care services)
- Someone certified or registered as a pulmonary function technologist who is credentialed by the National Board for Respiratory Care for performing cardiopulmonary diagnostic studies
- Students of an accredited, board-approved respiratory care program while performing care as a part of a required course
- Surrogate family members giving incidental respiratory care to noninstitutionalized patients as long as they do not represent themselves as respiratory therapists
- A professional credentialed by the Undersea and Hyperbaric Medical Society in hyperbaric medicine or its equivalent as determined by the board, while performing related duties

Hospitals are not required as outlined in the statutes to pay for or reimburse anyone for costs associated with the requirements of the laws related to respiratory therapy, including continuing education.

For More Information

American Association for Respiratory Care: <http://aarc.org>. Accessed March 10, 2015.

Florida Administrative Code Chapter 64B32: <http://florida.eregulations.us/fac/64b32/>. Accessed March 10, 2015.

Florida Board of Respiratory Care: <http://floridasrespiratorycare.gov/>. Accessed March 10, 2015.

Florida Statutes Chapter 468, Part V, The Respiratory Care Act. Justia.com Web site. <http://law.justia.com/codes/florida/2011/titlexxxii/chapter468/partv/section468.352/>. Accessed March 10, 2015.

References:

1. New CE requirement—2 hours on Laws and Rules. Florida Board of Respiratory Care Web site. [Http://floridasrespiratorycare.gov/latest-news/new-ce-requirement-2-hours-on-laws -and-rules/](Http://floridasrespiratorycare.gov/latest-news/new-ce-requirement-2-hours-on-laws-and-rules/). Published November 20, 2013. Accessed March 10, 2015
2. The 2014 Florida Statutes. Chapter 468, Part V. Florida Legislature Web Site. Htt://www.leg.state.fl.us/statutes.index.xfm?App_mode=Display Statute&Search String=&URL=0400-0499/0468/0468PARTVContentsIndex.html.
3. License renewal and reactivation; inactive licenses. Florida Administrative Code and Florida Administrative Register Web site. <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=64B32-4>
4. Licensing and registration. Florida Board of Respiratory Care Web site. <http://floridasrespiratorycare.gov/licensing>.