

CHAPTER 4762

DEPARTMENT OF HEALTH

RESPIRATORY CARE PRACTITIONERS

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4762.0010 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 4762.0010 to 4762.0300, the following terms have the meanings given them.

Subp. 2. **Advisory council.** "Advisory council" means the Respiratory Care Practitioner Advisory Council established under Minnesota Statutes, section 214.13, subdivision 4.

Subp. 3. **Applicant.** "Applicant" means an individual who applies to the board for initial registration as a respiratory care practitioner.

Subp. 4. **Approved continuing education program.** "Approved continuing education program" means a continuing education program meeting the continuing education requirements in part 4762.0090 and approved by the board.

Subp. 5. **Approved education program.** "Approved education program" means a university, college, or other postsecondary education program of respiratory care training that, at the time the student completes the program, is accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association in collaboration with the Joint Review Committee for Respiratory Therapy Education or other national accrediting organization approved by the board.

Subp. 6. **Board.** "Board" means the Minnesota Board of Medical Practice.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Health.

Subp. 8. **Contact hour.** "Contact hour" means an instructional session of 50 consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and social activities.

Subp. 9. **Continuing education program.** "Continuing education program" means a class, seminar, or structured learning process relating to respiratory care practice and offered for the purpose of advancing the knowledge and skills of the respiratory care practitioner.

Subp. 10. **Credential.** "Credential" means a license, permit, certification, registration, or other evidence of qualification or authorization to engage in respiratory care practice in this state or any other state.

Subp. 11. **Credentialing examination.** "Credentialing examination" means an examination administered by the National Board for Respiratory Care for credentialing as a certified respiratory therapy technician or registered respiratory therapist, or an examination for credentialing offered by a national testing service that is approved by the board.

Subp. 12. **Direct supervision.** "Direct supervision" means working under a registered respiratory care practitioner or qualified medical director who is present in the facility or readily available by telephone at the time the respiratory care services are being provided.

Subp. 13. **Health care facility.** "Health care facility" means a hospital as defined in Minnesota Statutes, section 144.50, subdivision 2, a medical facility as defined in Minnesota Statutes, section 144.561, subdivision 1, paragraph (b), or a nursing home as defined in Minnesota Statutes, section 144A.01, subdivision 5.

Subp. 14. **Qualified medical director.** "Qualified medical director" means a licensed physician who is on the staff of a health care facility and who has a special interest in and

knowledge of the diagnosis and treatment of deficiencies, abnormalities, and diseases of the cardiopulmonary system.

Subp. 15. **Registered status.** "Registered status" refers to the status of an individual who meets the requirements of parts 4762.0010 to 4762.0300 and is authorized by the board to use the titles in part 4762.0030, subpart 1.

Subp. 16. **Registrant.** "Registrant" means an individual who meets the requirements of parts 4762.0010 to 4762.0300 and is authorized by the board to use the titles in part 4762.0030, subpart 1.

Subp. 17. **Registration.** "Registration" means a system in which practitioners, who will be the only individuals permitted to use the designated titles under part 4762.0030, subpart 1, are listed on an official roster after having met predetermined qualifications.

Subp. 18. **Registration by equivalency.** "Registration by equivalency" means a method of registration described in part 4762.0060, subpart 1, by which an individual who possesses credentialing from the National Board for Respiratory Care or other national credentialing organization approved by the board may qualify for Minnesota registration.

Subp. 19. **Registration by reciprocity.** "Registration by reciprocity" means a method of registration described in part 4762.0060, subpart 2, by which an individual who possesses a credential from another jurisdiction may qualify for Minnesota registration.

Subp. 20. **Respiratory care.** "Respiratory care" means the provision of services described under part 4762.0040 for the assessment, treatment, management, evaluation, and care of patients with deficiencies, abnormalities, and diseases of the cardiopulmonary system, under the guidance of a qualified medical director and pursuant to a referral from a physician who has medical responsibility for the patient.

Subp. 21. **Respiratory care practitioner.** "Respiratory care practitioner" means an individual who engages in respiratory care as defined in subpart 20, meets the qualifications of parts 4762.0010 to 4762.0300, and registers with the board.

Subp. 22. **Temporary registration.** "Temporary registration" means a method of registration described in part 4762.0060, subpart 3, by which an individual who has completed an approved education program but has not met the examination requirement may qualify for Minnesota registration pending completion of the required examination.

Subp. 23. **Transitional registration.** "Transitional registration" means a method of registration described in part 4762.0060, subpart 4, in effect for a limited time, by which an individual who has not completed an approved education program and does not possess a credential from a national credentialing organization approved by the board or from another jurisdiction may qualify for Minnesota registration.

Statutory Authority: *MS s 214.13*

History: *16 SR 958; L 1991 c 106 s 6*

4762.0020 PURPOSE.

The purpose of parts 4762.0010 to 4762.0300 is to establish the administrative structure, procedures, and requirements for the registration and regulation of individuals seeking to be qualified as respiratory care practitioners in Minnesota.

Statutory Authority: *MS s 214.13*

History: *16 SR 958*

4762.0030 PROTECTED TITLES AND RESTRICTIONS ON USE.

Subpart 1. **Protected titles.** No individual may use the titles "Minnesota Registered Respiratory Care Practitioner," "Registered Respiratory Care Practitioner," "Respiratory Care Practitioner," or use, in connection with the individual's name, the letters "R.C.P." or any other words, letters, abbreviations, or insignia indicating or implying that the individual is registered by the state unless they have been registered as a respiratory care practitioner according to parts 4762.0010 to 4762.0300.

Subp. 2. **Health care practitioners.** Individuals practicing in a health care occupation are not restricted in the provision of services included in part 4762.0040 as long as they do not hold themselves out as a respiratory care practitioner by or through the use of the titles provided in subpart 1 in association with provision of these services.

Subp. 3. **Identification of registered practitioners.** Respiratory care practitioners registered in Minnesota shall wear a name tag that identifies them as a respiratory care practitioner.

Subp. 4. **Sanctions.** Individuals who hold themselves out as a respiratory care practitioner by or through the use of any title provided in subpart 1 without prior registration according to parts 4762.0010 to 4762.0300 shall be subject to sanctions or action against continuing the activity according to Minnesota Statutes, section 214.11, or other statutory authority.

Statutory Authority: *MS s 214.13*

History: *16 SR 958*

4762.0040 SCOPE OF PRACTICE.

Subpart 1. **Scope of services.** The practice of respiratory care by a registered respiratory care practitioner includes, but is not limited to, the following services:

A. obtaining physiological specimens and interpreting physiological data including:

- (1) analyzing arterial blood gas;
- (2) analyzing respiratory secretions;
- (3) measuring ventilatory volumes, pressures, and flows;
- (4) testing pulmonary function;
- (5) testing and studying the cardiopulmonary system; and
- (6) diagnostic testing of breathing patterns related to sleep disorders;

B. therapeutic application and monitoring of the administration of medical gases (exclusive of general anesthesia), aerosols, humidification, and pharmacological agents related to respiratory care procedures;

C. therapeutic application and monitoring of mechanical ventilatory support;

D. cardiopulmonary rehabilitation including postural drainage, chest physiotherapy, and breathing exercises;

E. cardiopulmonary resuscitation and maintenance of natural airways and insertion and maintenance of artificial airways;

F. assisting in hemodynamic monitoring of the cardiopulmonary system;

G. observing and monitoring signs and symptoms, general behavior, and general physical response to respiratory care treatment and diagnostic testing, including determination of whether the signs, symptoms, reactions, behavior, or general response exhibit abnormal characteristics;

H. observing and making suggestions for modifications in the treatment regimen based on abnormalities, protocols, or changes in patient response to respiratory care treatment;

I. instructing patients and their families in techniques for the prevention, alleviation, and rehabilitation of deficiencies, abnormalities, and diseases of the cardiopulmonary system; and

J. transcribing and implementing physician orders for respiratory care services.

Subp. 2. **Physician referral required.** Respiratory care services provided by a registered respiratory care practitioner, whether delivered in a health care facility or the patient's place of residence, must not be provided except upon referral from a physician.

Statutory Authority: *MS s 214.13*

History: *16 SR 958*

4762.0050 GENERAL REGISTRATION REQUIREMENTS.

Subpart 1. **General requirements.** To be eligible for registration, each applicant for registration must:

A. Submit a completed application on forms provided by the board along with all fees required under part 4762.0300. The application must include:

(1) the applicant's name, social security number, home address and telephone number, business address and telephone number, and business setting;

- (2) the name and location of the respiratory care education program the applicant completed for registration;
- (3) a list of the degrees received from educational institutions;
- (4) a description of the applicant's professional training beyond first degree received;
- (5) the applicant's work history for the five years preceding the application, including the average number of hours worked per week;
- (6) a list of any credentials held in other jurisdictions;
- (7) a description of any other jurisdiction's refusal to credential the applicant;
- (8) a description of all professional disciplinary actions initiated against the applicant in any jurisdiction; and
- (9) any history of drug or alcohol abuse, and any misdemeanor or felony conviction.

B. Submit a certificate of completion from an approved education program.

C. Within one year prior to application for registration, achieve a qualifying score on a credentialing examination.

D. Submit additional information as requested by the board.

E. Sign a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief.

F. Sign a waiver authorizing the board to obtain access to the applicant's records in this or any other state in which the applicant has completed an approved education program or engaged in the practice of respiratory care.

Subp. 2. Applicant responsibility. The applicant is responsible for making arrangements to take the credentialing examination, bearing all expenses associated with taking the credentialing examination, and signing a release to have the credentialing examination scores sent directly to the board from the National Board for Respiratory Care or other national testing service approved by the board.

Statutory Authority: *MS s 214.13*

History: *16 SR 958*

4762.0060 EXCEPTIONS TO GENERAL REGISTRATION REQUIREMENTS.

Subpart 1. Registration by equivalency. To be eligible for registration by equivalency, the applicant must:

A. submit the application materials and fees as required under part 4762.0050, subpart 1, items A, D, E, and F; and

B. provide a verified copy from the National Board for Respiratory Care of a valid and current credential as a registered respiratory therapist or certified respiratory therapy technician.

Subp. 2. Registration by reciprocity. The board may issue temporary registration to an applicant for registration by reciprocity who satisfies the requirements of item A, while the application for registration by reciprocity is awaiting action by the board under part 4762.0065. To be eligible for registration by reciprocity, the applicant must:

A. submit the application materials and fees as required by part 4762.0050, subpart 1, items A, D, E, and F;

B. provide a verified copy from the appropriate government body of a current and unrestricted credential for the practice of respiratory care in another jurisdiction that has initial credentialing requirements equivalent to or higher than the requirements in part 4762.0050; and

C. provide letters of verification from the appropriate government body in each jurisdiction in which the applicant holds a credential. Each letter must state the applicant's name, date of birth, credential number, date of issuance, a statement regarding disciplinary actions, if any, taken against the applicant, and the terms under which the credential was issued.

Subp. 3. Temporary registration. The board may issue temporary registration as a respiratory care practitioner to qualified applicants.

A. Except as provided in subpart 2, item A, relating to registration by reciprocity, an applicant for temporary registration must submit the application materials and fees as required by part 4762.0050, subpart 1, items A, B, D, E, and F.

B. Temporary registration as a respiratory care practitioner is issued for a period of one year. A respiratory care practitioner with temporary registration may qualify for full registered status upon submission of verified documentation that the respiratory care practitioner has achieved a qualifying score on a credentialing examination within one year after receiving temporary registered status.

C. A respiratory care practitioner with temporary registration is limited to working under the direct supervision of a registered respiratory care practitioner or qualified medical director as defined in part 4762.0010, subpart 12. A registered respiratory care practitioner may supervise no more than two respiratory care practitioners with temporary registration status.

Subp. 4. Transitional registration. For two years after October 21, 1991, an applicant may qualify for transitional registration by fulfilling the requirements of items A and B. The board shall notify potential registrants of the date that parts 4762.0010 to 4762.0300 are effective, signifying the beginning of this period and of the final date for submitting an application for transitional registration. Applications for registration under this subpart will not be accepted after the expiration of the two-year period. To be eligible for registration under the transitional requirements, the applicant must meet the requirements of items A and B.

A. The individual must submit the application materials and fees as required by part 4762.0050, subpart 1, items A, D, E, and F.

B. The individual must:

(1) obtain documentation from a qualified medical director verifying employment consisting of the performance of respiratory care services for at least 21 hours per week in respiratory care for four of the five years preceding the application under the supervision of a qualified medical director. The documentation from the qualified medical director must include identification of employment setting, diagnoses of patients seen for respiratory care, the type and frequency of procedures performed, and the type and frequency of evaluations performed; or

(2) achieve a qualifying score on the credentialing examination within the two-year transitional registration period.

Statutory Authority: *MS s 214.13*

History: *16 SR 958*

4762.0065 BOARD ACTION ON APPLICATIONS FOR REGISTRATION.

The board shall act on each application for registration according to items A to D.

A. The board shall determine if the applicant meets the requirements for registration under part 4762.0050, subpart 1 or under part 4762.0060, subpart 1, 2, 3, or 4. The board or advisory council may investigate information provided by an applicant to determine whether the information is accurate and complete.

B. The board shall use the qualifying score on the credentialing examination provided by the National Board for Respiratory Care.

C. The board shall notify each applicant in writing of action taken on the application, the grounds for denying registration if registration is denied, and the applicant's right to review under item D.

D. Applicants denied registration may make a written request to the board, within 30 days of the board's notice, to appear before the advisory council and for the advisory council to review the board's decision to deny the applicant's registration. After reviewing the denial, the advisory council shall make a recommendation to the board as to whether the denial shall be affirmed. Each applicant is allowed only one request for review per yearly registration period.

Statutory Authority: *MS s 214.13*

History: *16 SR 958*

4762.0070 REGISTRATION RENEWAL.

Subpart 1. **Renewal requirements.** To be eligible for registration renewal, a registrant must:

A. Submit a completed application for registration renewal on forms provided by the board along with the fees required under part 4762.0300. The application must include the registrant's name, Minnesota registration number, home address and telephone number, business address and telephone number, business setting, work history for the past year including the average number of hours worked per week, and a report of any change in status since registration or previous registration renewal.

B. Submit proof of having met the continuing education requirements of part 4762.0090 every two years.

C. Submit additional information as requested by the board.

Subp. 2. **Renewal deadline.** Registration must be renewed annually.

A. An application for registration renewal must be received in the board office or postmarked on or before July 1 each year. If the postmark is illegible, the application will be considered timely if received by the third working day after July 1.

B. An application for registration renewal submitted after the deadline date must be accompanied by a late fee in addition to the fees required under part 4762.0300.

Subp. 3. **Registration renewal notice.** No later than June 1 of each year, the board shall send out a renewal notice to the registrant's last known address on file with the board. The notice shall include an application for registration renewal and notice of fees required for renewal. The registrant's failure to receive notice shall not relieve the registrant of the obligation to meet the deadline and other requirements for registration renewal.

Subp. 4. **Registration following lapse of registered status for two years or less.** For any individual whose registered status has lapsed for two years or less, to regain registered status the individual must:

A. apply for registration renewal according to subpart 1;

B. document compliance with the continuing education requirements of part 4762.0090 since the registrant's initial registration or last renewal; and

C. submit the fees required under part 4762.0300 and the fee for late renewal along with the application for registration renewal.

Subp. 5. **Registration following lapse of registered status of more than two years.** For any individual who has failed to renew registration for more than two years, to regain registered status, the individual must meet the requirements of items A and B.

A. The individual must submit the completed application required for initial registration along with the required fees.

B. The individual must:

(1) submit verified documentation of having achieved a qualifying score on a credentialing examination administered within the past year by the National Board for Respiratory Care or other national testing service approved by the board or sign a release to have the credentialing examination results sent directly to the board; or

(2) attend continuing education hours equivalent to one hour for each month of lapsed registration before submitting an application to regain registered status.

Subp. 6. **Notice of expiration of registered status.** At least 30 days before the expiration of registered status, the board shall send out a notice to the registrant's last known address on file with the board informing the registrant that registration will expire without further action by the board if an application for registration renewal is not received before the deadline for renewal. The registrant's failure to receive this notice shall not relieve the registrant of the obligation to meet the deadline and other requirements for registration renewal. Failure to receive this notice is not grounds for challenging expiration of registered status.

Statutory Authority: *MS s 214.13*

History: *16 SR 958*

4762.0080 CHANGE OF ADDRESS.

A registrant who changes addresses must immediately inform the board, in writing, of the change of address. All notices or other correspondence mailed to or served on a registrant

by the board at the registrant's address on file with the board shall be considered as having been received by the registrant.

Statutory Authority: *MS s 214.13*

History: *16 SR 958*

4762.0090 CONTINUING EDUCATION REQUIREMENTS.

Subpart 1. **Number of contact hours required.** Two years after the date of initial registration, and every two years thereafter, a registrant applying for registration renewal must complete a minimum of 24 contact hours of board approved continuing education in the two years preceding registration renewal and attest to completion of continuing education requirements by reporting to the board.

Subp. 2. **Approved programs.** The board shall approve continuing education programs that have been approved for continuing education credit by the American Association of Respiratory Care or the Minnesota Society for Respiratory Care. The board will also approve programs substantially related to respiratory care that are sponsored by an accredited university or college, medical school, state or national medical association, national medical specialty society, or that are approved for continuing education credit by the Minnesota Board of Nursing.

Subp. 3. **Approval of continuing education programs.** The board shall approve continuing education programs that do not meet the requirements of subpart 2 but that meet the criteria in items A to E.

A. The program content directly relates to the practice of respiratory care.

B. Each member of the program faculty is knowledgeable in the subject matter as demonstrated by a degree from an accredited education program, verifiable experience in the field of respiratory care, special training in the subject matter, or experience teaching in the subject area.

C. The program lasts at least one contact hour.

D. There are specific, measurable, written objectives, consistent with the program, describing the expected outcomes for the participants.

E. The program sponsor has a mechanism to verify participation and maintains attendance records for three years.

Subp. 4. **Hospital in-services.** Hospital in-services may qualify for continuing education credits provided they meet the requirements of subpart 3.

Subp. 5. **Accumulation of contact hours.** A registrant cannot apply contact hours acquired in one two-year reporting period to a future continuing education reporting period.

Subp. 6. **Verification of continuing education credits.** The board shall periodically select a random sample of registrants and require those registrants to supply the board with evidence of having completed the continuing education to which they attested. Documentation may come directly from the registrant or from state or national organizations that maintain continuing education records.

Subp. 7. **Restriction on continuing education topics.** A registrant may apply no more than a combined total of eight hours of continuing education in the areas of management, risk management, personal growth, and educational techniques to a two-year reporting period.

Subp. 8. **Credit for credentialing examination.** A registrant may fulfill the continuing education requirements for a two-year reporting period by achieving a qualifying score on one of the credentialing examinations of the National Board for Respiratory Care. A registrant may achieve 12 hours continuing education credit by completing a National Board for Respiratory Care specialty examination.

Statutory Authority: *MS s 214.13*

History: *16 SR 958*

4762.0100 DISCIPLINARY PROCESS.

Subpart 1. **Investigation of complaints.** According to Minnesota Statutes, section 214.13, subdivision 6, upon receipt of a complaint or other communication that alleges or implies a violation of parts 4762.0010 to 4762.0300 by an applicant or registrant, the board shall follow the procedures in Minnesota Statutes, section 214.10.

Subp. 2. **Grounds for disciplinary action.** The board may refuse to register an applicant or may take against a registrant any of the disciplinary actions listed in subpart 3 upon any of the following grounds:

- A. submission of false or misleading information or credentials in order to obtain or renew registration;
- B. failure to meet the requirements for registration or renewal of registration;
- C. provision of respiratory care services in a manner that falls below the community standard of care;
- D. violation of parts 4762.0010 to 4762.0300;
- E. demonstration of an inability to practice respiratory care with reasonable skill and safety to patients by reason of illness, or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;
- F. failure to cooperate with an investigation by the board;
- G. conviction, including a finding or verdict of guilt, an admission of guilt, or a no contest plea of any offense that is reasonably related to the practice of respiratory care or that bears upon the individual's ability to perform as a respiratory care practitioner as evidenced by a certified copy of conviction;
- H. aiding or abetting another person in violating any provisions of parts 4762.0010 to 4762.0300;
- I. subjection to disciplinary action by an agency or board of another state for respiratory care activities;
- J. engagement in dishonest, unethical, or unprofessional conduct while in the practice of respiratory care that is likely to deceive, defraud, or harm the public;
- K. violation of any state or federal law, rule, or regulation that reasonably relates to the practice of respiratory care;
- L. engagement in conduct with a patient that is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient;
- M. misuse of alcohol, drugs, narcotics, chemicals, or any other substance;
- N. violation of any disciplinary order issued by the board; or
- O. any other just cause related to the practice of respiratory care.

Subp. 3. **Disciplinary actions.** Upon finding that grounds for disciplinary action exist under subpart 2, the board may take any one or more of the following actions or any lesser action:

- A. refuse to grant or renew registration;
- B. revoke registration;
- C. suspend registration;
- D. administer a reprimand;
- E. condition, limit, or restrict registration; or
- F. any other action justified by the facts of the case.

Statutory Authority: *MS s 214.13*

History: *16 SR 958*

4762.0200 RESPIRATORY CARE PRACTITIONER ADVISORY COUNCIL.

Subpart 1. **Membership.** Subject to approval by the board, the commissioner shall appoint a seven-member Respiratory Care Practitioner Advisory Council consisting of the following:

- A. two public members as defined in Minnesota Statutes, section 214.02;
- B. three members who meet the requirements of parts 4762.0010 to 4762.0300 for registration as respiratory care practitioners; and
- C. two members who are licensed physicians with expertise in the area of respiratory care.

Subp. 2. **Organization.** The advisory council shall be organized and administered under Minnesota Statutes, section 15.059.

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Subp. 3. **Duties.** The advisory council shall:

- A. advise the board regarding standards for respiratory care practitioners;
- B. provide for distribution of information regarding respiratory care practitioner standards;
- C. advise the board on enforcement of parts 4762.0010 to 4762.0300;
- D. review applications and recommend granting or denying registration or registration renewal;
- E. receive and process complaints according to Minnesota Statutes, sections 214.10 and 214.13, subdivisions 6 and 7;
- F. review reports of investigations of complaints and recommend to the board whether disciplinary action should be taken;
- G. advise the board regarding approval of continuing education programs using the criteria in part 4762.0090, subpart 3; and
- H. perform other duties authorized for advisory councils by Minnesota Statutes, chapter 214, as directed by the board.

Statutory Authority: *MS s 214.13*

History: *16 SR 958*

4762.0300 FEES.

Subpart 1. **Registration fee.** The fee for initial registration and annual registration renewal shall be \$59.

Subp. 2. **Proration of fees.** The board shall prorate registration fees for first time registrants as follows:

A. first time registrants applying between July 1 and December 31 shall pay the full registration fee;

B. first time registrants applying between January 1 and June 30 shall pay one-half the registration fee.

All registrants are required to pay the full fee upon registration renewal.

Subp. 3. **Penalty fee for late renewals.** The penalty fee for late submission of a renewal application shall be \$15.

Subp. 4. **Surcharge.** For a period of five years following October 21, 1991, each applicant for initial registration and each registrant applying for registration renewal must pay a surcharge fee of \$19.

Subp. 5. **Nonrefundable fees.** All of the above fees are nonrefundable.

Statutory Authority: *MS s 214.13*

History: *16 SR 958*