



**BOARD OF RESPIRATORY CARE
LAWS AND RULES**

July 2010 Edition

Board of Respiratory Care
4052 Bald Cypress Way, BIN C-05
Tallahassee, Florida 32399-3255

<http://www.doh.state.fl.us/mqa/respiratory/index.html>

RESPIRATORY THERAPY

468.35	Short title.
468.351	Purpose and intent; application.
468.352	Definitions.
468.353	Board of Respiratory Care; powers and duties.
468.354	Board of Respiratory Care; organization; function.
468.355	Licensure requirements.
468.358	Licensure by endorsement.
468.359	Assumption of title and use of abbreviations.
468.36	Current address.
468.361	Renewal of licensure; continuing education.
468.363	Reactivation of licensure; continuing education.
468.364	Fees; establishment; disposition.
468.365	Disciplinary grounds and actions.
468.366	Penalties for violations.
468.367	Injunctive relief.
468.368	Exemptions.
468.369	Payment or reimbursement by hospitals of costs of compliance with part.

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 State 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; s. 93, ch. 2008-6.

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.

Please note: This is a transcription of the Florida Administrative Code; however, it is not the official Code. All attempts have been made to verify the complete accuracy of the text. If you are concerned about the accuracy, please consult the Florida Administrative Code which can be found in any law library.

CHAPTER 64B32-1 BOARD OF RESPIRATORY CARE - ORGANIZATION, PROCEDURES, AND GENERAL PROVISIONS

- 64B32-1.001 Organization. (Repealed)
- 64B32-1.002 Delegation of Powers and Duties to Respiratory Care Council. (Repealed)
- 64B32-1.003 Final Orders. (Repealed)
- 64B32-1.004 Designation of Official Reporter. (Repealed)
- 64B32-1.005 Exemptions and Student Registration. (Repealed)
- 64B32-1.006 Address of Licensee.
- 64B32-1.007 Certification of Public Records.
- 64B32-1.008 Attendance at Board Meetings.
- 64B32-1.009 Other Business Involving the Board.
- 64B32-1.010 Spouses of Members of Armed Forces Exemption.

64B32-1.006 Address of Licensee.

Each person holding a license issued pursuant to Part V of Chapter 468, Florida Statutes, must maintain on file with the Board the current place of practice and the residence address at which any notice required by law may be served by the Department, the Board, or its agents. Within 60 days of changing either address, whether or not within this state, the licensee shall notify the Department by serving written notification of the new address to the Board.

Specific Authority 468.36 FS. Law Implemented 456.035, 468.36 FS. History—New 5-10-92, Formerly 21M-33.009, 61F6-33.009, 59R-70.009, Amended 3-16-98, Formerly 64B8-70.009, Amended 7-1-02.

64B32-1.007 Certification of Public Records.

Any person desiring certification of any Board documents from the custodian of records as official public records shall submit that request along with a certification fee of \$25. Normal duplicating fees shall also apply.

Specific Authority 456.025(8), 468.353 FS. Law Implemented 456.025(8) FS. History—New 5-10-92, Formerly 21M-33.010, 61F6-33.010, 59R-70.010, 64B8-70.010.

64B32-1.008 Attendance at Board Meetings.

(1) Board members shall attend all regularly scheduled Board meetings unless prevented from doing so by reason of court order, subpoena, business with a court with the sole prerogative of setting the date of such business, death of a family member, illness of the Board member, or illness of the member's family, or other similar extenuating circumstances.

(2) No Board member may be absent from three consecutive regularly scheduled Board meetings unless the absence is excused for one of the reasons stated in subsection (1) of this rule. Other absences constitute unexcused absences for the purpose of declaring a vacancy on the Board. An otherwise excused absence is not excused if the Board member fails to notify the Board office of the impending absence prior to the regularly scheduled Board meeting at which the absence will occur unless the failure to notify is the result of emergency circumstances that would reasonably tend to preclude timely notification.

Specific Authority 456.011(3) FS. Law Implemented 456.011(3) FS. History—New 1-6-02.

64B32-1.009 Other Business Involving the Board.

For purposes of Board member compensation pursuant to Section 456.011(4), Florida Statutes, "other business involving the Board" does not include telephone conference calls that last less than four hours, but otherwise is defined to include:

- (1) Board meetings;

- (2) Meetings of committees of the Board;
- (3) Meetings of a Board member with staff or with a member or members of other regulatory boards at the request of the Board or the Department;
- (4) Probable cause panel meetings;
- (5) Attendance at legislative workshops or committee meetings at the request of the Board or Department;
- (6) Attendance at meetings of National and State Associations as an authorized representative of the Board;
- (7) Attendance at continuing education programs for the purpose of auditing a Board-approved provider when such attendance has been approved by the Board;
- (8) Attendance at any function relating to Board business and authorized by the Board or Department.

Specific Authority 456.011(4) FS. Law Implemented 456.011(4) FS. History—New 1-6-02.

64B32-1.010 Spouses of Members of Armed Forces Exemption.

A licensee who is the spouse of a member of the Armed Forces of the United States shall be exempt from all licensure renewal provisions for any period of time when the licensee is absent from the State of Florida due to the spouse's duties with the Armed Forces. The licensee must document the absence and the spouse's military status to the Board. The licensee is required to notify the Board of a change in status within six months of the licensee's return to the State of Florida or the spouse's discharge from active duty. If the change of status occurs within the second half of the biennium, the licensee is exempt from the continuing education requirement for that biennium.

Specific Authority 456.024(2) FS. Law implemented 456.024(2) FS. History—New 1-6-02, Amended 5-23-04.

CHAPTER 64B32-2 LICENSURE REQUIREMENTS

- 64B32-2.001 Licensure by Endorsement.
- 64B32-2.002 Issuance of Temporary Certificates. (Repealed)
- 64B32-2.003 Fees for Application and Initial Licensure.

64B32-2.001 License by Endorsement.

(1) Applicants for licensure as a Registered Respiratory Therapist or Certified Respiratory Therapist in the state of Florida shall apply on Form DH-MQA 1145, Application by Endorsement, Revised 10/09, incorporated herein as this Board's application form and available on the web at <http://www.doh.state.fl.us/mqa/respiratory/index.html>.

(2) Each applicant applying for licensure shall pay an application fee in the form of a check or money order payable to the Department of Health. The initial application must be accompanied by the application fee. The application fee is nonrefundable and may not be used for more than one year from the original submission of the application. After one year from the date of the original submission of an application and application fee, a new application and new fee shall be required from any applicant who desires to be considered for licensure.

(3) Every applicant for licensure as a registered respiratory therapist or certified respiratory therapist shall demonstrate the following:

(a)1. That the applicant holds the "Registered Respiratory Therapist" or "Certified Respiratory Therapist" credential issued by the National Board for Respiratory Care, or an equivalent credential acceptable to the Board; or

2. That the applicant holds licensure, or the equivalent, to deliver respiratory care in another state and such licensure was granted pursuant to requirements determined to be equivalent to, or more stringent than, the requirements in Florida.

(b) That the applicant is not otherwise disqualified by reason of a violation of Chapter 456 or Chapter 468, Part V, F.S., or the rules promulgated thereunder.

(c) That the applicant has completed a Board approved 2-hour course in medical error prevention meeting the criteria set forth in Rule 64B32-6.006, F.A.C.

(d) An applicant who has not practiced respiratory care for 2 years or more must complete a Board-approved comprehensive review course or be recertified in the level in which he or she is applying to practice in order to ensure that he or she has the sufficient skills to re-enter the profession. Board-approved

comprehensive course means any course or courses which includes, at a minimum, fourteen (14) hours in the topics and numbers of hours as follows:

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

Rulemaking Authority 468.353(1), 468.358(3) FS. Law Implemented 468.358(2), (3), 468.365 FS. History—New 4-29-85, Formerly 21M-34.02, 21M-34.002, 61F6-34.002, 59R-71.002, 64B8-71.002, Amended 7-22-02, 8-28-05, 6-12-07, 5-15-08, 5-25-09, 5-10-10.

64B32-2.003 Fees for Application and Initial Licensure.

(1) The application fee for a person desiring to be granted licensure shall be \$50.00.

(2) The initial licensure fee for a person who becomes licensed shall be \$110.00.

(3) In addition to all other fees collected, there shall be a \$5.00 fee collected for each initial licensure and each renewal for the purpose of combating unlicensed activity.

Specific Authority 456.013(2), 456.065, 468.364 FS. Law Implemented 456.065, 468.364 FS. History—New 4-29-85, Formerly 21M-34.04, 21M-34.004, Amended 2-15-94, Formerly 61F6-34.004, Amended 9-29-94, Formerly 59R-71.004, 64B8-71.004, Amended 4-27-00, 8-28-05.

CHAPTER 64B32-3 ADMISSION OF CERTIFIED RESPIRATORY THERAPISTS (Repealed)

CHAPTER 64B32-4 BOARD OF RESPIRATORY CARE - LICENSE RENEWAL AND REACTIVATION; INACTIVE LICENSES

64B32-4.001 Fees.

64B32-4.002 Reactivation of Retired Status License

64B32-4.001 Fees.

(1) The biennial renewal fee for licensure shall be \$121.00.

(2) The reactivation fee for activating an inactive license shall be \$50.

(3) The renewal fee for renewing the inactive status of a license shall be \$50.

(4) If a licensee wishes to request the Board or the Department to provide a duplicate license for replacement of a lost or destroyed license, the Board will issue the duplicate if the request is in writing and accompanied by a payment of \$25.

(5) In addition to all other fees collected from each licensee, there shall be a \$5.00 fee collected upon license renewal for the purpose of combating unlicensed activity.

(6) The delinquency fee shall be \$121.00.

(7) The change in status fee shall be \$35.00.

(8) The retired status fee shall be \$50.00.

Specific Authority 456.025(1), 456.036(7), (8), 456.065, 468.353(1), 468.364 FS. Law Implemented 456.025(1), (6), 456.036, 456.065, 468.364 FS. History—New 4-29-85, Formerly 21M-36.04, Amended 5-10-92, Formerly 21M-36.004, Amended 9-21-93, 1-3-94, Formerly 61F6-36.004, Amended 7-18-95, Formerly 59R-73.004, 64B8-73.004, Amended 4-27-00, 8-13-02, 5-15-05, 2-23-06.

64B32-4.002 Reactivation of Retired Status License.

(1) A retired status licensee for less than five years may change to active status provided:

(a) A licensee pay any renewal fees imposed on an active status license for all biennial licensure periods during which the licensee was on retired status.

(b) A licensee must provide evidence of licensure as either a Certified Respiratory Therapist (CRT) or a Registered Respiratory Therapist (RRT), pursuant to Section 468.355, F.S.

(c) A licensee must meet the continuing educational requirements for Rule 64B32-6.001, F.A.C., for each biennium the licensee was in retired status.

(d) A licensee must take a medical errors course pursuant to Rule 64B32-6.007, F.A.C.

(2) A retired status licensee for five years or more may change to active status provided:

(a) A licensee pay any renewal fees imposed on an active status license for all biennial licensure periods during which the licensee was on retired status.

(b) A licensee must provide evidence of licensure as either a Certified Respiratory Therapist (CRT) or a Registered Respiratory Therapist (RRT), pursuant to Section 468.358, F.S.

(c) A licensee must meet the continuing educational requirements for Rule 64B32-6.001, F.A.C., for each biennium the licensee was in retired status.

(d) A licensee is required to provide evidence of attendance of a Board-approved comprehensive review course, within six months prior to reactivation of license, in order to ensure that he or she has the sufficient skills to re-enter the profession.

(e) A licensee must take a medical errors course pursuant to Rule 64B32-6.007, F.A.C.

(3) Board-approved comprehensive review course means any course or courses which includes, at a minimum, fourteen (14) hours in the topics and number of hours as follows:

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

Specific Authority 456.036(7), (9), 468.353(1) FS. Law Implemented 456.036(7), (9) FS. History--New 4-19-07, Amended 7-27-08.

CHAPTER 64B32-5 BOARD OF RESPIRATORY CARE - DISCIPLINE AND LICENSURE PROVISIONS

64B32-5.001 Disciplinary Guidelines.

64B32-5.002 Payment of Fine.

64B32-5.003 Unprofessional Conduct; Acceptable Standards Definition.

64B32-5.004 Code of Ethics.

64B32-5.005 HIV/AIDS: Knowledge of Antibody Status, Action to Be Taken.

64B32-5.006 Mediation.

64B32-5.007 Citations.

64B32-5.008 Notice of Noncompliance.

64B32-5.001 Disciplinary Guidelines.

(1) The Board may impose disciplinary penalties upon a determination that an applicant or licensee:

(a) Has violated any provision of Chapter 468, Part V, F.S., or any rules promulgated thereunder;

(b) Has violated any provision of Chapter 456, F.S., or any rules promulgated thereunder;

Section 456.0635, F.S., outlines specific offenses for which the Board is prohibited from issuing or renewing a license, certificate, or registration to any applicant if the candidate has been convicted of, pled nolo contendere, or guilty to, regardless of adjudication, a felony under Chapter 409, Chapter 817, Chapter 893, 21 U.S.C. ss. 801-970, or 42 U.S.C. ss 1395-1396, 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.

(c) Has committed an act defined as "unprofessional conduct" in this rule chapter; or

(d) Has violated the Code of Ethics set forth in this rule chapter.

(2) The range of disciplinary penalties which the Board may impose includes any and all set forth in Section

456.072, F.S., unless the conduct to be disciplined falls within the purview of Section 456.0635, F.S., in which case the Board shall impose the penalty specified in Section 456.0635, F.S. In determining the appropriate disciplinary action to be imposed in each case, the Board shall take into consideration the following factors:

- (a) The danger to the public;
- (b) The length of time since the date of the violation;
- (c) The number of previous disciplinary cases filed against the applicant or licensee;
- (d) The length of time the applicant or licensee has practiced;
- (e) The actual damage, physical or otherwise, to the patient;
- (f) The deterrent effect of the penalty imposed;
- (g) The effect of the penalty upon the applicant's or licensee's livelihood;
- (h) Any efforts for rehabilitation;
- (i) Any other mitigating or aggravating circumstances.

(3) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Sections 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the severity and repetition of the violations as set forth below. The mitigating or aggravating circumstances used to justify any deviation from the specified guidelines must be enunciated in the final order. The verbal identification of offenses are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included. For applicants, any and all offenses listed herein are sufficient for refusal to certify an application for licensure. In addition to the penalty imposed, the Board shall recover the costs of the investigation and prosecution of the case. Additionally, if the Board makes a finding of pecuniary benefit or self-gain related to the violation, then the Board shall require refund of fees billed and collected from the patient or a third party on behalf of the patient.

VIOLATION		RECOMMENDED RANGE OF PENALTY
(a) Attempting to obtain a license by bribery, fraud or through an error of the Department or the Board.	First Offense	From one year probation with conditions to revocation and payment of a fine of \$250 to \$1,000.
	Second Offense	From revocation with ability to reapply and a fine from \$2,000 to \$6,000.
	Third Offense	From revocation with no ability to reapply and a fine from \$6,000 to \$10,000.
(468.365(1)(a), 456.072(1)(h), F.S.)		

However, if the violation is not through an error but is for fraud or making a false or fraudulent representation, the fine is increased to \$10,000 per count or offense.

(b) Actions taken against license by another jurisdiction. (468.365(1)(b), 456.072(l)(f), F.S.)	First Offense	From imposition of discipline comparable to the discipline which would have been imposed if the substantive violation occurred in Florida to suspension of the license until the license is unencumbered in the jurisdiction in which disciplinary action was originally taken, and an administrative fine ranging from \$300 to \$1,000. Impaired practitioners working in this state may be ordered into the PRN.
	Second Offense	Same as for a first offense except a fine shall range from \$1,000 to \$2,000.
	Third Offense	Same minimum as for a first offense with a maximum penalty of revocation and a fine from \$2,000 to \$10,000.
(c) Guilt of crime directly relating to	First Offense	From a minimum of six months probation with conditions to revocation of the

practice or ability to practice.
(468.365(1)(c), 456.072(1)(c), F.S.)

license and an administrative fine ranging from \$300 to \$1,000. Any Board ordered probation shall be for no less time than

Court ordered sanctions.

Second Offense

From one year suspension and \$5,000 fine to revocation and fine of \$10,000.

(d) Willfully failing to file a report as required. (468.365(1)(d), 456.072(1)(l), F.S.)

First Offense

From six months to one year probation with conditions, and an administrative fine from \$300 to \$1,000.

Second Offense

From one year probation with conditions to six months suspension and a fine from \$500 to \$3,000.

Third Offense

From one year suspension to revocation and a fine from \$3,000 to \$10,000.

However, if the offense is for fraud or for willfully making a false or fraudulent report, the fine is increased to \$10,000 per count or offense.

(e) False, deceptive, or misleading advertising. (468.365(1)(e), F.S.)

First Offense

From reprimand to one year suspension, and an administrative fine from \$250 to \$1,000.

Second Offense

From one year probation with conditions to one year suspension and a fine from \$500 to \$3,000.

Third Offense

From one year suspension to revocation and a fine from \$3,000 to \$10,000.

(f) Unprofessional conduct. (468.365(1)(f), F.S.)

First Offense

From a minimum of one year probation with conditions to revocation, and an administrative fine from \$300 to \$2,000.

Second Offense

From one year suspension to revocation and a fine from \$2,000 to \$10,000.

(g) Controlled substances. (468.365(1)(g), F.S.)

First Offense

From a minimum of six months probation with conditions to revocation of the license and an administrative fine ranging from \$1,000 to \$5,000.

Any Board ordered probation shall be for no less time than Court ordered sanctions.

Second Offense

From one year suspension to revocation and a fine from \$5,000 to \$10,000.

(h) Failure to report another licensee in violation.

First Offense

From a letter of concern to six months probation with conditions, and an administrative fine from \$300 to \$1,000.

(468.365(1)(h), 456.072(1)(i), F.S.)

Second Offense

From six months probation with conditions to one year suspension and a fine from \$500 to \$3,000.

Third Offense

From one year suspension to revocation and a fine from \$3,000 to \$10,000.

(i) Violation of order of the Board or Department or failure to comply with subpoena. (468.365(1)(i), 456.072(1)(q),

First Offense

From a reprimand to six months suspension, and an administrative fine from \$300 to \$1,000. For failure to comply with subpoena, \$250 minimum fine and ninety day

F.S.)

	Second Offense	suspension and thereafter until compliance. From one year suspension to revocation and a fine from \$2,000 to \$10,000.
(j) Unlicensed practice. (468.365(1)(j), F.S.)	First Offense	A reprimand to six months suspension followed by one year, and probation with conditions, and an administrative fine from \$500 to \$1,000.
	Second Offense	From six months suspension to revocation and a fine from \$2,000 to \$10,000.
	Third Offense	Revocation with no ability to reapply and a fine from \$5,000 to \$10,000.
(k) Aiding unlicensed practice. (468.365(1)(k), 456.072(1)(j), F.S.)	First Offense	From a minimum of one year probation with conditions to six months suspension followed by one year of probation with conditions, and an administrative fine from \$500 to \$3,000.
	Second Offense	From six months suspension followed by one year of probation with conditions to revocation and a fine from \$2,000 to \$10,000.
	Third Offense	From one year suspension followed by two years probation with conditions to revocation with no ability to reapply and a fine from \$6,000 to \$10,000.
(l) Failure to perform legal obligation. (468.365(1)(l), 456.072(1)(k), F.S.)	First Offense	From a reprimand to revocation, and an administrative fine from \$300 to \$1,000.
	Second Offense	From one year probation with conditions to six months suspension and a fine from \$500 to \$5,000.
	Third Offense	From one year suspension to revocation with no ability to reapply and a fine from \$3,000 to \$10,000.
(m) Practicing beyond competence level. (468.365(1)(m), 456.072(1)(o), F.S.)	First Offense	From reprimand to one year suspension followed by two years probation and an administrative fine from \$300 to \$2,000.
	Second Offense	From six months suspension followed by one year probation with conditions to revocation and a fine from \$1,000 to \$10,000.
	Third Offense	From one year suspension followed by two years probation to revocation with no ability to reapply and a fine from \$3,000 to \$10,000.
(n) Delegation of professional responsibilities to unqualified person. (468.365(1)(n), 456.072(1)(p), F.S.)	First Offense	From one year probation with conditions to revocation, and an administrative fine from \$300 to \$1,000.
	Second Offense	From six months suspension followed by one year of probation with conditions to revocation and a fine from \$1,000 to \$10,000.
	Third Offense	From one year suspension followed by two years probation to revocation with no ability to reapply and a

		fine from \$3,000 to \$10,000
(o) Malpractice. (468.365(1)(o), F.S.)	First Offense	From one year probation with conditions to revocation, and an administrative fine from \$500 to \$2,000.
	Second Offense	From two years probation with conditions to revocation and a fine from \$2,000 to \$10,000.
	Third Offense	From one year suspension followed by two years probation to revocation with no ability to reapply and a fine from \$3,000 to \$10,000.
(p) Kickbacks or split fee arrangements. (468.365(1)(p), F.S.)	First Offense	From refund of fees billed and six months suspension followed by at least one year probation with conditions to revocation, and administrative fine from \$300 to \$3,000.
	Second Offense	From one year suspension followed by two years probation with conditions to revocation with no ability to reapply and a fine from \$2,000 to \$10,000.
(q) Exercising influence or engage patient in sex. (468.365(1)(q), 456.072(1)(u) F.S.)	First Offense	From one year suspension followed by at least one year probation with conditions and possible referral to the PRN to revocation, and an administrative fine 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 PRN a fine from \$1,000 to \$10,000.
(r) Deceptive, untrue, or fraudulent representations in the practice of respiratory care. (468.365(1)(r), 456.072(1)(a) and (m), F.S.)	First Offense	From a minimum of one year probation with conditions to revocation, and an administrative fine from \$10,000 per count or offense.
	Second Offense	From two years of probation with conditions to revocation with no ability to reapply and a fine of \$10,000 per count or offense.
(s) Improper solicitation of patients. (468.365(1)(t), 456.072(1)(x), F.S.)	First Offense	From a minimum of one year probation with conditions to revocation, and an administrative fine from \$300 to \$1,000.
	Second Offense	From two years probation with conditions to revocation and a fine from \$2,000 to \$10,000.
	Third Offense	From one year suspension followed by two years probation to revocation with no ability to reapply and a fine from \$3,000 to \$10,000.

However, 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.

(t) Failure to keep written medical records. (468.365(1)(t), F.S.)	First Offense	From a letter of concern to one year suspension, followed by a minimum of one year probation with conditions and an administrative fine from \$300 to \$1,000.
	Second Offense	From a reprimand to two years probation with

		conditions and a fine from \$500 to \$5,000.
	Third Offense	From six months suspension followed by one year probation to revocation and a fine from \$3,000 to \$10,000.
(u) Exercising influence on patient for financial gain. (468.365(1)(u), 456.072(1)(n), F.S.)	First Offense	From refund of fees billed and a minimum of one year probation with conditions, to two years suspension and an administrative fine from \$500 to \$3,000.
	Second Offense	From refund of fees billed and two years probation with conditions to revocation and a fine from \$2,000 to \$10,000.
	Third Offense	From refund of fees billed and one year suspension followed by two years probation to revocation with no ability to reapply and a fine from \$3,000 to \$10,000.
(v) Performing professional services not authorized by physician. (468.365(1)(v), F.S.)	First Offense	From a reprimand to one year suspension, followed by a minimum of one year probation with conditions and an administrative fine from \$300 to \$1,000.
	Second Offense	From six months probation with conditions to revocation and a fine from \$1,000 to \$10,000.
	Third Offense	From six months suspension followed by one year probation to revocation with no ability to reapply and a fine from \$3,000 to \$10,000.
(w) Inability to practice respiratory care with skill and safety. (468.365(1)(w), 456.072(1)(y), F.S.)	First Offense	From referral to PRN for submission to a mental or physical examination directed towards the problem and/or one year probation with conditions, to revocation and an administrative fine from \$100 to \$1,000.
	Second Offense	From referral to PRN and/or two years of probation with conditions to revocation and a fine from \$300 to \$5,000.
(x) Violation of this chapter, Chapter 456, F.S., or any rules adopted pursuant thereto. (468.365(1)(x), 456.072(1)(b) and (cc), F.S.)	First Offense	From a reprimand to revocation and a fine from \$300 to \$2,000.
	Second Offense	From six months of probation with conditions to revocation and a fine from \$1,000 to \$10,000.
	Third Offense	From one year of probation with conditions to revocation and a fine from \$2,000 to \$10,000.
(y) Improper interference with investigation, inspection or discipline. (456.072(1)(r), F.S.)	First Offense	From six months of probation with conditions to revocation and a fine from \$500 to \$5,000.
	Second Offense	From six months suspension followed by one year probation with conditions to revocation with no

		ability to reapply and a fine from \$1,000 to \$10,000.
(z) Failure to report conviction or plea. (456.072(1)(w), F.S.)	First Offense	From reprimand to six months suspension and a fine from \$300 to \$1,000.
	Second Offense	From one year probation with conditions to revocation with no ability to reapply and a fine from \$1,000 to \$10,000.
(aa) Wrong patient, wrong site, or wrong or unauthorized procedure. (456.072(1)(aa), F.S.)	First Offense	From one year probation with conditions to revocation and a fine from \$500 to \$2,000.
	Second Offense	From two years probation with conditions to revocation and a fine from \$2,000 to \$10,000.
	Third Offense	From one year suspension followed by two years probation to revocation with no ability to reapply and a fine from \$3,000 to \$10,000.
(bb) Leaving a foreign body in a patient. (456.072(1)(bb), F.S.)	First Offense	From one year probation with conditions to revocation and a fine from \$500 to \$2,000.
	Second Offense	From two years probation with conditions to revocation and a fine from \$2,000 to \$10,000.
	Third Offense	From one year suspension followed by two years probation to revocation with no ability to reapply and a fine from \$3,000 to \$10,000.
(cc) Testing positive in a pre-employer ordered drug screen. (456.072(1)(z), F.S.)	First Offense	From six months probation with referral to PRN to revocation employment condition and/or and a fine from \$500 to \$2,000.
	Second Offense	From one year probation with conditions and referral to PRN to revocation and an administrative fine from \$1,000 to \$10,000.
(dd) Termination of PRN Contract –		Reprimand to revocation, plus an administrative fine from \$250 to \$2,000.
(ee) Practicing with a delinquent, retired, or inactive status license –		Reprimand to revocation, plus an administrative fine from \$2,000 to \$10,000. If fraud is shown, \$10,000 fine per count.
(ff) Failure to notify a patient through written or oral notice of the type of license the practitioner holds. (456.072(1)(t), F.S.)	First Offense	Read laws and rules and submit an affidavit attesting that the licensee has read the laws and rules.
	Second Offense	A fine from \$100.00 to \$500.00.
(gg) Any felony offense classified under Chapter 409, 817, 893, F.S., or 21 U.S.C ss. 801-970, or 42 U.S.C. ss. 1395-1396. (456.0635, F.S.)	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.
(hh) Terminated for cause from the Florida Medicaid program	Any Offense	The board is prohibited from issuing or renewing a license, certificate, or registration, unless the applicant has been

pursuant
to Section 409.913, F.S.

in good
standing with the Florida Medicaid program for the most
recent 5
years.

(ii) Terminated for cause, Any Offense
pursuant to
the appeals procedures
established by
the state or Federal
Government,
from any other state Medicaid
program or the Federal
Medicare
program.

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 5 years and the termination
occurred
at least 20 years prior to the date of the application.

(4) Stipulation or Settlements. The provisions of this rule are not intended and shall not be construed to limit the ability of the Board to dispose informally of disciplinary actions by stipulation, agreed settlement, or consent order pursuant to Section 120.57(4), F.S.

(5) Letters of Guidance. The provisions of this rule cannot and shall not be construed to limit the authority of the probable cause panel of the Board to direct the Department to send a letter of guidance pursuant to Section 456.073(4), F.S., in any case for which it finds such action appropriate.

(6) Other Action. The provisions of this rule are not intended to and shall not be construed to limit the ability of the Board to pursue or recommend that the Department pursue collateral civil or criminal actions when appropriate.

Rulemaking Authority 456.079, 468.365(4) FS. Law Implemented 456.072, 468.365 FS. History—New 4-29-85, Formerly 21M-37.01, 21M-37.001, Amended 1-3-94, Formerly 61F6-37.001, 59R-74.001, 64B8-74.001, Amended 5-5-02, 12-5-04, 5-15-05, 2-23-06, 3-29-07, 5-4-10.

64B32-5.002 Payment of Fine.

All fines imposed by the Board shall be paid within thirty (30) days from the date of the final order entered by the Board unless the final order extends the deadline in any given case.

Specific Authority 456.072(4), 468.365(4) FS. Law Implemented 456.072(4), 468.365(2)(c) FS. History—New 6-9-99, Formerly 64B8-74.005.

64B32-5.003 Unprofessional Conduct; Acceptable Standards Definition.

(1) A licensee is guilty of unprofessional conduct, which is defined as any departure from, or failure to conform to, acceptable standards related to the delivery of respiratory care services. Some examples of unprofessional conduct shall include the following acts:

(a) Violating the confidentiality of information or knowledge concerning a patient.

(b) Falsely misrepresenting the facts on an application for employment as a respiratory therapist.

(c) Leaving a respiratory therapy assignment before properly advising appropriate supervisory personnel.

(d) Providing false or incorrect information to an employer regarding the status of the certification, registration, or licensure.

(e) Failing to report another licensee in violation of the laws and/or rules pertaining to the profession.

(f) Using foul or abusive language in patient care or public areas.

(2) Acceptable standards means practicing respiratory care with the level of care, skill, and treatment which is recognized by a reasonably prudent respiratory therapist as being acceptable under similar conditions and circumstances.

Specific Authority 468.353(1), 468.365(1)(f) FS. Law Implemented 468.365(1)(f) FS. History—New 4-29-85, Formerly 21M-37.02, 21M-37.002, 61F6-37.002, 59R-74.002, 64B8-74.002, Amended 1-6-02, 12-26-05.

64B32-5.004 Code of Ethics.

The Code of Ethics of the American Association for Respiratory Care (AARC) is adopted by reference as the

Code of Ethics under this act.

Specific Authority 468.354(5)(a) FS. Law Implemented 468.354(5)(a) FS. History—New 4-29-85, Formerly 21M-37.03, 21M-37.003, 61F6-37.003, 59R-74.003, 64B8-74.003.

64B32-5.005 HIV/AIDS: Knowledge of Antibody Status, Action to Be Taken.

The Board strongly urges all licensees under its jurisdiction who are involved in invasive procedures to undergo testing to determine their HIV status. In the event a licensee tests positive, the licensee must enter and comply with the requirements of the Physician Recovery Network.

Specific Authority 456.032 FS. Law Implemented 456.032, 468.365(1)(x) FS. History—New 11-9-92, Formerly 21M-37.004, 61F6-37.004, 59R-74.004, 64B8-74.004.

64B32-5.006 Mediation.

(1) "Mediation" means a process whereby a mediator appointed by the Department acts to encourage and facilitate resolution of a legally sufficient complaint. It is an informal and nonadversarial process with the objective of assisting the parties to reach a mutually acceptable agreement. When an offense subject to mediation is also a citation violation, the mediator shall be informed regarding the citation penalty for the offense.

(2) For purposes of Section 456.078, F.S., the Board designates as being appropriate for mediation:

(a) First time violations of subsection 64B32-6.001(2), F.A.C., failure to respond to a continuing education audit.

(b) Failure to notify the Department of a change of address as required by Rule 64B32-1.006, F.A.C., if there is a dispute and the Respondent did not timely respond to a notice of noncompliance.

(c) Issuance of a bad check to the Department under Section 468.365(1)(l), F.S., if there is a dispute and the Respondent did not timely respond to a notice of noncompliance.

(d) Violation of continuing education requirements under Section 468.361, F.S.

(e) Unprofessional conduct violations under Rule 64B32-5.003, F.A.C.

(f) Exercising influence on a patient to exploit the patient for financial gain under Section 468.365(1)(u), F.S.

(g) Failure to pay required fees and/or fines in a timely matter if disputed under Section 468.365(1)(i), F.S.

Specific Authority 456.078 FS. Law Implemented 456.078 FS. History—New 3-21-95, Formerly 59R-74.005, 64B8-74.005, Amended 5-31-04.

64B32-5.007 Citations.

(1) Pursuant to Section 456.077, F.S., the Board sets forth below those violations for which there is no substantial threat to the public health, safety, and welfare; or, if there is a substantial threat to the public health, safety, and welfare, such potential for harm has been removed prior to the issuance of the citation. Next to each violation is the penalty to be imposed. All citations will include a requirement that the subject correct the violation, if remediable, within a specified period of time not to exceed 90 days, and impose whatever obligations will remedy the offense, except documentation of completion of continuing education requirements shall be as specified in paragraph (2)(a). If the violation is not corrected, or is disputed, the Department shall follow the procedure set forth in Section 456.073, F.S. In addition to any administrative fine imposed, the Respondent shall be required by the Department to pay the costs of investigation. The form to be used is specified in the rules of the Department of Health.

(2) The following violations may be disposed of by citation with the specified penalty:

(a) Violations of continuing education requirements required by Section 468.361, F.S.: are to be completed within 90 days of the date of the filing of the final order. Licensee must submit certified documentation of completion of all the CE requirements for the period for which the citation was issued; prior to renewing the license for the next biennium, licensee must document compliance with the CE requirements for the relevant period.

1. Failure to document HIV/AIDS continuing education requirement the fine shall be \$100.

2. Documentation of some but not all of the 24 hours of required continuing education for license renewal the fine shall be \$50 for each hour not documented.

(b) Violation of any portion of Rule 64B32-5.003, F.A.C., for unprofessional conduct the fine shall be \$300.

(c) Failure to notify the Board of current address as required by Rule 64B32-1.006, F.A.C. the fine shall be

\$50.

(d) Failure to keep written respiratory care records justifying the reason for the action taken on only one patient under Section 468.365(1)(t), F.S. the fine shall be \$100.

(e) Circulating misleading advertising in violation of Section 468.365(1)(e), F.S. the fine shall be \$500.

(f) Exercising influence on a patient to exploit the patient for financial gain by promoting or selling services, goods, appliances or drugs under Section 468.365(1)(u), F.S. the fine shall be \$1,000.

(g) Failure to submit compliance documentation after receipt of the continuing education audit notification under Section 468.365(1)(x), F.S. the fine shall be \$150.

(h) Failure to provide satisfaction including the costs incurred following receipt of the Department's notification of a check dishonored for insufficient funds under Section 468.365(1)(l), F.S. the fine shall be \$150.

(i) Failure to pay required fees and/or fines in a timely manner under Section 468.365(1)(i), F.S. the fine shall be \$150.

(3) Citations shall be issued to licensee by the Bureau of Investigative Services only after review by the legal staff of the Department of Health, Division of Regulation. Such review may be by telephone, in writing, or by facsimile.

(4) When an initial violation for which a citation could be issued occurs in conjunction with a violation or other violations for which a citation could not be issued, the procedures of Section 456.073, F.S., shall apply.

(5) The licensee has 90 days from the date the citation becomes a final order to pay any fine imposed and costs. All fines and costs are to be made payable to the Department of Health, and sent to the Department in Tallahassee. A copy of the citation shall accompany the payment of the fine and costs.

(6) The Department of Health shall periodically, submit a report to the Board regarding the number and nature of the citations issued, the penalties imposed, and the level of compliance.

Rulemaking Authority 456.077 FS. Law Implemented 456.072(3), 456.077 FS. History—New 5-19-96, Formerly 59R-74.006, 64B8-74.006, Amended 1-6-02, 5-31-04, 2-23-06, 3-28-10.

64B32-5.008 Notice of Noncompliance.

In accordance with Sections 120.695 and 456.073, F.S., the Board shall issue a notice of noncompliance as a first response to a minor violation of a rule. Failure of a licensee to take action to correct the violation within 15 days shall result in either the issuance of a citation when appropriate or the initiation of regular disciplinary proceedings. The minor violations which shall result in a notice of noncompliance are:

(1) Failure to notify of a change of address within 60 days as required by Rule 64B32-1.006, F.A.C.

(2) Non-intentional issuance of a bad check to the Department under Section 486.125(1)(k), F.S.

Specific Authority 120.695, 456.073(3), 486.025 FS. Law Implemented 120.695, 456.073(3) FS. History—New 5-31-04.

CHAPTER 64B32-6 BOARD OF RESPIRATORY CARE - CONTINUING EDUCATION

64B32-6.001 Continuing Education Requirement.

64B32-6.002 Definitions.

64B32-6.003 Citations. (Repealed)

64B32-6.004 Procedures for Approval of Attendance at Continuing Education Courses.

64B32-6.005 Provider Approval and Renewal Procedures.

64B32-6.006 AIDS Education and Medical Error Prevention Education.

64B32-6.007 Continuing Education Requirements for Reactivation of License.

64B32-6.001 Continuing Education Requirement.

(1) The Legislature and the Board have determined that competency in delivery of respiratory care services is enhanced by continuous updating of knowledge and skills. To this end, continuing education is required as a condition for renewal of licensure of all respiratory care personnel without regard to the avenue taken to licensure.

(2) Each licensee shall submit proof satisfactory to the Board of participation in appropriate continuing education. During each biennium, as established by the Department, each licensee must earn 24 contact hours of continuing education except as provided in Rule 64B32-6.001, F.A.C.

(3) Those persons initially licensed during the second year of a biennium who do not currently hold a

respiratory care license are exempt from the continuing education requirements, except for the Medical Errors course and HIV/AIDS course pursuant to subsection (5) of this rule and Section 456.033, F.S., for their first renewal. Continuing education requirements must be met for each biennium thereafter.

(4) A licensee who also holds current license in another health care profession may satisfy the continuing education requirement for a renewal of this license with hours counted toward renewal of another license as long as the hours meet all the requirements of this rule chapter.

(5) A licensee needs twenty-four (24) hours per biennium in order to renew the license.

The hours can be obtained in the following manner:

(a) Direct Delivery of Respiratory Care Services

Mandatory for all licensees: A minimum of 16 hours each biennium must be obtained by each licensee in the approved offerings pursuant to subsection 64B32-6.004(3), F.A.C.

1. Medical Errors

Mandatory part of Direct Delivery Services Requirements for all licensees: 2 hours in a board-approved continuing education course pursuant to Rule 64B32-6.006, F.A.C.

2. HIV/AIDS

Mandatory part of Direct Delivery Services Requirements for the initial renewal of all licensees, Optional for subsequent renewals: At least 3 hours but no more than 5 hours pursuant to Rule 64B32-6.006, F.A.C. The course must be taken within the last five (5) years prior to either initial licensure or first renewal.

3. Emergency Preparedness

Mandatory part of Direct Delivery Services Requirements for all licensees 2 hour course offered by a board approved CE provider.

(b) Non-Direct Respiratory Patient Care (i.e. management, risk management, personal growth, and educational techniques)

No more than 8 hours in this area will be acceptable for the purpose of biennial renewal of a license pursuant to subsection 64B32-6.004(3), F.A.C.

(c) Home Study Courses

Limitation applicable to all licensees: No more than 12 hours per biennium pursuant to subsection 64B32-6.004(3), F.A.C.

(d) Other requirements that satisfy continuing education are listed in Rule 64B32-6.004, F.A.C.

(6) A licensee needs twenty-four (24) hours of Continuing Education each biennium in order to renew a Respiratory Care License. None of these hours can be obtained by taking Basic Life Support (BLS) training.

Rulemaking Authority 456.013(8), 468.361(2) FS. Law Implemented 468.361 FS. History—New 4-29-85, Formerly 21M-38.01, Amended 9-29-86, Formerly 21M-38.001, Amended 1-2-94, Formerly 61F6-38.001, Amended 11-1-94, Formerly 59R-75.001, Amended 6-9-99, Formerly 64B8-75.001, Amended 5-15-05, 10-28-07, 5-15-08, 8-4-09, 4-25-10.

64B32-6.002 Definitions.

(1) "Academic Quarter Credit Hour" means ten (10) contact hours.

(2) "Academic Semester Credit Hour" means fifteen (15) contact hours.

(3) "Appropriate continuing education" means planned offerings designed to enhance learning and promote the continued development of knowledge, skills, and attitudes consistent with contemporary standards for the individual's respiratory care practice.

(4) "Approved" means acceptable to the Board.

(5) "Biennium" means a time period of two (2) calendar years, as designated by the Department.

(6) "One (1) contact hour" equals a minimum of fifty (50) minutes. One-half (1/2 or .5) contact hour equals a minimum of twenty-five (25) minutes.

(7) "Offering" means a planned educational experience dealing with a specific content based on the stated learner objectives.

(8) "Orientation – Standard Agency Operation" is the means by which respiratory care professionals are introduced to the philosophy, goals, policies, procedures, role expectations, physical facilities and special services in a specific work setting. Orientation does not meet the continuing education requirement for the purpose of these rules.

(9) "Participation" means sharing in the learning experience in order to achieve the stated learner objectives.

Specific Authority 468.353(1), 468.361(2) FS. Law Implemented 468.361 FS. History--New 4-29-85, Formerly 21M-38.02, Amended 9-29-86, Formerly 21M-38.002, 61F6-38.002, 59R-75.002, 64B8-75.002, Amended 2-20-07.

64B32-6.004 Procedures for Approval of Attendance at Continuing Education Courses.

(1) During the license renewal period of each biennium, an application for renewal will be mailed to each licensee at the last address provided to the Board. Failure to receive any notification during this period does not relieve the licensee of the responsibility of meeting the continuing education requirements. The licensee must retain such receipts, vouchers, certificates, or other papers as may be necessary to document completion of the appropriate continuing education offerings listed on the renewal form for a period of not less than 4 years from the date the offering was taken. The Board will audit at random a number of licensees as is necessary to assure that the continuing education requirements are met. Failure to document compliance with the continuing education requirements or the furnishing of false or misleading information regarding compliance shall be grounds for disciplinary action pursuant to Section 468.365(1)(a), Florida Statutes.

(2) Excluding any recertification, review, refresher, or preparatory courses, all licensees shall be awarded contact hours for:

(a) Attendance at offerings that are approved by:

1. The American Association for Respiratory Care (AARC),
2. The Florida Society for Respiratory Care, and
3. The Accreditation Council for Continuing Medical Education (ACCME), the American and Florida Thoracic Societies, the American College of Cardiology, the American College of Chest Physicians, the American and Florida Societies of Anesthesiologists, the American and Florida Lung Association, the National Society for Cardiopulmonary Technologists, the American Heart Association, the American Nurses Association, the Florida Nurses Association, and the Florida Board of Nursing.

(b) Attendance at all offerings that are conducted by institutions approved by the Commission on Accreditation for Respiratory Care (CoARC);

(c) Successful completion, for the first time, of any college or university course, but only if such course is part of the curriculum within an accredited respiratory therapy program and is provided by that accredited respiratory therapy program, up to the maximum hours permitted by subsection (3) of this rule.

(d) Successful completion of the following certification classes, up to a maximum total of 16 hours per biennium;

1. Advanced cardiac life support;
2. Neonatal resuscitation program;
3. Pediatric advanced life support.

(e) Successful completion of the following recertification classes, up to a maximum of 8 hours per biennium;

1. Advanced cardiac life support;
2. Neonatal resuscitation program;
3. Pediatric advanced life support.

(f) Successful passage, one time per biennium, of the following recredentialing examinations given by the National Board for Respiratory Care (NBRC):

1. Clinical Simulation Recertification Examination – maximum of 4 hours;
2. Registry Recredentialing Examination (written portion) – maximum of 2 hours;
3. Certified Respiratory Therapist Recredentialing Examination – maximum of 3 hours;
4. Perinatal Pediatrics Recredentialing Examination – maximum of 3 hours.
5. Pulmonary Function: Certified pulmonary function technologist and registered pulmonary function technologist recredentialing examinations – maximum of 2 hours.

(g) Attendance at scheduled public meetings of the Board of Respiratory Care, up to a maximum of 8 continuing education direct patient care hours per biennium.

(3) A minimum of 16 hours each biennium must be obtained by each licensee in approved offerings related to the direct delivery of respiratory care services. No more than 8 hours of nondirect patient care continuing education in the areas of management, risk management, personal growth, and educational techniques will be acceptable for the purpose of biennial renewal of a license. Up to 12 hours per biennium may be home study courses.

(a) Beginning with the biennium ending May 31, 2009, each licensee will be required to have taken a continuing education course in emergency preparedness. This course shall count as two (2) hours of direct patient care credit. This course shall be taken each biennium thereafter and the two (2) hours credit shall count towards the minimum sixteen (16) hours needed to renew the license.

(b) Credit for two (2) hours of direct patient care shall be awarded for completion of a FEMA Emergency Management/ Preparedness continuing education course that complies with the requirements set forth in rule paragraph (3)(c).

(c) Continuing education courses in emergency preparedness, at a minimum, must cover the following topics: natural disasters, manmade disasters and bioterrorism, pandemic flu, and respiratory care disaster response.

(4) Each licensee who is presenting a continuing education course as either the lecturer of the offering or as author of the course materials may earn a maximum 12 contact hours of continuing education credit per biennium. Each licensee who is either participating as a lecturer of a continuing education course or an author of a continuing education program may receive credit for the portion of the offering he/she presented or authored to the total hours awarded for the offering.

(a) Continuing education credit may be awarded to a lecturer or author for the initial presentation of each program only; repeat presentations of the same continuing education course shall not be granted credit.

(b) In order for a continuing education credit to be awarded to each licensee participating as either faculty or author, the format of the continuing education program must conform with all applicable sections of this rule chapter.

(c) Continuing education credit for publications is limited to continuing education offerings.

(d) The number of contact hours to be awarded to each licensee who participates in a continuing education program as either a lecturer or author is based on the 50 minute contact hour employed within this rule chapter.

(5) Members of the Board's Probable Cause Panel shall receive two hours of medical errors and 3 hours of direct patient care credit per biennium for their service on the Panel.

(6) The Board shall make exceptions for licensee from the continuing education requirements, including waiver of all or a portion of these requirements or the granting of an extension of time in which to complete these requirements, upon a finding of good cause by majority vote of the Board at a public meeting following receipt of a written request for exception based upon emergency or hardship. Emergency or hardship cases are those: (1) involving long term personal illness or illness involving a close relative or person for whom the licensee has care-giving responsibilities; (2) where the licensee can demonstrate that the required course(s) are not reasonably available; and (3) where the licensee can demonstrate economic, technological, or legal hardships that substantially relate to the ability to perform or complete the continuing education requirements.

Rulemaking Authority 468.353(1), 468.361(2) FS. Law Implemented 468.361(2) FS. History—New 4-29-85, Formerly 21M-38.04, Amended 9-29-86, 11-29-88, 9-24-92, 10-15-92, Formerly 21M-38.004, Amended 1-2-94, 7-10-94, Formerly 61F6-38.004, Amended 11-1-94, 3-14-95, 7-18-95, 4-24-96, 8-27-96, Formerly 59R-75.004, 64B8-75.004, Amended 6-8-00, 5-7-01, 1-22-03, 7-29-03, 5-31-04, 4-19-07, 10-8-07, 9-3-09, 2-18-10.

64B32-6.005 Provider Approval and Renewal Procedures.

(1) The provider seeking approval shall:

(a) Make application and profile electronically and allow a minimum of 90 days prior to the date the offering begins, and submit the form entitled APPLY TO BE A CE PROVIDER on FORM DH-MQA-CEB-MQA-CEB-1, May 2006 which was adopted and incorporated by reference in Department of Health Rule 64B-5.003, F.A.C., and is available at https://www.cebroke.com/public/pb_index.asp along with a minimum of one course for approval and the following:

1. A statement of the educational goals and objectives of the program, including the criteria for successful completion of the program as explained to attendees;

2. A detailed course outline or syllabus, including such items as method of instruction, and testing materials, if any;

3. A current curriculum vitae of each speaker or lecturer appearing in the program;

4. The procedure to be used for recording attendance of those attendees seeking to apply for continuing education credit and the procedure for certification of attendance; and

5. A sample certificate of completion.

6. Sample evaluation.

7. The \$250 application fee.

8. Submit a minimum of one (1) offering for the Boards' review.

(2) All course offerings shall be relevant to the practice of respiratory care as defined in Section 468.352(4), Florida Statutes, must be offered for the purpose of keeping licensees apprised of advancements and new developments in the practice of respiratory care, and is designed to enhance learning and skills consistent with contemporary standards for the profession.

(3) Provider approval shall be granted for each biennium in which the provider meets the requirements of this rule. Provider approval shall expire on January 31 of each even-numbered year. In the event a provider applies for approval at a time other than the beginning of a biennium, any approval will expire at the end of the biennium in which the application was made.

(4) Every provider shall:

(a) Notify the Board through CD Broker, of any change in contact persons or any significant alterations or changes in the content, goals or objectives, or syllabus of the program, or in the instructors of the program.

(b) Be subject to periodic review to determine if the program continues to meet the requirements of this rule.

(c) Allow for evaluation of the program by every participant.

(d) Maintain all records pertaining to the program for a period of not less than four (4) years from the date of the offering.

(5) The Board may utilize the assistance of a representative, expert groups, or individuals as appropriate in implementing these rules.

(6) The Board may audit providers as necessary to assure that the requirements of this rule are met. Failure to document compliance with these requirements or the furnishing of false or misleading information regarding compliance shall be grounds for discipline.

(7) Providers seeking renewal shall make application electronically a minimum of 90 days prior to the first offering in the new biennium on the form entitled RENEW CE PROVIDERSHIP-FORM DH-MQA-CEB-8, May 2006 adopted and incorporated by reference in the Department of Health Rule 64B-5.003, F.A.C., and available at https://www.cebroke.com/public/pb_index.asp. The biennial renewal fee for providers shall be \$220.00.

(8) The provider seeking initial approval for home study, self directed or anytime courses shall comply with the provisions of subsections (1) through (3), and providers seeking to renew approval as a provider of home study, self directed, or anytime courses shall comply with the provisions of subsections (4) through (7).

(a) In addition to the credit exclusion for recertification, review, refresher or preparatory courses as provided in Rule 64B32-6.004, F.A.C., a home study course submission shall not include reprints from textbooks.

(b) Each home study course submitted for the Board's review shall not exceed 12 contact hours in length as defined in Rule 64B32-6.002, F.A.C.

(c) Instead of the information submitted for in-person programs, the provider shall submit the following for pre-approval:

1. A statement of the educational goals and objectives of the program, including the criteria for successful completion of the program and the number of correct answers required on the test by a participant to receive credit for having taken the program;

2. All materials to be read by the participant, and the testing questions to be answered for successful completion;

3. A current curriculum vitae of each person substantially involved in the preparation of the substance of the program;

4. The identification procedures for verification that the named licensee has taken the home study course;

5. A sample certificate of completion; and

6. If not completely original, references and permission for use or reprint of any copyrighted materials regardless of source.

(9) The provider seeking home study, self directed, or anytime course approval for electronically delivered productions including but not limited to audio or video tape, DVD, CD, or other media delivery devices or methods also shall understand and agree:

(a) Not more than one offering shall be submitted per tape, DVD, CD or other media delivery device or method.

(b) Each tape, DVD, CD or other media delivery device or method shall contain a maximum of four contact hours worth of material.

(c) The offering shall begin with an introduction of the speaker(s) and with a statement of the educational objectives of the program, including the criteria for successful completion of the program.

(d) Approval for an offering related to the direct delivery of respiratory care services shall expire at the end of the biennium; however, the offering may be renewed, if unchanged without resubmission of the offering itself. If changed, the course may be resubmitted for consideration by the Board with changes if accompanied by a statement that the offering is current and reflective of advancements and new developments regarding respiratory care services. If changed, the course shall be submitted not fewer than 90 days prior to its being offered in the new biennium.

Rulemaking Authority 456.025(4), 468.361(3) FS. Law Implemented 456.025(7), 468.361(3) FS. History—New 4-24-96, Amended 5-7-97, Formerly 59R-75.0041, Amended 4-23-98, 6-9-99, Formerly 64B8-75.0041, Amended 7-4-02, 10-22-03, 5-15-05, 7-13-05, 2-18-10.

64B32-6.006 AIDS Education and Medical Error Prevention Education.

Pursuant to Section 456.033, F.S., any Category I, American Medical Association (AMA) continuing medical education course, any Category I or Category III, American Association for Respiratory Care (AARC) continuing education course offered by an AMA approved respiratory therapy program and any courses approved by any board within the Division of Medical Quality Assurance of the Department of Health pursuant to Section 456.033, F.S., which includes topics on the transmission, infection control procedures, clinical management and prevention of Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome, shall satisfy the requirements of Section 456.033, F.S., as part of the first renewal of the license. Such course shall include information on current Florida law on acquired immune deficiency syndrome and its impact on testing, confidentiality of test results, treatment of patients, and any protocols and procedures applicable to human immunodeficiency virus counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification issues pursuant to Sections 381.004 and 384.25, F.S.

(1) The required AIDS education can be completed with one course divided in incremental blocks of time, as long as each increment is at least one contact hour in length and the cumulative total equals a minimum of 3 contact hours, and all of the topics stated above are covered; or by one course which is at least 3 contact hours in length and covers all of the topics stated above; or by multiple courses which are each at least 1 contact hour in length and each cover all of the topics stated above. New licensees must complete three contact hours taken within the last five years prior to either initial licensure or first renewal.

(2) An appropriate course as described above may be used to fulfill up to 3 hours of a licensee's continuing education requirement for the first renewal.

(3) The requirements of this rule and of Section 456.033, Florida Statutes, shall not be read to require continuing education in excess of the number of hours required in Rule 64B32-6.001, F.A.C., provided that those hours include at least the minimum amount of education regarding AIDS as set forth in this rule.

(4) Each applicant and all licensees shall take a Board approved 2-hour continuing education course relating to the prevention of medical errors. The 2-hour course shall count toward the total number of continuing education hours required for each license renewal. The course shall include medication errors, including missed treatments, documentation errors, equipment errors, patient errors and communication errors.

Specific Authority 456.033 FS. Law Implemented 456.013(7), 456.033 FS. History—New 6-20-89, Amended 7-28-92, Formerly 21M-38.006, Amended 1-2-94, Formerly 61F6-38.006, 59R-75.006, 64B8-75.006, Amended 4-27-00, 7-22-02, 6-20-07.

64B32-6.007 Continuing Education Requirements for Reactivation of License.

The continuing education requirements for reactivation of a license shall be:

(1) Those requirements specified in Section 456.036(10), F.S.; and

(2) Documented proof of completion of 24 hours of approved continuing education as provided in this rule chapter and medical error prevention, for the preceding biennium during which the licensee held an active license.

CHAPTER 64B32-7 PROBABLE CAUSE AND RELATED MATTERS

64B32-7.001 Probable Cause Panel.

64B32-7.001 Probable Cause Panel.

(1) The Board shall enter final orders in disciplinary cases against respiratory therapists. The determination of probable cause to issue an administrative complaint against a respiratory therapist shall be made by the Probable Cause Panel of the Board.

(2) The Chair of the Board shall appoint at least two people to the probable cause panel and shall designate its chair. The appointed people shall be either current Board members or at least one current Board member and one or more former members of the Board. If available, one member of the panel shall be a consumer member and at least one member shall be a licensed member of the profession. Once appointed, a panel shall serve for no less than six months. With regard to violations of Part V of Chapter 468 and Chapter 456, Florida Statutes, and/or the rules promulgated pursuant thereto, the determination as to whether there is probable cause that a violation has occurred shall be made by a majority vote of the Probable Cause Panel of the Board.

(3) The Chair of the Board may make temporary appointments to the panel as necessary to conduct the business of the panel in the absence or unavailability of a regularly appointed panel member.

(4) If a Board member has reviewed a case as a member of the Probable Cause Panel, that member, if available, shall be on the panel for reconsideration of that case if reconsideration is requested by the prosecutor.