

STATE OF WYOMING



State Board For Respiratory Care

RULES AND REGULATIONS

**(Promulgated by authority under the
Respiratory Care Practice Act of 2003,
W.S. 33-43-101 through W.S. 33-43-118.)**

December 29, 2003

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CHAPTER 1

GENERAL PROVISIONS

Section 1. Purpose. The State Board for Respiratory Care Rules and Regulations are set forth for the purpose of interpreting and implementing W.S. 33-43-101 through 118 establishing the Board, and conferring upon it the responsibility for licensure of respiratory care practitioners, and the regulation of the practice of respiratory care in the State of Wyoming.

Section 2. Statutory Authority. The State Board for Respiratory Care hereafter referred to as the “Board” was created by the Respiratory Care Practice Act of 2003, W.S. 33-43-101 through 33-43-118, herein after referred to as the “Act”.

Section 3. Severability. If any provisions of these regulations or the application thereof to any person or circumstance is invalid, such invalidity shall not affect other provisions or application of these regulations which can be given effect without the invalid provision or application, and to this end the provisions of these regulations are declared to be severable.

Section 4. Purpose of These Rules. The purpose of these rules shall be to develop procedures and establish requirements for:

- (a) Election of officers, establishment of Board organization, and codification of rules and procedures for Board meetings;
- (b) Standards and qualifications requisite in the issuance of licenses and permits;
- (c) Evaluation of qualifications of individuals applying for licenses and permits;
- (d) Issuance and renewal of licenses and permits to persons qualified in respiratory therapy in the State of Wyoming;
- (e) Setting fees necessary for the administration of this act;
- (f) Establishing criteria for actions against Licensees and Permittees, including but not limited to:
 - (i) Investigation and conduct of hearings on complaints of violations of this act;
 - (ii) Proceedings to enjoin, restrain or bring suit against persons violating this act;
 - (iii) Revocation or suspension of licenses and permits; and,
- (g) Codification of a code of ethics.

Section 5. Terms Defined by Statute. Terms defined in W.S. 33-43-101 through 33-43-118 shall have the same meanings when used in these regulations unless the context or subject matter clearly requires a different interpretation.

Section 6. Terms Defined Herein. As used in these regulations, the following terms shall have the following meanings unless the context or subject matter clearly requires a different interpretation.

(a) **Accredited Program.** An accredited program is a respiratory care educational program which is sponsored by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) in collaboration with the Committee on Accreditation for Respiratory Care (CoARC) or their predecessor or successor organizations.

(b) **CRT.** Certified Respiratory Therapist as credentialed by the NBRC.

(c) **NBRC.** National Board for Respiratory Care.

(d) **RRT.** Registered Respiratory Therapist as credentialed by the NBRC.

(e) **Revocation.** The withdrawal of licensure or certification privileges for cause after adjudication.

(f) **Suspension.** The temporary denial of the rights of licensure or certification for cause as defined under the Administrative Procedures Act.

CHAPTER 2

ORGANIZATION AND PROCEDURES OF THE BOARD

Section 1. Structure of the Board. The Board shall consist of five (5) persons, one (1) public member, one (1) physician who is licensed in the state of Wyoming with a special interest in pulmonary medicine, and three (3) respiratory care practitioners who are licensed under this act. Appointments and removal of board members shall be governed by W.S. 33-43-103 and W.S. 9-1-202.

Section 2. Establishment of Licensure Standards. The state professional organization representing respiratory therapists may recommend to the Board the specific requirements, rules, and procedures appropriate for licensing and permitting persons in that field and suggest changes to the rules and regulations.

Section 3. Officers. Officers of the Board shall be elected at the first meeting each year, by a majority vote of the Board, and be comprised of a chair, a vice chair and a secretary-treasurer.

Section 4. Meetings of the Board. Meetings shall be open to the public and held in accordance with the Wyoming Administrative Procedures Act. The Board has the right to call executive sessions pursuant to W.S. 16-4-405.

(a) The Board shall meet at least twice each year at a date, place and time established by the Chair with special meetings held as requested by the Chair or by a majority of the members.

(b) Meeting dates and times shall be made known to Board members at least twenty (20) days prior to such meeting except for special meetings which may be held upon emergency notice to all Board members.

(c) The Chair may conduct meetings and Board business by telephone as a means of conserving funds and expediting appropriate business.

(d) A quorum shall consist of three (3) members, and a majority vote of those Board members present and voting is required to approve Board actions.

CHAPTER 3

LICENSURE REQUIREMENTS AND APPLICATION PROCEDURES

Section 1. Requirements for Licensure. A license shall not be issued until the applicant has provided satisfactory evidence to the Board that they;

- (a) Are of majority age; and
- (b) Have no felony convictions, and no misdemeanor convictions involving moral turpitude or controlled substances, although exceptions to this requirement may be granted by the Board if consistent with the public interest; and
- (c) Have graduated from an accredited high school or have completed an equivalent education; and
- (d) Have successfully completed a respiratory care educational program from an accredited institution as defined in Chapter 1, which has been approved by the Board; and
- (e) Have passed the Certified Respiratory Therapist (CRT) exam or the Registered Respiratory Therapist (RRT) exam administered by the National Board for Respiratory Care, Inc. (NBRC). The Board will accept the passing score as established by the NBRC.

Section 2. Temporary License. The Board may issue a temporary license to an applicant who presents proof satisfactory to the Board that they meet the requirements stated in Section 1(a), (b) and (c); and

- (a) The applicant must demonstrate that they are presently functioning in the capacity of a respiratory care practitioner.
- (b) The temporary license is subject to renewal and will become null and void if the applicant has not passed the required examination by July 1, 2008.

Section 3. License by Previous Practical Experience. The Board may issue a license by previous practical experience to an applicant who presents proof satisfactory to the Board that they meet the requirements stated in Section 1(a), (b) and (c); and

- (a) The applicant presents written and notarized evidence on a form provided by the Board, of having previous practical experience in the capacity of a respiratory care practitioner in Wyoming during the twenty four (24) months proceeding July 1, 2003, and
- (b) The application for licensure by previous practical experience is received by the Board no later than July 1, 2005.

Section 4. License by Endorsement. The Board may issue a license by endorsement to an applicant who presents proof satisfactory to the Board that, at the time of application for Wyoming license the applicant possesses credentials and qualifications equal to those required by the Act and these rules, and;

(a) The applicant holds a current license in good standing issued under the laws of another jurisdiction and the applicant's qualifications are equivalent to those required in Wyoming as determined by the Board, or

(b) The applicant holds current credentials in good standing as a CRT or RRT conferred by the NBRC.

Section 5. Temporary Permit. The Board may issue a temporary permit to practice respiratory care in Wyoming pending issuance of a license. A temporary permit is valid for six (6) months and may be renewed only once for an additional six (6) months. The Board shall not grant more than one (1) temporary permit to the same individual. In order to be granted a temporary permit, an applicant must present proof satisfactory to the Board that;

(a) The applicant is currently practicing, or within the six (6) months prior to submitting an application has practiced respiratory care in another jurisdiction, holds a current license in good standing issued under the laws of that jurisdiction, and the applicant's qualifications are equivalent to those required in Wyoming as deemed by the Board, or

(b) The applicant meets the requirements stated in Section 1(a), (b) and (c), is currently enrolled in an accredited respiratory care educational program, and is expected to graduate within thirty (30) calendar days of making application.

(i) The temporary permit shall be revoked by the Board upon notification that the student has failed to successfully complete the educational program.

Section 6. Application Documents. Applicants for licensure must submit a complete and legible application form accompanied by the proper non-refundable fee, acceptable proof of U.S. citizenship or legal presence in the U.S., and provide the following documents;

(a) For license by examination,

(i) Official transcript from all accredited respiratory care education programs attended, and

(ii) Official verification of having passed the required examination.

(b) For temporary license,

(i) Official transcript from all accredited respiratory care education programs attended.

- (c)# For license by previous practical experience,
 - (i) A complete and notarized Employer's Statement.
- (d)# For license by endorsement,
NBRC, or
 - (i) Official certification of current credentials in good standing from the
 - (ii) Official verification of current license in good standing from all jurisdictions where the applicant holds a current license, or has held a license, as a respiratory care practitioner.
- (e)# For temporary permit with license in another jurisdiction,
 - (i) Official verification of current license in good standing from the jurisdiction where the applicant holds a valid license and is currently practicing, or within the six (6) months prior to submitting an application has practiced respiratory care prior to submitting an application, and
 - (ii) A complete and notarized Employer's Statement.
- (f) For temporary permit as a student,
 - (i) Written documentation from the registrar or program director verifying the applicants standing as a current student, and stating their expected graduation date.

Section 7. Application Procedures.

- (a) All documents submitted in support of the application must contain an original signature and be submitted directly to the Board office from the respondent and not forwarded through the applicant.
- (b) The Board will not accept faxed or photocopied documents.
- (c) The applicant must document completion of all requirements within three (3) years of the date the application was received by the Board, otherwise the application will be deemed to be abandoned and the file will be closed.
- (d) The application date is the date the application was received by the Board.
- (e) Each applicant must file with the Board their current home and professional mailing addresses and telephone numbers and must report to the Board in writing any change of addresses or telephone numbers, giving both old and new addresses and telephone numbers.

Section 8. Notification of Applicants and Right of Appeal. If the applicant is denied on the basis of initial application materials, the reasons for this rejection shall be communicated in writing. The applicant shall have the right of reconsideration based on submission of new information and/or an appearance before the Board with the opportunity to demonstrate to the Board that they meet the licensure or permit requirements.

Section 9. Issuance and Expiration of License. The Board shall issue a wall certificate and a wallet identification card to the successful applicant bearing the full name of the holder, license number, date of issuance, expiration date, and appropriate seal. All licenses expire on October 31st.

Section 10. Release of Confidential Records.

(a) Release of records shall be governed by W.S. 16-4-201 et seq., Public Records Act.

(b) Any applicant, licensee, or others with proper notarized written consent may personally inspect the contents of a Board file with the exception of information specifically prohibited by the Public Records Act.

(c) Record inspection shall take place under the following conditions:

(i) An appointment must be made to review the file between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday at the offices of the Board.

(ii) Record inspection must take place in the presence of a member of the Board or a representative of its administrative staff.

(iii) Original documents must remain with the Board but may be copied at the Board offices for a reasonable fee.

Section 11. Correction and Amendment. Any applicant may clarify erroneous, inaccurate or misleading information in their file by submitting a written statement to the Board which will be placed in their file.

CHAPTER 4

FEES

Section 1. Fees. This fee schedule is adopted by the Board pursuant to W.S. 33-1-201.

(a)	Application fee	\$100.00
(b)#	Temporary license	\$40.00
(c)	Temporary permit	\$40.00
(d)	Annual license renewal fee	\$100.00
(e)	Temporary permit renewal fee	\$40.00
(f)	Reinstatement fee	\$25.00
(g)	Annual retired status renewal fee	\$25.00
(h)	Written license verification	\$25.00
(i)	Replacement or duplicate wall certificate	\$25.00
(j)	Replacement or duplicate wallet identification cards (2)	\$5.00
(k)	Non-sufficient funds fee in accord with W.S. 1-1-115.	

Section 2. Refunds.

(a) Fees shall be paid in the exact amount, in advance of services rendered. Application fees shall be paid by money order or cashier's check. All other fees may be paid by personal or business check.

(b) All fees collected by the Board are non-refundable.

Section 3. Applications Unaccompanied by Fees. No application shall be considered by the Board unless accompanied by the appropriate fee.

Section 4. Duplicate or Replacement Certificate and Wallet Card. Duplicate or replacement wall certificates and wallet cards may be issued by the Board. All requests for duplicate or replacement certificates and wallet cards must be in writing and must be accompanied by the appropriate fee.

Section 5. Change of Name, Address or Telephone Number.

(a) Licensees must register with the Board any change in their legal name, must submit documentation demonstrating the change of name, appropriate fee and must surrender the old wall certificate and a new wall certificate shall be issued by the Board.

(b) Each applicant and licensee must file with the Board their current home and professional mailing addresses and telephone numbers and must report to the Board in writing any change of addresses or telephone numbers, giving both old and new addresses and telephone numbers.

CHAPTER 5

LICENSE RENEWAL AND CONTINUING EDUCATION

Section 1. Annual Renewal.

(a) Licenses shall expire on October 31st of each year and shall be renewable by providing the Board with the following post marked on or prior to the license expiration date:

- (i) Payment of the renewal fee;
- (ii) Complete application for renewal;
- (iii) Verification of compliance with the continuing education requirements as set out below.

(b) Each Licensee shall earn a minimum of eight (8) contact hours of continuing education every year, with no more than four (4) hours being CPR training.

(i) Contact hours for purposes of this section shall be the actual number of hours during which instruction was received. A minimum of fifty (50) minutes constitutes a contact hour. For academic courses, one (1) semester credit equals fifteen (15) contact hours. One (1) CEU credit is equal to ten (10) contact hours.

(ii) Continuing education activity must be completed during the twelve (12) months prior to the license expiration date. The thirty (30) day reinstatement period for renewal shall also apply to the continuing education requirement; however, any activities completed after October 31st and applied to the previous renewal period may not be reported on the next renewal application.

(iii) Excess continuing education credit hours acquired in one twelve (12) month period may not be carried forward to the next period.

(iv) Any identical course or program may be submitted for continuing education credit only once every two (2) years.

(v) The following standards shall govern acceptability of continuing education activities:

(A) These activities shall have significant intellectual or practical content, and the primary objective shall be to increase the participant's competence in the practice of respiratory care.

(B) These activities shall constitute an organized program of learning dealing with matters directly related to the clinical practice, professional responsibility or ethical obligations of respiratory care practitioners.

(C) Presenters of these activities should be experts in respiratory care. The scope of practice in these rules and regulations may be used as a basis of what knowledge and skills are acceptable to the Board as continuing education activities.

(D) Continuing education programs sponsored by the following organizations, which are germane to the profession of respiratory care, are approved by the board: Institutions approved by the Joint Review Committee for Respiratory Therapy Education, Respiratory Care Accreditation Board or other successor accreditation organizations and courses approved by the American Association for Respiratory Care, the Wyoming Society for Respiratory Care, the American Thoracic Societies, the American College of Cardiology, the American College of Chest Physicians, the American Nurses Association, the National Society for Cardiopulmonary Technologists, the American Lung Association, the American Lung Association of Wyoming, the Wyoming Heart Association, the Wyoming and American Medical Association, the Wyoming Hospital Association and Respiratory Care Journal (sponsored by the American Association of Respiratory Care).

(E) Continuing education programs not sponsored by the above organizations may be submitted for review and approval by the Board.

(F) A maximum of four (4) hours of continuing education credit may be applied to this requirement for teaching, with credit being awarded on a two-to-one ratio. For a one (1) hour presentation, the presenter will be awarded two (2) hours of continuing education credits.

(I) This includes teaching addressed to allied health professionals. Any given activity may be submitted for continuing education credit units only once.

(II) To be applicable the teaching activity must be different from the licensee's usual and customary professional employment.

(III) Individuals employed by universities and colleges may not claim teaching credit units for conducting courses that are a part of the regular course offering of those institutions, even if those courses are offered in the evening or summer, or for individuals enrolled in a degree program or vocational technical schools.

(vi) Licensees shall attest to the number of continuing education hours completed.

(vii) Licensees shall list their continuing education activities on the form provided by the Board.

(A) In addition to the listing, the Licensees shall attach copies of any certificates of attendance, letters certifying attendance, transcripts, or any other official documents which show attendance.

(B) Proof of attendance shall contain the activity title, dates, contact hours attended, sponsor, presenter, and the name of the Licensee.

(viii) Licensees are responsible for maintaining their own continuing education documentation.

(ix) Approximately sixty (60) days prior to the renewal date the Board will send a renewal application to the address of record.

(x) Renewal applications will not be accepted more than one hundred twenty (120) days prior to the expiration date.

(xi) Renewal applications received which are postmarked after October 31st or after the next business day in cases when October 31st falls on a weekend, will not be processed and the license will expire.

(xii) Failure to receive an application for renewal from the Board does not excuse a Licensee from the requirement for renewal under the Act and these rules.

(c) The required hours of continuing education will be prorated for the first renewal of a license as follows:

(i) Issued November 1st through January 31st, eight (8) hours of continuing education are required.

(ii) Issued February 1st through April 30th, six (6) hours of continuing education are required.

(iii) Issued May 1st through July 31st, four (4) hours of continuing education are required.

(iv) Issued August 1st through October 31st, two (2) hours of continuing education are required.

Section 2. Waiver of Continuing Education Requirements. Upon written request received prior to the license expiration date, the Board may waive the continuing education requirement for renewal of a license for good cause. Good cause is hereby defined as:

(a) A severe physical or emotional hardship or other personal emergency which substantially interferes with a licensee's ability to meet the minimum requirement of eight (8) continuing education hours prior to the deadline.

(b) A civilian called to active duty in the armed forces of the United States for a significant period of time.

Section 3. Reinstatement. An expired license may be reinstated by the Board. Request for reinstatement must be made in writing and post marked within thirty (30) calendar days of the expiration date. The applicant must submit,

- (a)# the renewal application,
- (b)# the eight (8) hours of continuing education which was required for renewal,
- (c)# the license renewal fee, and
- (d)# the reinstatement fee.

Section 4. Lapsed License.

(a) A license which has been lapsed for no more than three (3) years may be reinstated by the Board. However, applicants will be required to meet all other current licensure standards in place at the time of application. Request for reinstatement must be made in writing. The applicant must submit,

- (i) The renewal application,
- (ii) The license renewal fee for the current period,
- (iii) The reinstatement fee, and

(iv) Eight (8) contact hours of continuing education completed during the twelve (12) months immediately preceding the date of application.

(b) A license which has been lapsed for three (3) years or more may not be reinstated. The individual would be required to apply as a new applicant and may be required to take the requisite examination.

Section 5. Retired Status. Persons who are retired from active practice are exempt from the requirement for continuing education for renewal of their license. Retired persons exercising this exemption may not provide the services regulated by the Act and these Rules within the state of Wyoming except as exempted by the Act. To do so would be considered unlicensed practice. In order to qualify for the exemption, the Licensee must;

(a) Notify the Board that they have retired from active practice. The notice must be in writing and accompanied by the original wall certificate and current wallet identification cards issued by the Board.

(b) A replacement wall certificate will be issued which clearly distinguishes that the Licensee is retired.

(c) The licenses of retired persons shall expire and be renewable according to the same schedule and in the same manner as active licensees.

(d) A retired Licensee may return to active practice by completing eight (8) contact hours of continuing education during the twelve (12) months immediately preceding the date of application.

CHAPTER 6

STANDARDS OF PROFESSIONAL CONDUCT

Section 1. Scope of Practice. Respiratory Care is a changing and evolving profession and shall also include procedures described by the Clinical Practice Guidelines of the AARC, and the duties consistent with the training and education of respiratory care personnel or related to the practice of respiratory care, as approved by the Board. Respiratory therapists are members of a team of health care professionals working under medical direction in a wide variety of clinical settings to evaluate, treat, and manage patients of all ages with respiratory illnesses and other cardiopulmonary disorders. As members of this team, respiratory therapists should exemplify the standards and ethics expected of all health care professionals. In addition to performing respiratory care procedures, respiratory therapists are involved in clinical decision-making and patient education. The scope of practice for respiratory therapy includes, but is not limited to:

- (a) Acquiring and evaluating clinical data;
- (b) Assessing the cardiopulmonary status of patients;
- (c) Performing and assisting in the performance of prescribed diagnostic studies such as: obtaining blood samples, blood gas analysis, pulmonary function testing, polysomnography, and neurodiagnostics;
- (d) Evaluating data to assess the appropriateness of prescribed respiratory care;
- (e)# Establishing therapeutic goals for patients with cardiopulmonary disease;
- (f) Participating in the development and modification of respiratory care plans;
- (g) Case management of patients with cardiopulmonary and related diseases;
- (h) Initiating prescribed respiratory care treatments, evaluating and monitoring patient responses to such therapy and recommending modification of the prescribed therapy to achieve the desired therapeutic objectives;
- (i) Initiating and conducting prescribed pulmonary rehabilitation;
- (j) Providing education to patient, family, community, and allied health care professional;
- (k) Promoting cardiopulmonary wellness, disease prevention, and disease management;
- (l) Participating in life support activities as required; and
- (m) Promoting evidence-based medicine; research; and clinical practice guidelines.

Section 2. Ethical Standards. The protection of the public health, safety and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of persons whose activities are regulated by the Board. Any reference to the term “license” in this chapter shall also apply to persons holding a permit issued by the Board. The following ethical standards are adopted and incorporated herein by the Board:

(a) The American Association for Respiratory Care Statement of Ethics and Professional Conduct, incorporated as Appendix B, is adopted by reference herein.

(b) Persons licensed by the Board shall:

(i) Practice in a manner that is in the best interest of the public and does not endanger the public health, safety or welfare.

(ii) Be able to justify all services rendered to patients as necessary for diagnostic or therapeutic purposes.

(iii) Perform only those procedures or functions in which they are individually competent and which are within the scope of accepted and responsible practice.

(iv) Report to the Board known or suspected violations of the laws and regulations governing the practice of licensed or permitted professionals.

(v) Use only the initials L.R.C.P. for Licensed Respiratory Care Practitioner as the designation of licensure.

(vi) Use only indicators of current discipline-related credentials such as Certified Respiratory Therapist and Registered Respiratory Therapist or such indicators as awarded by independent credentialing agencies such as the American Association for Respiratory Care and the National Board for Respiratory Care in association with their licensure or permit and practice.

(vii) Upon request, provide patients with fees and billing arrangements before rendering services. Barter is not an acceptable fee arrangement.

(viii) Respect the privacy of patients and hold in confidence all information obtained in the course of professional service.

(ix) Keep confidential their professional relationships with patients.

(x) Disclose patient records or other confidential information to others only with the expressed written consent of the patient, or if required for the responsible performance of duty, or as required by law, and shall inform patients fully about the limits of confidentiality in a given situation, the purposes for which information is obtained and how it may be used.

(xi) Ensure that the welfare of patients is in no way compromised in any experimentation or research involving those patients which would include but not be limited to informed consent of the patient.

(xii) Follow sound scientific procedures and ethical principles in research.

(xiii) Refrain from engaging in sexual intimacies with a patient.

(xiv) When advertising services to the public or client, ensure that such advertising, by any form, is neither fraudulent nor misleading.

(xv) Not practice, facilitate or condone discrimination on the basis of race, sex, sexual orientation, age, religion, nation origin, marital status, political belief, mental or physical handicap or any other preferences or characteristics.

(xvi) Terminate services when such services are no longer required and no longer serve the patient's needs. Services are not withdrawn precipitously except in unusual circumstances and with care to minimize possible adverse effects. This includes providing referral and transfer of services as appropriate.

(xvii) Avoid using relationships with patients to promote commercial enterprises of any kind.

(xviii) Seek advice and counsel of colleagues and supervisors when such consultation is in the best interest of the patient while taking care to protect the patient's confidentiality.

(xix) Respond to all requests for information and all other correspondence from the Board.

(xx) Display their license or certification at all times in a conspicuous location readily accessible to all patients at the Licensee's place of business.

(xxi) Demonstrate behavior that reflects integrity, supports objectivity, and fosters trust in the profession and its members.

(xxii) Actively maintain and continually improve their professional competence, and represent it accurately.

(xxiii) Respect and protect the legal and personal rights and dignity of patients they treat, including the right to informed consent and refusal of treatment with demonstrated understanding of the consequences.

(xxiv) Promote disease prevention and wellness.

(xxv) Refuse to participate in illegal or unethical acts, and shall refuse to

conceal illegal, unethical or incompetent acts of others.

(xxvi) Comply with state or federal laws that govern and relate to their practice.

(xxvii) Avoid any form of conduct that creates a conflict of interest, and shall follow the principles of ethical business behavior.

(xxiii) Promote the positive evolution of the professional and health care in general, through improvement of the access, efficacy, and cost of patient care.

(xxix) Refrain from indiscriminate and unnecessary use of resources, both economic and natural, in their practice.

(xxx) The director of a respiratory care department or his designee, provided such director or designee is a respiratory therapist, shall be on the premises and readily available to give aid, direction, and instruction to any student rendering respiratory care services pursuant to the Act.

CHAPTER 7

DISCIPLINARY ACTION

Section 1. Board Authorization. The Board is authorized to refuse to renew, or may deny, suspend, revoke, place on probation or otherwise reprimand the license or permit of any person violating provisions of the Act pursuant to W.S. 33-43-115. Any reference to the term “license” in this chapter shall also apply to persons holding a permit issued by the Board.

Section 2. Grounds. The Board may also take action for unprofessional conduct. Unprofessional conduct shall include, but is not limited to:

- (a) Violation of any provision of the Act;
- (b) Violation of any provision of these Rules;
- (c) Violation of any provision of the adopted Ethical Standards as set forth in Chapter 6 of these Rules.
- (d) Performing any act specifically authorized for a respiratory care practitioner or functioning as a respiratory care practitioner in Wyoming without a current license issued by the Board.
- (e) Representation of oneself as licensed to engage in the practice of respiratory care without a license or permit;
- (f) Aiding, abetting or assisting any other person to violate or circumvent any law or rule or regulation intended to guide the conduct of a respiratory care practitioner.
- (g) Renting or lending the license issued pursuant to this act to any person planning to use that license;
- (h) Obtaining or attempting to obtain a license or documents of any form as a respiratory care practitioner by fraud or deception.
- (i) Knowingly employing, directing, or supervising an individual in the performance of respiratory care who is not authorized to practice respiratory care;
- (j) Failing to make timely application for license renewal.
- (k) Supplying misleading, incomplete or false information relative to continuing education taken by the licensee.
- (l) Practicing the profession under a false name or name other than the name under which the license is held.

(m) Failure to cooperate in any material respect with a lawful investigation conducted by the Board.

(n) Violation of any provision(s) of an action, stipulation, agreement or order of the Board.

(o) Failure to report through proper channels the unsafe or illegal practice of any person who is providing patient care.

(p) Filing a complaint with, or providing information to the board which the licensee knows or ought to know is false or misleading. This provision does not apply to any filing of complaint or providing information to the board when done in good faith.

(q) Suspension, revocation, or other disciplinary action imposed against a license held in another jurisdiction. A certified copy of the disciplinary order shall be conclusive evidence.

(r) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea of no contest shall create a presumption of guilt to the underlying criminal charges. The record of conviction certified by the clerk or judge of the court in which the conviction is held shall be conclusive evidence.

(s) Conviction of a drug related offense. A plea of no contest shall create a presumption of guilt to the underlying criminal charges. The record of conviction certified by the clerk or judge of the court in which the conviction is held shall be conclusive evidence.

(t) Gross incompetence or malpractice.

(u) Negligence while in practice as a respiratory care practitioner.

(v) Being adjudged mentally incompetent by a court of competent jurisdiction.

(w) Habitually intemperate or addicted to the use of any drug, chemical or substance which could result in behavior that interferes with the practice of respiratory care and the responsibilities of the licensee.

(x) Unauthorized possession and use of illegal or controlled substances or pharmacologic agents without lawful authority or prescription by an authorized and licensed independent practitioner of the state of Wyoming.

(y) Falsely manipulating drug supplies, narcotics or patient records, or forging a prescription for medication/drugs, or presenting a forged prescription.

(z) Violation and conviction of a charge under the Wyoming Controlled Substance Act.

(aa) Verbally, physically or mentally abusing patients.

- (bb) Sexual exploitation of a patient, defined as:
 - (i) Any behavior by a Licensee or Certificate which involves offers of exchange of professional services for some form of sexual gratification; or
 - (ii) Unlawful or unprofessional sexual contact with a patient.
- (cc) While engaged in the care of a patient, engaging in conduct with a patient family member or significant other which is seductive or sexually demeaning/exploitive in nature.
- (dd) Maintaining an unsanitary or unsafe office or practicing under unsanitary or unsafe conditions.
- (ee) Leaving a patient care assignment or patient without properly advising appropriate personnel.
- (ff) Guaranteeing that a cure will result from the performance of medical services.
- (gg) Failing to obtain an appropriate consultation or make an appropriate referral when the problem of the patient is beyond the licensee's training, experience or competence.
- (hh) Delegating a professional responsibility to a person when the licensee knows, or has reason to know, that the person is not qualified by training, experience, license or certification to perform the delegated task. A professional responsibility that may not be delegated, includes, but is not limited to, pulse oximetry;
- (ii) Failing to render adequate supervision, management, training or control of auxiliary staff or other persons according to generally-accepted standards of practice.
- (jj) Maintaining a relationship with a patient that is likely to impair the licensee's professional judgment or increase the risk of patient exploitation including providing services to employees, supervisees, close colleagues or relatives.
- (kk) Promoting any drug, device, treatment, procedure, product or service which is unnecessary, ineffective or unsafe.
- (ll) Any conduct which potentially or actually jeopardizes a patient's life, health or safety.
- (mm) Failing to provide to a patient, patient's representative or an authorized health care practitioner, upon a written request, the medical record or a copy of the medical record relating to the patient which is in the possession or under the control of the professional. Prior payment for professional services to which the records relate, other than photocopy charges, may not be required as a condition of making the records available.

(nn) Inaccurate recording, falsifying or altering of patient records.

(oo) Charging a patient or a third-party payer for a service not performed.

(pp) Submitting an account or charge for services that are false or misleading. This does not apply to charging for an unkept appointment.

(qq) Failing to account for funds received in connection with any services rendered or to be rendered.

(rr) Engaging in fraudulent billing practices and/or violation of federal Medicare and Medicaid laws or state medical assistance laws.

CHAPTER 8

COMPLAINTS: PRACTICE AND PROCEDURE

Section 1. Complaints. Any reference to the term “license” in this chapter shall also apply to persons holding a permit issued by the Board. All complaints shall be filed with the Board in writing and shall contain:

- (a) Name and address of Licensee;
- (b) Name, address and telephone number of complainant;
- (c) Nature of alleged violations;
- (d) A short and concise statement of facts relating to the alleged violations; and
- (e) Signature of complaint.

Section 2. Investigation.

(a) The Board shall assign an investigation committee comprised of one (1) or two (2) Board members or other individuals with assistance from a representative of the Attorney General’s Office.

(b) Upon completion of the investigation, the committee may:

(i) Prepare and file a formal complaint and notice of hearing with the Board, setting the matter for a contested case hearing;

(ii) Recommend to the Board that a reprimand be given to the Licensee; or

(iii) Recommend to the Board that the complaint be dismissed.

(c) The Board may resolve a complaint at any time by:

(i) Sending a written letter of reprimand/warning to the Licensee;

(ii) Accepting a voluntary surrender of a license;

(iii) Accepting conditional terms for settlement;

(iv) Dispensing with it in an informal manner; or

(v) Dismissal.

Section 3. Service of Notice and Formal Complaint. Notice and Complaint shall be served by mail at least twenty (20) days prior to the date set for hearing. It shall be sent by certified or registered mail with return receipt thereof to the Licensee's last known address.

Section 4. Docket. A contested case shall be assigned a number when a complaint is filed with the Board. A separate file shall be established for each docketed case, in which shall be systematically placed all papers, pleadings, documents, transcripts, evidence and exhibits.

Section 5. Answer or Appearance. The Licensee shall file an Answer or Notice of Appearance, which shall be received by the Board at least three (3) working days prior to the date set for hearing in the matter.

Section 6. Default in Licensee Answering or Appearing. In the event of the failure of a Licensee to answer or otherwise appear within the time allowed, a default may be entered and the allegations as set forth in the Notice and Complaint shall be taken as true and an Order of the Board entered accordingly.

Section 7. Discovery. In all contested cases coming before the Board, the taking of depositions and discovery shall be available to the parties.

Section 8. Subpoenas. Subpoenas for appearance and to produce testimony, books, papers, documents, or exhibits may be issued by the Board or hearing officer on behalf of any party to the contested case.

Section 9. Contested Case Hearing. All issues and matters set forth in the Notice and Complaint shall be presented to the Board. A Licensee may be represented by an attorney, licensed to practice law in this State or otherwise associated at the hearing with an attorney licensed to practice law in this State.

Section 10. Hearing Officer. The Board may employ and secure a hearing officer to assist and advise the Board in the conduct of a hearing and the preparation of recommended findings of fact, conclusions of law and order.

Section 11. Order of Procedure. As nearly as may be, hearings shall be conducted in accordance with the following order of procedure:

(a) The Board or hearing officer shall announce that the hearing is convened upon the call of the docket number and title of the matter and case to be heard, and thereupon the Board or hearing officer shall incorporate all pleadings into the record and shall note for the record all subpoenas issued and all appearances of record;

(b) All persons testifying at the hearing shall be administered the standard oath;

(c) The attorney or representative of the State shall thereupon proceed to present the State's evidence. Witnesses may be cross-examined by the Licensee or attorney if represented. Redirect examination may be permitted;

(d) The Licensee shall be heard in the same manner as the State's evidence. The State shall have the opportunity of cross-examination and redirect examination may be permitted;

(e) Opening statements may be made;

(f) Closing statements, at the conclusion of the presentation of evidence, may be made by parties or attorneys. A rebuttal statement may be made by the State. The time for oral argument may be limited by the Board or hearing officer;

(g) After all proceedings have been concluded, the Board or hearing officer shall dismiss and excuse all witnesses and declare the hearing closed. Any party who may wish or desire to tender written briefs of law unto the Board may do so. The Board may take the case under advisement and shall declare unto each of the parties that the decision of the Board shall be announced within due and proper time following consideration of all the matters presented at the hearing; and

(h) The Board and hearing officer shall retain the right and opportunity to examine any witness upon the conclusion of all testimony offered by a particular witness.

Section 12. Rules of Civil Procedure to Apply. The rules of practice and procedure contained in the Wyoming Rules of Civil Procedure insofar as they are applicable and not inconsistent with the matters before the Board and applicable to the rules and orders promulgated by the Board shall apply.

Section 13. Attorneys. The filing of an answer or other appearance by an attorney constitutes an appearance for the party for whom the pleading is filed. The Board and all parties shall be notified in writing of any withdrawal. Any person appearing before the Board at a hearing in a representative capacity shall be precluded from examining or cross-examining any witness unless the person is an attorney licensed to practice law in this State, or associated with an attorney licensed to practice law in this State. This rule shall not be construed to prohibit any Licensee from representing themselves in any hearing before the Board, but any Licensee appearing in their own behalf shall not be relieved of abiding by all rules established for the hearing proceedings.

Section 14. Attorney General to be Present. In all hearings held upon formal action brought before the Board, a representative of the Office of the Attorney General of Wyoming shall appear on behalf of the State, and shall present all evidence, testimony and legal authority in support of the Notice and Complaint to be considered by the Board.

Section 15. Record of Proceedings. When the denial, revocation or suspension of any license or certification is the subject for hearing, it shall be regarded as a contested case and the proceedings, including all testimony, shall be reported verbatim by a court reporter or other adequate recording device.

Section 16. Decision, Findings of Fact and Conclusions of Law and Order.

(a) The Board shall, with the assistance of the hearing officer, following the full and complete hearing, make and enter a written decision and order containing findings of fact and conclusions of law. The decision and order shall be filed with the Board and shall, without further action, become the decision and order as a result of the hearing.

(b) No member, staff or agent of the Board who participated or advised in the investigation or presentation of evidence at the hearing shall participate or advise in the decision.

(c) Upon entry and filing, the Board shall mail copies of the decision to each Licensee and attorneys of record.

Section 17. Appeals to District Court. Appeals from Board decisions shall be taken to the district court having jurisdiction and proper venue in accordance with applicable statutes and the Wyoming Rules of Appellate Procedure.

Section 18. Transcript in Case of Appeal. In the case of an appeal to the district court, the appellant shall pay and arrange for the transcript of the testimony. The transcript shall be verified by the oath of the reporter who took the testimony as a true and correct transcript of the testimony and other evidence in the case.

CHAPTER 9

REINSTATEMENT OF LICENSE AFTER DISCIPLINARY ACTION

Section 1. Reinstatement After Disciplinary Action. A person whose license or certification has been revoked, suspended, or has had limitations placed thereon may petition the Board for reinstatement of the license or permit.

Section 2. Procedures for Reinstatement.

(a) A petition for reinstatement shall be accompanied by at least two (2) recommendations from licensed respiratory care practitioners and by at least two (2) recommendations from citizens each having personal knowledge of the activities of the petitioner since the disciplinary action was ordered.

(b) A petition for reinstatement may be considered at the next meeting of the Board held more than sixty (60) days after the petition is filed.

(c) Any petition for reinstatement of a license or permit shall be conclusively acted upon by the Board within one hundred and eighty (180) days after the filing of a complete petition and all necessary accompanying documents with the Board.

(d) There shall be no right to a formal hearing on any petition for reinstatement.

Section 3. License or Permit Renewal. The license or permit shall not be reinstated until a renewal application together with the proper renewal fee is received by the Board.

APPENDIX A

RESPIRATORY CARE PRACTICE ACT OF 2003

(Effective July 1, 2003)

33-43-101. Short title. This act shall be known and may be cited as the “Respiratory Care Practice Act of 2003.”

33-43-102. Definitions.

- (a) As used in this chapter:
 - (i) “Board” means the state board for respiratory care;
 - (ii) “Performance of respiratory care” means respiratory care in accordance with the prescription or verbal order of a licensed physician or other authorized health care professional and includes the diagnostic and therapeutic use of the following:
 - (A) Administration of aerosols, humidification and medical gases, except for the purpose of anesthesia;
 - (B) Hyperbaric therapy;
 - (C) Pharmacologic agents related to respiratory care procedures;
 - (D) Mechanical or physiological ventilatory support;
 - (E) Bronchopulmonary hygiene;
 - (F) Cardiopulmonary resuscitation;
 - (G) Maintenance of the natural airway;
 - (H) Insertion and maintenance of artificial airways;
 - (J) Specific diagnostic and testing techniques employed in the monitoring, treatment and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures and flows, collection of specimens of blood and blood gases, expired and inspired gas samples, respiratory secretions and pulmonary function testing;
 - (K) Hemodynamic and other related physiologic measurements of the cardiopulmonary system;
 - (M) Respiratory care telecommunications;

- (N) Cardiopulmonary disease management;
- (O) Tobacco cessation;
- (P) Sleep diagnostic procedures; and
- (Q) Neurodiagnostics.

(iii) “Practice of respiratory care” means services which may be performed in any clinic, hospital, skilled nursing facility and private dwelling or other place deemed appropriate or necessary by the board, in accordance with the prescription or verbal order of a physician or other authorized health care professional and shall be performed under the supervision of a qualified medical director and shall include:

(A) Direct and indirect respiratory care services, including the administration of pharmacological, diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a physician or other authorized health care professional;

(B) Transcription and implementation of the written or verbal orders of a physician or other authorized health care professional pertaining to the practice of respiratory care;

(C) Observing and monitoring signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determining whether the signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics;

(D) Implementation, based on observed abnormalities, of appropriate reporting, referral, respiratory care protocols or changes in treatment, pursuant to a prescription by a person authorized to practice medicine under the laws of the state of Wyoming;

(E) Initiation of emergency procedures under the regulations of the board or as otherwise permitted in this act.

(iv) “Qualified medical director” means a licensed physician who has a special interest in the diagnosis and treatment of respiratory problems. The physician shall be, wherever possible, qualified by special training or experience in the management of acute and chronic respiratory disorders. The physician shall be competent to monitor and assess the quality, safety and appropriateness of the respiratory care services being provided. The medical director shall be accessible to and assure the competency of the respiratory care practitioner as well as require that respiratory care be ordered by a physician who has medical responsibility for that patient;

(v) “Respiratory care” means the allied health profession responsible for the treatment, management, diagnostic testing and control of patients with deficiencies and

abnormalities associated with the cardiopulmonary systems under the supervision of a qualified medical director and includes the terms “inhalation therapy” and “respiratory therapy”;

(vi) “Respiratory care practitioner” means:

(A) A person employed in the practice of respiratory care who has the knowledge and skill necessary to administer respiratory care as defined in paragraphs (ii) and (iii) of this subsection;

(B) A person who is capable of serving as a resource to the physician in relation to the technical aspects of respiratory care as to safe and effective methods for administering respiratory care modalities;

(C) A person who is able to function in situations of unsupervised patient contact requiring individual judgment; and

(D) A person capable of supervising, directing or teaching less skilled personnel in the provision of respiratory care services.

(vii) “This act” means W.S. 33-43-101 through 33-43-118.

33-43-103. Board created; members; appointment; terms; qualification; removal; vacancies.

(a) There is created a state board for respiratory care within the department of administration and information to administer the provisions of this act. The board shall consist of five (5) members. The initial board shall consist of one (1) public member, one (1) physician member who is licensed in the state of Wyoming with a special interest in pulmonary medicine, and three (3) members who shall have been engaged in the practice of respiratory care for a period of not less than five (5) years immediately preceding appointment to the board. Thereafter, practitioner members shall be licensed under this act prior to appointment to the board.

(b) The governor shall appoint the members of the board. Of the initial members appointed to the board, the physician member and the public member shall be appointed for terms as specified in paragraphs (i) and (iii) of this subsection, and one (1) respiratory care practitioner shall be appointed for a term of three (3) years, one (1) respiratory care practitioner shall be appointed for a term of two (2) years and one (1) respiratory care practitioner shall be appointed for a term of one (1) year. Thereafter, the terms of office of the members appointed shall be for the following periods:

(i) Physician member, three (3) years;

(ii) Respiratory care practitioner members, three (3) years each;

(iii) Public member, three (3) years.

(c) Vacancies in the board shall be filled by appointment by the governor as provided in subsection (b) of this section for the balance of an unexpired term and each member shall serve until his successor is appointed and qualified.

(d) The governor may remove any member from the board as provided in W.S. 9-1-202.

33-43-104. Board meetings; elections; quorum.

(a) The board shall meet at least twice each year and shall elect a chairman at the first meeting each year. The board may convene at the request of the chairman or as the board may determine for any other meeting as may be deemed necessary to transact its business.

(b) Three (3) board members constitute a quorum.

33-43-105. Board responsibilities; duties.

(a) The board shall:

(i) Examine, license and renew the licenses of duly qualified applicants;

(ii) Maintain an up-to-date list of every person licensed to practice respiratory therapy under this act. The list shall show the licensee's last known place of employment, last known place of residence and the date and number of his license;

(iii) Keep a record of all proceedings of the board and make the record available to the public for inspection during reasonable business hours;

(iv) Maintain an up-to-date list of persons whose licenses have been suspended, revoked or denied. This list shall include the names, social security numbers, type and cause of action, date and penalty incurred, and the length of penalty. This list shall be available for public inspection during reasonable business hours. This list shall be supplied to similar boards in other states upon request;

(v) Establish fees for licenses, permits, renewals and reinstatements in accordance with W.S. 33-1-201.

33-43-106. Board; general powers.

(a) The board may:

(i) In accordance with the Wyoming Administrative Procedure Act, adopt rules and regulations not inconsistent with the law as may be necessary to enable it to carry into effect the provisions of this act;

(ii) Employ personnel as necessary to perform the functions of the board;

(iii) Establish relicensure requirements and procedures as are appropriate, including adopting and publishing a code of ethics;

(iv) Secure the services of resource consultants as deemed necessary by the board. Resource consultants shall receive travel and per diem expenses in the same manner and amount as state employees, while engaged in consultative service to the board;

(v) Enter into agreements or contracts with outside organizations for the purpose of developing, administering, grading or reporting the results of licensing examinations. The contracting organizations shall be capable of providing an examination which meets the standards of the national commission for health certifying agencies, or their equivalent, be validated, and nationally recognized as testing respiratory care competencies.

33-43-107. Compensation of board members; immunity.

(a) Members of the board shall not receive compensation for their services but shall receive mileage and per diem in the same manner and amount as state employees while engaged in the discharge of official duties.

(b) Members of the board shall have the same immunities from personal liability as state employees for actions taken in the performance of their duties under this act, as provided in W.S. 1-39-104.

33-43-108. Application for license; qualifications.

(a) An applicant for a license to practice respiratory care shall submit to the board written evidence, verified by oath, that the applicant:

(i) Has completed an approved four (4) year high school course of study or the equivalent thereof determined by the appropriate educational agency; and

(ii) Has completed a respiratory care educational program. A respiratory care educational program means a program accredited by the council on allied health education programs (CAHEP) in collaboration with the committee on accreditation for respiratory care (CoARC) or their successor organizations.

(b) The board may issue a license to practice respiratory care by endorsement to:

(i) An applicant who is currently licensed to practice respiratory care under the laws of another state, territory or country if the qualifications of the applicant are deemed by the board to be equivalent to those required in this state;

(ii) Applicants holding credentials, conferred by the national board for respiratory care, as a certified respiratory therapist (CRT) or as a registered respiratory therapist (RRT), provided the credential has not been suspended or revoked.

(c) Applicants applying for licensure under subsection (b) of this section shall be required to certify under oath that their credentials have not been suspended or revoked.

(d) Pursuant to rule and regulation, the board may grant a license to an applicant under this section based upon written evidence, verified by oath, of previous practical experience in the capacity of a respiratory care practitioner submitted by the applicant under this section.

33-43-109. Licensure; fees.

An applicant applying for a license to practice respiratory care shall pay an administrative fee to the board. Fees under this section shall be set by the board in accordance with W.S. 33-1-201. If an applicant fails to complete the requirements for licensing within three (3) [y]ears from the date of filing, the application is deemed to be abandoned.

33-43-110. Temporary permits.

Upon payment of a fee set by the board in accordance with W.S. 33-1-201, the board may issue a temporary permit to practice respiratory care for a period of six (6) months to an applicant for licensing, pending compliance with the requirements for licensing, providing the applicant shows written evidence, verified by oath, that the applicant is currently practicing, or has within the last six (6) months practiced respiratory care in another state, territory or country and was licensed to practice respiratory care in that state or is a student in a committee on accreditation for respiratory care (CoARC) approved respiratory care education program who expects to graduate within the next thirty (30) calendar days. Upon notification that a student in an approved program who has received a temporary permit under this section fails to successfully complete the program, the board shall revoke the temporary permit. On expiration of the permit and on payment of an additional fee set by the board in accordance with W.S. 33-1-201, the board may issue a permit to perform respiratory care for an additional period not to exceed twelve (12) months from the date of issuance of the original permit. Reapplication following abandonment of an application shall not entitle the applicant to a permit.

33-43-111. Temporary licenses.

The board shall issue a license to perform respiratory care to an applicant, who, prior to July 1, 2003, has passed the entry level or advanced practitioner examinations administered by the national board for respiratory care or its equivalent. Other applicants who are not students in a respiratory care education program and have not passed either of the examinations under this section or their equivalents prior to July 1, 2003, and who through written evidence, verified by oath, demonstrate that they are presently functioning in the capacity of a respiratory care practitioner as defined by this act, shall be given a temporary license to practice respiratory care for a period up to five (5) years commencing July 1, 2003. The applicants shall pass the licensure examination administered by the board during the five (5) year period in order to be issued a license to practice respiratory care.

33-43-112. Licensed respiratory care practitioner; use of L.R.C.P. professional.

(a) A person holding a license to practice respiratory care in this state may use the title, “licensed respiratory care practitioner” and the abbreviation, “L.R.C.P.”.

(b) A licensee shall show his license when requested.

33-43-113. Renewal of license; lapse; reinstatement.

(a) A license shall be renewed annually except as hereafter provided. The board shall mail notices and applications for renewal at least sixty (60) calendar days prior to expiration for renewal of licenses to every person to whom a license was issued or renewed during the preceding renewal period. The licensee shall complete the application for renewal and return it to the board with the renewal fee set by the board in accordance with W.S. 33-1-201 before the date of expiration.

(b) Upon receipt of the application for renewal and the fee, the board shall verify its contents and shall issue the license for the current renewal period, which shall be valid for the period stated thereon. The board may establish continuing education requirements for annual renewal of the license.

(c) A licensee who allows his license to lapse by failing to renew it may be reinstated by the board upon payment of the renewal fee and reinstatement fee set by the board in accordance with W.S. 33-1-201 provided that the request for reinstatement is made within thirty (30) days of the end of the renewal period.

(d) A respiratory care practitioner who does not engage in the practice of respiratory care during the succeeding renewal period is not required to pay the renewal fee as long as he remains inactive. If he desires to resume the practice of respiratory care, he shall notify the board of his intent and shall satisfy the current requirements of the board in addition to remitting the renewal fee for the current renewal period and the reinstatement fee.

(e) The board is authorized to establish reasonable fees for replacement and duplicate licenses.

33-43-114. Disposition of fees.

Fees received by the board and any monies collected under this act shall be deposited with the state treasurer, who shall credit the money to an account within the earmarked revenue fund which shall only be used by the board to defray costs incurred in the administration of this act.

33-43-115. License revocation; discipline.

(a) The board may revoke, suspend or refuse to renew any license or permit or place on probation, or otherwise reprimand a licensee or permit holder or deny a license to an applicant if, after hearing, it finds that the person:

(i) Is guilty of fraud or deceit in procuring or attempting to procure a license or renewal of license to practice respiratory care;

(ii) Is unfit or incompetent by reason of negligence, habits or other causes of incompetency as defined in the rules and regulations promulgated by the board;

(iii) Is addicted to a drug or intoxicant to a degree to render the licensee unsafe or unfit to practice respiratory care;

(iv) Is guilty of unprofessional conduct as defined by the rules established by the board, or has violated the code of ethics adopted and published by the board;

(v) Has practiced respiratory care after his license or permit has expired or has been suspended;

(vi) Has practiced respiratory care under cover of any permit or license illegally or fraudulently obtained or issued;

(vii) Has violated or aided or abetted others in violation of any provision of this act.

(b) Upon receipt from the department of family services of a certified copy of an order from a court to withhold, suspend or otherwise restrict a license issued by the board, the board shall notify the party named in the court order of the withholding, suspension or restriction of the license in accordance with the terms of the court order.

33-43-116. Board hearings; investigations.

(a) Upon filing of written complaint with the board, charging a person with having been guilty of any of the acts described in W.S. 33-43-115, the administrative secretary, or other authorized employee of the board shall make an investigation. If the board finds reasonable grounds for the complaint, a time and place for a hearing shall be set, notice of which shall be served on the licensee, permit holder or applicant at least fifteen (15) calendar days prior thereto. The notice shall be by personal service or by certified or registered mail sent to the last known address of the person.

(b) The board may issue subpoenas for the attendance of witnesses and the production of necessary evidence in any hearing before it. Upon request of the respondent or his counsel, the board shall issue subpoenas on behalf of the respondent.

(c) Unless otherwise provided in this act, hearing procedures shall be promulgated in accordance with, and a person aggrieved by a decision of the board may take an appeal pursuant to, the Wyoming Administrative Procedure Act.

33-43-117. Exceptions.

(a) No person shall practice respiratory care or represent himself to be a respiratory care practitioner unless he is licensed under this act, except as otherwise provided by this act.

(b) This act does not prohibit:

(i) The practice of respiratory care which is an integral part of the program of study by students enrolled in a respiratory care education program recognized by the committee on accreditation for respiratory care (CoARC) or its successor. Students enrolled in a respiratory therapy care education program shall be identified as “student-respiratory care practitioner” and shall only provide respiratory care under direct clinical supervision;

(ii) Self-care by a patient, or gratuitous care by a friend or family member who does not represent or hold himself out to be a respiratory care practitioner;

(iii) Respiratory care services rendered in the course of an emergency;

(iv) Respiratory care rendered by persons in the military services or working in federal facilities when functioning in the course of their assigned duties;

(v) The respiratory care practitioner from performing advances in the art and techniques of respiratory care learned through formalized or specialized training;

(vi) An individual, other than a respiratory care practitioner, employed by a home medical equipment company, from installing and maintaining home respiratory equipment, provided he does not perform patient assessment or patient care relating to home respiratory care.

(c) Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other persons and health providers licensed by appropriate agencies of the state of Wyoming.

(d) An individual who, by passing an examination which includes content in one (1) or more of the functions included in this act, offered by a testing body certified by the national commission for health certifying agencies or its equivalent, shall not be prohibited from performing procedures for which they were tested.

(e) Nothing in this act shall be construed to permit the practice of medicine.

33-43-118. Offenses.

- (a) It is a violation of this act for any person to:
 - (i) Sell, fraudulently obtain or furnish any respiratory care permit, license or record, or aid or abet therein;
 - (ii) Practice respiratory care under cover of any respiratory care diploma, permit, license or record illegally or fraudulently obtained or issued;
 - (iii) Practice respiratory care unless duly licensed or otherwise authorized to do so under the provisions of this act;
 - (iv) Impersonate in any manner or pretend to be a respiratory care practitioner or use the title, "licensed respiratory care practitioner," the letters, "L.R.C.P.," or any other words, letters, signs, symbols or devices to indicate the person using them is a licensed respiratory care practitioner, unless duly authorized by license or permit to perform under the provisions of this act;
 - (v) Practice respiratory care during the time his license or permit is suspended, revoked or expired;
 - (vi) Fail to notify the board of the suspension, probation or revocation of any past or currently held licenses, certifications or registrations required to practice respiratory care in this or any other jurisdiction;
 - (vii) Knowingly employ unlicensed persons in the practice of respiratory care in the capacity of a respiratory care practitioner;
 - (viii) Make false representations or impersonate or act as a proxy for another person or allow or aid any person to impersonate him in connection with any examination for licensing or request to be examined or licensed;
 - (ix) Otherwise violate any provision of this act.
- (b) Any violation of this act is a misdemeanor and upon conviction shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), imprisonment for not more than six (6) months, or both fine and imprisonment for each offense.

33-1-201. Fees Generally.

- (a) Except as otherwise specifically provided by statute, a board or commission authorized to establish examination, inspection, permit or license fees for any profession or corporation regulated under this title shall establish those fees in accordance with the following:

(i) Fees shall be established by rule or regulation promulgated in accordance with the Wyoming Administrative Procedure Act;

(ii) Fees shall be established in an amount to ensure that, to the extent practicable, the total revenue generated from the fees collected approximates, but does not exceed, the direct and indirect costs of administering the regulatory provisions required for the profession or occupation under this title;

(iii) The board or commission shall maintain records sufficient to support the fees charged.

APPENDIX B

AMERICAN ASSOCIATION FOR RESPIRATORY CARE

Statement of Ethics and Professional Conduct

(Effective December 1994, Revised March 2000)

In the conduct of professional activities the Respiratory Therapist shall be bound by the following ethical and professional principles. Respiratory Therapists shall:

Demonstrate behavior that reflects integrity, supports objectivity, and fosters trust in the profession and its professionals. Actively maintain and continually improve their professional competence, and represent it accurately.

Perform only those procedures or functions in which they are individually competent and which are within the scope of accepted and responsible practice.

Respect and protect the legal and personal rights of patients they care for, including the right to informed consent and refusal of treatment.

Divulge no confidential information regarding any patient or family unless disclosure is required for responsible performance of duty, or required by law.

Provide care without discrimination on any basis, with respect for the rights and dignity of all individuals.

Promote disease prevention and wellness.

Refuse to participate in illegal or unethical acts, and refuse to conceal illegal, unethical or incompetent acts of others

Follow sound scientific procedures and ethical principles in research.

Comply with state or federal laws which govern and relate to their practice.

Avoid any form of conduct that creates a conflict of interest, and shall follow the principles of ethical business behavior.

Promote health care delivery through improvement of the access, efficacy, and cost of patient care.

Refrain from indiscriminate and unnecessary use of resources.