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**IDAPA 22
TITLE 01
CHAPTER 11**

**22.01.11 - RULES FOR LICENSURE OF RESPIRATORY THERAPISTS
AND PERMITTING OF POLYSOMNOGRAPHERS IN IDAHO**

000. LEGAL AUTHORITY.

Pursuant to Sections 54-4316 and 54-4304A, Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules governing the practice of respiratory care and polysomnography related respiratory care. (3-16-04)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 22.01.11, "Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho". (3-16-04)

02. Scope. Pursuant to Sections 54-4304 and 54-4304A, Idaho Code, and this chapter, respiratory therapists must be licensed and polysomnographers issued a permit by the Board prior to commencement of practice and related activities. (3-16-04)

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. (3-16-04)

003. ADMINISTRATIVE APPEAL.

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". (3-16-04)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into this rule. (3-16-04)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, P.O. Box 83720, Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's web address is www.bom.state.id.us. The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST. (4-11-06)

006. PUBLIC RECORD ACT COMPLIANCE.

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (3-16-04)

007. FILING OF DOCUMENTS -- NUMBER OF COPIES.

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board. (3-16-04)

008. -- 009. (RESERVED).

010. DEFINITIONS.

01. Act. The Respiratory Care Practice Act of 1991, Title 54, Chapter 43, Idaho Code. (4-28-93)

02. Applicant. A person who applies for a license, dual license/permit, permit, conditional permit, or a temporary permit pursuant to this chapter and Title 54, Chapter 43, Idaho Code. (3-16-04)

03. Board. The Idaho State Board of Medicine, established pursuant to Section 54-1805, Idaho Code.

(3-16-04)

04. Board of Registered Polysomnographic Technologists. A nationally recognized private testing, examining and credentialing body for the polysomnography related respiratory care profession. (3-16-04)

05. Certified Pulmonary Function Technologist (CPFT). The professional designation earned by a person who has successfully completed the entry level pulmonary function certification examination administered by the National Board for Respiratory Care, Inc., or by an equivalent board, recognized by the Board. (3-16-04)

06. Certified Respiratory Therapist (CRT). The professional designation earned by a person who has successfully completed the entry level examination administered by the National Board for Respiratory Care, Inc., or by an equivalent board, recognized by the Board. (3-16-04)

07. Comprehensive Registry Exam. The comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of Registered Polysomnographic Technologist (RPSGT). (3-16-04)

08. Conditional Permit. A time-restricted permit issued by the Board, upon the recommendation of the Licensure Board, as set forth in this chapter and Section 54-4304A, Idaho Code, to a registered polysomnographic technologist, polysomnographic technician or a polysomnographic trainee, on or after January 1, 2004, and issued until issuance of permits as provided in this chapter. (3-16-04)

09. Entry Level Examination. The certification examination for entry level respiratory therapy practitioners administered by the National Board for Respiratory Care, Inc., or certification examination administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of "Certified Respiratory Therapist" (CRT). (3-16-04)

10. Licensed Physician. A physician licensed to practice medicine and surgery or osteopathic medicine and surgery, by the Idaho State Board of Medicine. (3-16-04)

11. Licensure. The issuance of a license to an applicant under the provisions of this chapter and Title 54, Chapter 43, Idaho Code entitling such person to hold himself out as a respiratory care practitioner and to practice or perform respiratory care in this state. (3-16-04)

12. Licensure Board. The Licensure Board established by this chapter and Section 54-4313, Idaho Code. (3-16-04)

13. National Board of Respiratory Care, Inc. A nationally recognized private testing, examining and credentialing body for the respiratory care profession. (3-16-04)

14. Performance of Respiratory Care. Respiratory care practiced or performed in accordance with the written, telephonic or verbal prescription of a licensed physician and includes, but is not limited to, the diagnostic and therapeutic use of the following: administration of medical gases, (except for the purpose of anesthesia), aerosols and humidification; environmental control mechanisms and hyperbaric therapy, pharmacologic agents related to respiratory care protocols, mechanical or physiological ventilatory support; bronchopulmonary hygiene, cardiopulmonary resuscitation; maintenance of the natural airway; insertion and maintenance of artificial airways; specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures and flows, collection, reporting and analysis of specimens of blood and blood gases, arterial punctures, insertion and maintenance of arterial lines, expired and inspired gas samples, respiratory secretions, and pulmonary function testing; and hemodynamic and other related physiologic measurements of the cardiopulmonary system, observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing and determination of whether such signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics; implementation based on observed abnormalities of appropriate reporting or referral of respiratory care or changes in treatment regimen, pursuant to a prescription by a physician or the initiation of emergency procedures. (4-28-93)

15. Permit. The issuance of a permit to an applicant under the provisions of this chapter and Section 54-4304A, Idaho Code, entitles such person to hold himself out as a registered polysomnographic technologist, polysomnographic technician, or polysomnographic trainee and to perform polysomnography related respiratory care in this state. (3-16-04)

16. Person. A natural living human individual. (3-16-04)

17. Polysomnographic Technician. A person who holds a permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who performs polysomnography related respiratory care services under the supervision of an Idaho permitted registered polysomnographic technologist, licensed respiratory care practitioner or an Idaho licensed physician. (3-16-04)

18. Polysomnographic Trainee. A person who holds a temporary permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who performs polysomnography related respiratory care services under the direct supervision of an Idaho licensed respiratory care practitioner, or a person exempt from such licensure pursuant to this chapter and Section 54-4308, Idaho Code, an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician or an Idaho licensed physician. Direct supervision by an Idaho licensed respiratory care practitioner, or such person exempt from such licensure pursuant to this chapter and Section 54-4308, Idaho Code, or an Idaho permitted registered polysomnographic technologist or technician, or an Idaho licensed physician, means that such a person shall be on the premises where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee. (3-16-04)

19. Polysomnography. The process of analysis, attended monitoring and recording of physiologic data during sleep and wakefulness to assist in the assessment and diagnosis of sleep/wake disorders and other disorders, syndromes and dysfunctions that either are sleep related, manifest during sleep or disrupt normal sleep/wake cycles and activities. (3-16-04)

20. Polysomnography Related Respiratory Care Services. The limited practice of respiratory care in the provision of polysomnography services, under the supervision of an Idaho licensed physician, by a person at a sleep disorder center or laboratory who holds a permit issued by the Board, as a registered polysomnographic technologist, polysomnographic technician or a polysomnographic trainee, or who is otherwise licensed as a respiratory care practitioner or who is exempt from licensure or permitting pursuant to this chapter and Section 54-4308, Idaho Code. Polysomnography related respiratory care services include therapeutic and diagnostic use of oxygen, noninvasive ventilatory assistance of spontaneously breathing patients and cardiopulmonary resuscitation and maintenance of nasal and oral airways that do not extend into the trachea, as ordered by an Idaho licensed physician or by written procedures and protocols of the associated sleep disorder center or laboratory as approved by an Idaho licensed physician and which do not violate any rules adopted by the Board. This chapter does not in any way authorize the practice of medicine or any of its branches by any person not so licensed by the Board. Further, licensed respiratory practitioners, and those exempt from licensure pursuant to this chapter and Section 54-4308, Idaho Code, are not limited in their scope of practice of provision of respiratory care, which they may provide, including care in connection with the provision of polysomnography services. (3-16-04)

21. Practice of Respiratory Care. Means, but shall not be limited to, the provision of respiratory and inhalation therapy which shall include, but not be limited to: therapeutic and diagnostic use of medical gases, humidity and aerosols including the maintenance of associated apparatus; administration of drugs and medications to the cardiorespiratory system; provision of ventilatory assistance and ventilatory control; postural drainage, percussion, breathing exercises and other respiratory rehabilitation procedures; cardiopulmonary resuscitation and maintenance of natural airways, the insertion and maintenance of artificial airways; and the transcription and implementation of a physician's written, telephonic or verbal orders pertaining to the practice of respiratory care. It also includes testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment and research. This shall be understood to include, but not be limited to, measurement of ventilatory volumes, pressures and flows, specimen collection of blood and other materials, pulmonary function testing and hemodynamic and other related physiological monitoring of the cardiopulmonary system. The practice of respiratory care is not limited to the hospital setting but shall be performed under the general supervision of a licensed physician. (4-28-93)

22. Respiratory Care Protocols. Policies, procedures or protocols developed or instituted by health care facilities or institutions, through collaboration when appropriate or necessary with administrators, physicians, registered nurses, physical therapists, respiratory care practitioners and other licensed, certified or registered health care practitioners. (4-28-93)

23. Registered Polysomnographic Technologist (RPSGT). The professional designation earned by a person who has successfully completed the comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or by an equivalent board, recognized by the Board, and who holds a permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who works under the supervision of an Idaho licensed physician to provide polysomnography related respiratory care services. (3-16-04)

24. Registered Pulmonary Function Technologist (RPFT). The professional designation earned by a person who has successfully completed the advanced pulmonary function certification examination administered by the National Board for Respiratory Care, Inc., or an advanced pulmonary function certification examination administered by an equivalent board, recognized by the Board. (3-16-04)

25. Registered Respiratory Therapist (RRT). The professional designation earned by a person who has successfully completed the written registry and clinical simulation examinations administered by the National Board for Respiratory Care, Inc., or certification examinations administered by an equivalent board, recognized by the Board. (3-16-04)

26. Respiratory Care. Allied health profession responsible for the treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system, under the general supervision of a licensed physician. (2-23-94)

27. Respiratory Care Practitioner. A person who has been issued a license by the Board. (3-16-04)

28. Respiratory Therapist. A person who practices or provides respiratory care. (4-28-93)

29. Respiratory Therapy. The practice or performance of respiratory care, including but not limited to, inhalation therapy. (4-28-93)

30. Sleep Disorder Center or Laboratory. A facility for sleep related disorders that provides polysomnography and is under the supervision of an Idaho licensed physician or medical director licensed by the Board who is responsible for patient care provided in such center or laboratory. A sleep disorder center or laboratory that provides polysomnography related respiratory care to patients shall have an Idaho licensed respiratory care practitioner, an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, or a person exempt from licensure or permitting pursuant to this chapter and Section 54-4308, Idaho Code, in constant attendance. (3-16-04)

31. Supervision of Respiratory Care. The practice or provision of respiratory care by individuals holding a student or consulting and training exemption, or temporary permit shall be in direct association with a respiratory care practitioner or licensed physician who shall be responsible for the activities of the person being supervised and shall review and countersign all patient documentation performed by the individual being supervised. The supervising respiratory care practitioner or licensed physician need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the supervising or consulting respiratory care practitioner or licensed physician and the individual being supervised shall be determined by the competency of the individual, the treatment setting, and the diagnostic category of the client. (3-16-04)

32. Temporary Permit. The Board may issue a temporary permit, limited to a total period of two (2) years, including initial and renewal, to a respiratory care practitioner applicant who meets the requirements set forth in this chapter and Section 54-4307, Idaho Code. The Board may issue a temporary permit, limited to a total period of two (2) years, including initial and renewal, to a polysomnographic trainee applicant who meets the requirements set forth in this chapter and Section 54-4304A, Idaho Code. (3-16-04)

33. Written Registry and Clinical Simulation Examinations. The certification examinations

administered by the National Board of Respiratory Care, Inc., or certification examinations administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person the professional designation of "Registered Respiratory Therapist" (RRT). (3-16-04)

011. BOARD OF MEDICINE AND LICENSURE BOARD.

01. Powers and Duties. The Board of Medicine shall administer, coordinate and enforce the provisions of this chapter and Title 54, Chapter 43, Idaho Code, and may issue subpoenas, examine witnesses, and administer oaths, and may investigate practices which are alleged to violate the provisions of this chapter. The Board is authorized to enter into such contracts with the National Board for Respiratory Care, Inc., Board of Registered Polysomnographic Technologists or an equivalent board, recognized by the Board, as may be necessary or advisable to provide for or to facilitate verification of any applicant's claim that such applicant has successfully completed the entry level examination and/or the written registry and clinical simulation examinations or comprehensive registry examination. The Licensure Board will work in conjunction with the Board and will perform the duties and functions assigned by the Board, including: (3-16-04)

a. Holding meetings, conducting interviews and keeping records and minutes as are necessary to carry out its functions. (3-16-04)

b. Evaluating the qualifications of all applicants, making recommendations to and consulting with the Board concerning issuing, renewing and revoking licenses and permits. (3-16-04)

c. Performing investigations of misconduct and making recommendations regarding discipline to the Board. (3-16-04)

d. Maintaining a list of respiratory care and polysomnography related respiratory care practitioners currently holding a license or permit in this state. (3-16-04)

02. Membership. The Licensure Board shall consist of five (5) members appointed by the Board, three (3) of whom shall be certified respiratory care practitioners, one (1) of whom, in addition to being an Idaho licensed respiratory care practitioner, shall also be an Idaho permitted registered polysomnographic technologist. All members shall be residents of Idaho at the time of their appointment and for their term of service. The persons appointed to the Licensure Board who are required to be licensed or hold permits under this chapter shall have been engaged in rendering respiratory care services and polysomnography related respiratory care services, respectively, to the public, in teaching, or in research in respiratory care and polysomnography related respiratory care services, respectively, for at least five (5) years immediately preceding their appointments. Three (3) members shall at all times be holders of valid licenses for the practice of respiratory care in Idaho and one (1) member shall also be a holder of a valid Idaho permit as a registered polysomnographic technologist, except for the members of the first Licensure Board following the effective date of this chapter, all of whom shall, at the time of appointment, hold the designation of certified respiratory therapy technician or registered respiratory therapist conferred by the National Board for Respiratory Care, Inc., and all of whom meet the requirements for licensure under the provisions of this chapter. The remaining two (2) members of the Licensure Board shall be members of health professions or members of the public with an interest in the rights of the consumers of health services. Each member of the Licensure Board shall be compensated as provided in Section 59-509(h), Idaho Code. (3-16-04)

03. Appointment. The two (2) members of the Licensure Board who shall be licensed respiratory care practitioners shall be selected by the Board after considering a list of three (3) qualified applicants for each such vacancy submitted by the Idaho Society of Respiratory Care or other interested associations. The member of the Licensure Board who shall be a licensed respiratory care practitioner and an Idaho permitted registered polysomnographic technologist shall be selected by the Board after considering a list of three (3) qualified applicants submitted by the Idaho Sleep Disorder Association or other interested associations. In the event of a vacancy in one (1) of the positions, the Idaho Society of Respiratory Care or other interested association may recommend, as soon as practical, at least two (2) and not more than three (3) persons to fill that vacancy. The Board shall appoint, as soon as practical, one (1) person, who shall fill the unexpired term. If recommendations are not made within sixty (60) days of notification and request, the Board may make appointments of any qualified individual. The remaining two (2) public members shall be selected by the Board, who may solicit nominations of qualified applicants submitted by the Idaho Society For Respiratory Care, the Idaho Sleep Disorder Association or other interested associations or

individuals. The first vacancy on the Licensure Board which occurs following the effective date of this chapter shall be filled by the appointment of a licensed respiratory care practitioner who is also the holder of a valid Idaho permit as a registered polysomnographic technologist. The Board may remove any Licensure Board member for misconduct, incompetence, or neglect of duty after giving the member a written statement of the charges and an opportunity to be heard thereon. The Executive Director of the Idaho State Board of Medicine shall serve as the Executive Director to the Licensure Board. (3-16-04)

04. Meetings. The Licensure Board shall hold biannual meetings and elect a chairman who shall preside at meetings of the Licensure Board. In the event the chairman is not present at any Licensure Board meeting, the Licensure Board may by majority vote of the members present appoint a temporary chairman. A majority of the members of the Licensure Board shall constitute a quorum. Other meetings may be convened at the call of the chairman or the written request of any two (2) Licensure Board members. (3-16-04)

05. Terms. All appointments shall be for three (3) year terms, but no person shall be appointed to serve more than two (2) consecutive terms. Terms shall begin on the first day of the appointment or when successors are appointed. (3-16-04)

012. APPLICATION TO BOTH PERMITS AND LICENSES.

The provisions of this chapter governing procedures for suspension and revocation of licenses, payment and assessment of fees and governing misrepresentation, penalties and severability and other administrative procedures shall apply equally to permits for the practice of polysomnography related respiratory care services as to licenses for the practice of respiratory care. (3-16-04)

013. -- 030. (RESERVED).

031. GENERAL PROVISIONS FOR LICENSURE AND PERMITS.

01. Moral Character. An applicant for licensure must be of good moral character and shall meet the requirements set forth in Section 54-4306, Idaho Code. An applicant for a permit must be of good moral character and shall meet the requirements set forth in Section 54-4304A, Idaho Code. The Board may refuse licensure or to issue a permit if it finds the applicant has engaged in conduct prohibited by Section 54-4312, Idaho Code, providing the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. (3-16-04)

02. No Action on Application. An application upon which the applicant takes no further action will be held for no longer than one (1) year. (4-28-93)

032. APPLICATION FOR LICENSURE AND PERMITS.

01. All Applications. Each applicant for licensure or permit shall submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The Board may, in its discretion, prorate the application fees charged in conjunction with an application for initial licensure or a temporary permit if such license or temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. The application shall be verified and under oath and shall require documentation of the following information: (4-11-06)

a. The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; and (2-23-94)

b. The disclosure of any charge, investigation or disciplinary action against the applicant by any state professional regulatory agency or professional organization that bears a demonstrable relationship to the ability of the applicant to practice in accordance with the provisions of this chapter; and (3-16-04)

c. The disclosure of the denial of registration or licensure by any state or district regulatory body; and (2-23-94)

d. Not less than two (2) certificates of recommendation from persons, other than relatives or individuals living with the applicant, who have personal knowledge of at least one (1) year of the applicant's

character and the applicant's ability to work as a respiratory therapist or provide polysomnography related respiratory care services; and (3-16-04)

e. One (1) unmounted photograph of the applicant, no larger than three by four inch (3" x 4") (head and shoulders), taken not more than one (1) year prior to the date of the application; and (2-23-94)

f. Such other information as deemed reasonably necessary and as is lawful for the Board to identify and evaluate the applicant's credentials; and (3-16-04)

g. Evidence that applicant is no less than eighteen (18) years of age. (3-16-04)

h. The Board may, at its discretion, require the applicant to appear for a personal interview. (3-16-04)

02. Application for Respiratory Care Practitioner. (3-16-04)

a. Documentation of evidence that applicant has passed the entry level examination and is a Certified Respiratory Therapist (CRT) or has successfully completed the written registry and clinical simulation examinations and is a Registered Respiratory Therapist (RRT); or (3-16-04)

b. Documentation that the applicant is licensed as a respiratory care practitioner, or the equivalent at the discretion of the Board, in another state, district or territory of the United States. (3-16-04)

c. Application for Temporary Permit. The Board may issue a temporary permit to an applicant who meets the requirements set forth in this chapter and Section 54-4307, Idaho Code. A temporary permit shall authorize the practice of respiratory care under the supervision of a respiratory care practitioner or licensed physician. (3-16-04)

i. A temporary permit for a respiratory care practitioner may be converted to a permanent license by providing to the Board, verification of appropriate certification as a Certified Respiratory Therapist (CRT) or Registered Respiratory Therapist (RRT). (3-16-04)

ii. A temporary permit shall be effective for one (1) year from the date of issuance. (4-28-93)

iii. A temporary permit may be renewed one (1) time for a period of one (1) year, upon application to the Board. (4-28-93)

iv. Application for a temporary permit shall be made to the Board on a form prescribed by the Board, together with the application fee. The Board may, in its discretion, prorate the application fees charged in conjunction with an initial application for a temporary permit if such temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. (4-11-06)

03. Application for Inactive License. A person holding a current license issued by the Board to practice as a respiratory care practitioner may be issued, upon written application provided by the Board and payment of required fees to the Board, an inactive license on the condition that he will not engage in the provision of respiratory care services as a respiratory care practitioner in this state. (3-16-04)

a. Issuance and Renewal. Inactive licenses shall be issued for a period of not more than five (5) years and such licenses shall be renewed upon payment of an inactive license renewal fee of no more than fifty dollars (\$50) for each renewal year. Such inactive licenses shall expire on the expiration date printed on the face of the certificate unless renewed. (3-16-04)

b. Inactive to Active License. An inactive license may be converted to an active license to practice as a respiratory care practitioner upon written application and payment of active licensure fees for each inactive year minus paid inactive fees plus a conversion fee of no more than fifty dollars (\$50) to the Board. The applicant must account for the time during which an inactive license was held and document continuing competence. The Board may, in its discretion, require a personal interview to evaluate the applicant's qualifications. In addition, the Board

may require evidence of an educational update and close supervision to assure safe and qualified performance. (3-16-04)

04. Application for Respiratory Care and Polysomnography Related Respiratory Care Practitioner. (3-16-04)

a. The Board may issue a dual license/permit to an applicant who meets the requirements set forth in this chapter and Sections 54-4306 and 54-4304A(2) and (3), Idaho Code. A dual license/permit shall authorize the holder to perform respiratory care and polysomnography related respiratory care in this state. (3-16-04)

b. Application for a dual license/permit shall be made to the Board on a form prescribed by the Board, together with the application fee. (3-16-04)

c. Such dual license/permit shall expire on the expiration date printed on the face of the certificate unless renewed. (3-16-04)

05. Application for Polysomnography Related Respiratory Care Practitioner. (3-16-04)

a. Only persons who are licensed as respiratory care practitioners or who are exempt from licensure pursuant to the chapter and Section 54-4308, Idaho Code, or who hold a permit issued by the Board as registered polysomnographic technologists, polysomnographic technicians or polysomnographic trainees may provide polysomnography related respiratory care services. (3-16-04)

b. Qualifications for permit. An applicant for a permit to provide polysomnography related respiratory care services as a registered polysomnographic technologist or polysomnographic technician or for a temporary permit as a polysomnographic trainee under the provisions of Section 032 who is not otherwise licensed to provide respiratory care services or exempt from the requirements of this chapter pursuant to Section 54-4308, Idaho Code, must provide documentation of: (3-16-04)

i. Being a high school graduate or have passed a general educational development (GED) examination and earned a GED certificate; and (3-16-04)

ii. Being currently certified in cardiopulmonary resuscitation (CPR). (3-16-04)

c. Application for Registered Polysomnographic Technologist. An applicant must provide documentation of successful completion of the comprehensive registry examination as a registered polysomnographic technologist administered by the Board of Registered Polysomnographic Technologists or an equivalent examination, approved by the Board as recommended by the Licensure Board. (3-16-04)

d. Application For Polysomnographic Technician. An applicant must provide written documentation and a signed affidavit affirming and attesting to one (1) of the following qualifications: (3-16-04)

i. Successful completion of a polysomnography program of not less than one (1) year duration, associated with a state licensed or a nationally accredited educational facility, as approved by the Board, as recommended by the Licensure Board; or (3-16-04)

ii. Successful completion of a minimum of seven hundred twenty (720) hours of experience as a polysomnographic trainee with documented proficiency in polysomnography related respiratory care services, as approved by the Board, as recommended by the Licensure Board. (3-16-04)

e. Application for Polysomnographic Trainee. An applicant must provide a signed affidavit from an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, an Idaho licensed respiratory care practitioner, or an Idaho licensed physician affirming and attesting he shall ensure that there is direct supervision of performance of basic polysomnography related respiratory care services by a polysomnographic trainee applicant. The direct supervisor shall be on the premises where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee applicant. The Affiant need not be the direct supervisor at any given time. Such Affiant

shall be responsible for the activities of the supervised polysomnographic trainee and shall document his review of all patient documentation performed by the supervised polysomnographic trainee. If at any time during the term of the polysomnographic trainee's permit, the Affiant of the trainee changes, the polysomnographic trainee shall provide a signed affidavit from his new Affiant who will ensure that the trainee has direct supervision. In addition, the applicant shall provide written documentation he has at least one (1) of the following qualifications: (3-16-04)

i. At least seven hundred twenty (720) hours of experience as a paid employee or contractor in a health care related field. For the purposes of this Section, experience as a paid employee or contractor in a health care related field shall include any work providing direct clinical care to patients or having worked in a clinical care setting in which the applicant had direct interaction with patients, and an opportunity to observe the provision of clinical care to patients; (3-16-04)

ii. Current enrollment in a polysomnography program associated with a state licensed or a nationally accredited education facility; or (3-16-04)

iii. Successful completion of twenty-four (24) semester credit hours (or a quarter ($\frac{1}{4}$) hour system equivalent of the same) of postsecondary education at a state licensed or nationally accredited facility. (3-16-04)

f. Permits. All permits shall be issued after applicants have met the requirements of this chapter and Section 54-4304A, Idaho Code and submitted a completed application and payment of a fee in an amount to be fixed by the Board for a period of not less than one (1) year nor more than five (5) years, the exact period to be fixed by the Board. Such permits shall expire on the expiration date printed on the face of the certificate unless renewed. The failure of any person to renew a renewable permit shall not deprive such person of the right to renewal, except as provided for herein and Section 54-4312, Idaho Code. The Board shall collect a fee in an amount to be fixed by the Board for the initial issuance and each renewal year. (3-16-04)

i. Permits for registered polysomnographic technologists, including renewals, shall be issued for a period of not less than one (1) year nor more than five (5) years. Such permits shall be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee. (3-16-04)

ii. Permits for polysomnographic technicians, including renewals, shall be issued for a period of one (1) year, and shall be renewed for successive one (1) year periods, not to exceed three (3) renewals for a total period of four (4) years. Such permits shall be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee. (3-16-04)

iii. Temporary permits for polysomnographic trainees shall be issued for a period of not more than one (1) year, the exact period to be fixed by the Board. Such permits may be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee, for a period of one (1) year, with renewal limited to one (1) such renewal, provided however, such permits for polysomnographic trainees shall be limited to a total period of two (2) years. The Board may, in its discretion, prorate the application fees charged in conjunction with an initial application for a temporary permit if such temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. (4-11-06)

iv. Reinstatement after failure to renew. Permits canceled for nonpayment of renewal fees may be reinstated by filing a completed request for renewal with the Board and paying a reinstatement fee, and back renewal fees. (3-16-04)

v. Reapplication after failure to renew. A registered polysomnographic technologist, whose permit has been canceled for failure to renew for a period of more than two (2) years, shall be required to make application to the Board as a new applicant for a permit. A polysomnographic technician, whose permit has been canceled for failure to renew for a period of more than one (1) year, shall be required to make application to the Board as a new applicant for a permit. Temporary permits for polysomnographic trainees whose permits have been canceled for failure to renew for a period of more than six (6) months shall be required to make application to the Board as new applicants for permits. (3-16-04)

vi. Continuing education. Each individual applicant for renewal of an active permit shall, on or before

the expiration date of the permit, submit satisfactory proof to the Licensure Board of successful completion of not less than twelve (12) hours of approved continuing education pertaining to the provision of polysomnographic-related respiratory care per year in addition to any other requirements for renewal as adopted by the Board. The Board, as recommended by the Licensure Board, may substitute all or a portion of the coursework required in Section 032 when an applicant for renewal shows evidence of passing an approved challenge exam or of completing equivalent education as determined by the Board, as recommended by the Licensure Board, to be in full compliance with the education requirements of this chapter. (3-16-04)

g. Conditional Permits. Any individual who desires to provide polysomnography related respiratory care services as described in Section 54-4304A, Idaho Code, and this chapter and who meets the requirements of Subsection 032.03, as well as the necessary requirements in Subsections 032.05.g.i. through 032.05.g.iv., may make application for a conditional permit. Conditional permits shall be issued on or after January 1, 2004, as outlined in Section 54-4304A(8), Idaho Code, and shall be issued until the Board has adopted rules as may be required for the issuance of regular permits as provided in this chapter and has had an opportunity to process applications for such regular permits. (3-16-04)

033. LICENSURE EXEMPTION FOR RESPIRATORY CARE PRACTITIONERS.

The Board may grant licensure exemption to a respiratory care practitioner applicant who meets the requirements set forth by Section 54-4308, Idaho Code. Individuals requesting exempt status must provide to the Board, satisfactory proof of the existence of facts entitling the person to the exemption. Conditions for which individuals may be granted exemptions include the following: (3-16-04)

01. Pulmonary Function Technologists. Certified or registered pulmonary function technologists who carry out only those professional duties and function for which they have been specifically trained. (2-23-94)

02. Respiratory Therapy Students. Individuals actively attending a full-time supervised course of study in an approved educational program leading to a degree or certificate in respiratory care. This exemption shall cease to exist if the individual fails to attend the approved course of study for a period of time in excess of one-hundred twenty (120) consecutive calendar days and immediately upon receipt of the degree or certificate for which such person pursued the course of study. The practice or provision of respiratory care by such individuals must be supervised by a respiratory care practitioner or licensed physician. (2-23-94)

03. Consulting and Training. For purposes of continuing education, consulting, or training for a period not to exceed thirty (30) days in a calendar year, provided that the individual meets the requirements in Section 54-4308(1)(e), Idaho Code. The practice or provision of respiratory care by such individuals must be supervised by a respiratory care practitioner or licensed physician. (2-23-94)

034. LICENSE EXPIRATION AND RENEWAL.

All licenses shall be issued for a period of not less than one (1) year nor more than five (5) years, the exact period to be fixed by the Board and shall become invalid on the expiration date printed on the face of the certificate of the license unless renewed. The failure of any person to renew his renewable license shall not deprive such person of the right to renewal, except as provided for herein and Section 54-4312, Idaho Code. The Board shall collect a fee for each renewal year of a license. The Board may, in its discretion, prorate the application fees charged in conjunction with an application for initial licensure if such license shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. (4-11-06)

01. Renewal. Each license shall be renewed by submitting a completed request for renewal form accompanied by payment of the renewal fee to the Board. Licenses not renewed by the expiration date shall be canceled. (3-16-04)

02. Reinstatement. Licenses canceled for nonpayment of renewal fees may be reinstated by filing a completed request for renewal with the Board and paying a reinstatement fee, and back renewal fees. (3-16-04)

03. Reapplication. A person whose license has been canceled for a period of more than five (5) years, shall be required to make application to the Board as a new applicant for licensure. (2-23-94)

04. Continuing Education. Prior to renewal each applicant for renewal, reinstatement or reapplication, shall submit evidence of successfully completing no less than twelve (12) clock hours per year of continuing education acceptable to the Board. Continuing education must be germane to the practice or performance of respiratory care. Appropriate continuing professional education activities include but are not limited to, the following: (4-11-06)

- a. Attending or presenting at conferences, seminars or inservice programs. (2-23-94)
- b. Formal course work in Respiratory Therapy related subjects. (2-23-94)

035. DENIAL OR REFUSAL TO RENEW LICENSE OR PERMIT OR SUSPENSION OR REVOCATION OF LICENSE OR PERMIT.

01. Discipline. A new or renewal application may be denied, and every person licensed or issued a permit pursuant to Title 54, Chapter 43, Idaho Code and these rules is subject to discipline, pursuant to the procedures and powers established by and set forth in Section 54-4312, Idaho Code; the Administrative Procedures Act, and IDAPA 22.01.07, "Rules of Practice and Procedure in Contested Cases of the Board of Medicine". (3-16-04)

02. Impose Sanctions. The Board, upon recommendation of the Licensing Board, may refuse to issue a license or permit, or to renew a license, or permit, or may suspend or revoke a license or permit, or may impose probationary conditions if the holder of a license or permit or applicant for license or permit has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Such unprofessional conduct includes, but is not limited to: (3-16-04)

- a. Obtaining any license or permit by means of fraud, misrepresentation or concealment of material facts; (3-16-04)
- b. Being guilty of unprofessional conduct as defined by the rules of the Board, or violating the code of ethics adopted and published by the Board, a copy of which is attached to these rules; (2-23-94)
- c. Being convicted of a crime which would have a direct and adverse bearing on the individual's ability to practice or perform respiratory care or polysomnography related respiratory care competently; (3-16-04)
- d. The unauthorized practice of medicine; (4-28-93)
- e. Violating any provisions of this chapter or any of the rules promulgated by the Board under the authority of this chapter; (4-28-93)
- f. Being found mentally incompetent by a court of competent jurisdiction or unfit by the Board to provide respiratory care or polysomnography related respiratory care; (3-16-04)
- g. Providing respiratory care or polysomnography related respiratory care which fails to meet the standard of health care provided by other qualified respiratory therapists or respiratory therapy technicians or registered polysomnographic technologists, polysomnographic technicians or polysomnographic trainees in the same community or similar communities; (3-16-04)
- h. Using any controlled substance or alcohol to the extent that use impairs the ability to practice respiratory care or polysomnography related respiratory care at an acceptable level of competency; (3-16-04)
- i. Employing, directing or supervising the unlicensed practice of respiratory care or those not holding a permit to provide polysomnography related respiratory care; (3-16-04)
- j. Practicing in an area of respiratory care or polysomnography related respiratory care for which the individual is not trained; (3-16-04)
- k. Failure to supervise the activities of individuals who hold exemptions, conditional or temporary permits; (3-16-04)

- l.** Delegation to an unqualified person of any services which require the skill, knowledge, and judgment of a respiratory care or polysomnography related respiratory care practitioner; (3-16-04)
- m.** In the case of practice as an individual entitled to exemption, conditional or temporary permit, the practice of respiratory care or polysomnography related respiratory care other than under the supervision of a respiratory care or appropriate polysomnography related respiratory care practitioner or licensed physician, as may be required by law; (3-16-04)
- n.** Misrepresenting educational or experience attainments. (3-16-04)
- o.** Commission of any act of sexual contact, misconduct, exploitation or intercourse with a patient or former patient or related to the licensee's or permittee's provision of respiratory care or polysomnography related respiratory care; (3-16-04)

 - i.** Consent of the patient shall not be a defense; (3-16-04)
 - ii.** Subsection 035.02.o. shall not apply to sexual contact between a respiratory care or polysomnography related respiratory care practitioner and the spouse or a person in a domestic relationship who is also a patient; (3-16-04)
 - iii.** A former patient includes a person for whom the respiratory care or polysomnography related respiratory care practitioner has provided respiratory care or polysomnography related respiratory care within the last twelve (12) months; (3-16-04)
 - iv.** Sexual or romantic relationship with a former patient beyond the period of time set forth herein may also be a violation if the respiratory care or polysomnography related respiratory care practitioner uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the patient; (3-16-04)
- p.** Aiding or abetting a person not licensed, registered or permitted in this state or exempt from such licensure, registration or permitting, who directly or indirectly performs activities requiring a license, registration or permit; (3-16-04)
- q.** Failing to report to the Board any known act or omission of a licensee, permittee, applicant, or any other person, that violates any provision of this chapter; (3-16-04)
- r.** Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action; or (3-16-04)
- s.** Failing to maintain patient confidentiality unless otherwise required or permitted by law. (3-16-04)

036. -- 045. (RESERVED).

046. FEES.

Actual fees shall be set to reflect real costs of Board administration. Fees authorized under this chapter shall be used solely to carry out the purposes of this chapter including the provisions of Section 54-4317, Idaho Code. Each applicant shall be responsible for the payment of any fee charged by the National Board for Respiratory Care, Inc., Board of Registered Polysomnographic Technologists or an equivalent board, recognized by the Board. (3-16-04)

- 01. Licensure and Permit Fees for Respiratory Care Practitioners. (3-16-04)**

 - a.** Initial Licensure Fee. The fee for initial licensure, which may be prorated pursuant to Section 54-4309, Idaho Code, shall be no more than ninety dollars (\$90). (3-16-04)
 - b.** Reinstatement Fee. The reinstatement fee for a lapsed license shall be the renewal for each year not

licensed plus a fee of thirty-five dollars (\$35). (3-16-04)

c. Inactive Fee - Reactivate Fee. The fee for converting an active license to an inactive license shall be no more than fifty dollars (\$50). An inactive license may be converted to an active license to practice as a respiratory care practitioner upon written application and payment of active licensure fees for each inactive year minus paid inactive fees plus a conversion fee of no more than fifty dollars (\$50) to the Board. (3-16-04)

d. Renewal Fee. The renewal fee shall be no more than seventy dollars (\$70). (3-16-04)

e. Temporary Permit Fee. The fee for a temporary permit, which may be prorated pursuant to Section 54-4309, Idaho Code, shall be no more than ninety dollars (\$90). (4-11-06)

02. Permit Fees for Polysomnography Related Respiratory Care Practitioners. (3-16-04)

a. Initial Permit Fee. The fee for an initial permit for a registered polysomnographic technologist or a polysomnographic technician shall be no more than ninety dollars (\$90). The fee for an initial permit for a polysomnographic trainee shall be no more than forty-five dollars (\$45). (3-16-04)

b. Reinstatement Fee. The reinstatement fee for a lapsed permit for a registered polysomnographic technologists or a polysomnographic technician shall be the renewal fee for each year not holding an active permit plus a fee of thirty-five dollars (\$35). (3-16-04)

c. Renewal Fee. The renewal fee for an active permit for a registered polysomnographic technologist and polysomnographic technician shall be no more than seventy dollars (\$70). The renewal fee for an active permit for a polysomnographic trainee shall be no more than thirty-five dollars (\$35). (3-16-04)

d. Temporary Permit Fee. The fee for a temporary permit, which may be prorated pursuant to Section 54-4309, Idaho Code, for a registered polysomnographic technologist and polysomnographic technician shall be no more than ninety dollars (\$90). The fee for a temporary permit, which may be prorated pursuant to Section 54-4309, Idaho Code, for a polysomnographic trainee shall be no more than forty-five dollars (\$45). (4-11-06)

e. Conditional Permit Fee. The fee for a conditional permit for a registered polysomnographic technologist and polysomnographic technician shall be no more than ninety dollars (\$90). The fee for a conditional permit for a polysomnographic trainee shall be no more than forty-five dollars (\$45). Conditional permits will issue on or after January 1, 2004, and will issue until issuance of regular permits as provided in this chapter. (3-16-04)

03. Dual Licensure/Permit Fees for Practitioners of Respiratory and Polysomnography Related Respiratory Care. (3-16-04)

a. Initial Licensure/Permit Fee. The fee for initial issuance of a dual license/permit, which may be prorated pursuant to Section 54-4309, Idaho Code, shall be no more than ninety dollars (\$90). A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee. (3-16-04)

b. Reinstatement Fee. The reinstatement fee for a dual license/permit that has lapsed shall be the renewal for each year not dually licensed/permitted plus a fee of thirty-five dollars (\$35). (3-16-04)

c. Renewal Fee. The renewal fee shall be no more than seventy dollars (\$70). Renewal shall be required upon the expiration of either the permit or the license, whichever expires first if the two (2) initially shall not have been obtained at the same time. (3-16-04)

04. General Fee Information. (4-28-93)

a. Necessary fees shall accompany applications. (4-28-93)

b. Fees shall not be refundable. (4-28-93)

c. In those situations where the processing of an application requires extraordinary expenses, the Board may charge the applicant with reasonable fees to cover all or part of the extraordinary expenses. (4-28-93)

d. The Board may, in its discretion, provide for the proration of fees charged in conjunction with the initial application for a license or temporary permit if such license or temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. (4-11-06)

047. CODE OF ETHICS.

The licensure board has adopted the Code of Ethics of the American Association for Respiratory Care, as amended in 1985. (2-23-94)

048. -- 050. (RESERVED).

051. EFFECTIVE DATE.

These rules shall be effective August 31, 1991. Amendments to the rules shall be effective January 18, 1994. (2-23-94)

052. -- 099. (RESERVED).

100. CODE OF ETHICS.

01. Method of Treatment. The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall practice medically acceptable methods of treatment and shall not endeavor to extend his practice beyond his competence and the authority vested in him by the physician. (3-16-04)

02. Commitment to Self-Improvement. The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall continually strive to increase and improve his knowledge and skills and render to each patient the full measure of his ability. All service shall be provided with respect for the dignity of the patient, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems. (3-16-04)

03. Confidentiality. The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall hold in strict confidence all privileged information concerning the patient except as disclosure or use of information as permitted or required by law. (3-16-04)

04. Gratuities. The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall not accept gratuities for preferential consideration of the patient and shall guard against conflicts of interest. (3-16-04)

05. Professionalism. The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall uphold the dignity and honor of the profession and abide by its ethical principles and should be familiar with existing state and federal laws governing the practice of respiratory care and polysomnography related respiratory care and comply with those laws. (3-16-04)

06. Cooperation and Participation. The Respiratory Care and Polysomnography Related Respiratory Care Practitioner shall cooperate with other health care professionals and participate in activities to promote community and national efforts to meet the health needs of the public. (3-16-04)

101. -- 999. (RESERVED).

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