



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

Business Impact Analysis

Agency, Board, or Commission Name: State Medical Board of Ohio

Rule Contact Name and Contact Information:

Kimberly C. Anderson, Chief Legal Counsel; (614) 466-7207;
Kimberly.Anderson@med.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Respiratory Care rules

Rule Number(s): 4761-5-01, 4761-5-02, 4761-5-04, 4761-5-06, 4761-6-01, 4761-7-04, 4761-9-01, 4761-9-04, 4761-9-05, 4761-9-07, 4761-10-03, Ohio Administrative Code

Date of Submission for CSI Review: _____

Public Comment Period End Date: 11/22/19 _____

Rule Type/Number of Rules:

New/___ rules

No Change/___2___ rules (FYR? ___)

Amended/___9___ rules (FYR? ___)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☒ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☐ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

1. 4761-5-01: This rule dealing with the examination requirement for licensure is proposed to be amended to reflect the statutory change eliminating reciprocity. The proposed rule requires that all initial applicants for licensure must have passed the RRT exam. The current version of the rule was a transition step by the former Respiratory Care Board to move licensees from the CRT exam to the more demanding RRT exam. This has been in place for almost 4 years. The current rule allows applicants licensed in another state by passage of the CRT prior to 2015 to obtain initial licensure in Ohio with just the CRT. The proposed rule eliminates the inequity and requires all initial licensure applicants to have passed the RRT. There is also a proposed grandfather clause in paragraph (B) for license holders practicing under the CRT. This is an issue that has been discussed by the Respiratory Care Advisory Council, and the consensus was to move in this direction to elevate the practice of respiratory care in Ohio.
2. 4761-5-04, 4761-6-01: Rules proposed to be amended to update application and licensure processes for licensees and limited permit holders for consistency with the Board's rules for other licensees in this area.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

3. 4761-6-01 and 4761-7-04: Rules proposed to amend the education verification form process and clarify the documentation and communication of competencies for student limited permit holders among the student, educational program, and employer. As proposed, the education verification form would contain only education information demonstrating that the limited permit applicant is in good standing in a respiratory care educational program. Also, the proposed rules would still require the respiratory care educational program director to approve and document competencies of student limited permit holders. The Medical Board may provide a sample form for this. This would provide greater flexibility for the educational programs to customize the documentation of the approved competencies for student limited permit holders and to account for evolving technologies and techniques in the field.

Most importantly for public safety, the student limited permit holder would still give approved documentation of competencies to an employer, and the employer would still have to customize the supervision and practice of the student limited permit holder to those competencies. The proposed changes remove the Board from an intermediary role in documentation and collection of forms related to competencies while still maintaining safeguards for student limited permit holders and the public.

4. 4761-9-01, 4761-9-04 and 4761-9-05: Rules proposed to be amended to remove full Board approval for the required Ohio respiratory care law and professional ethics courses, and replace it with a process similar to other Respiratory Care Continuing Education ("RCCE") requirements.
5. 4761-9-07: Rule proposed to be amended to change the auditing of respiratory care continuing education to be consistent with licensure's processes for other license types. The proposed rule no longer addresses the disciplinary process for deficiency in CME. This issue cannot be written into the rule at this time until the outcome of proposed statutory language (to be drafted by LSC) in this area is known.
6. 4761-10-03: Rule proposed to be amended by removing "negligent" and "gross misconduct" language because those terms were amended out of respiratory care disciplinary statute (R.C. 4761.09) in the board consolidation statute changes in 2018. Instead, the proposed rule directs the licensee to report a violation of statute or rules in the manner prescribed in OAC rule 4731-15-01. Lastly, the proposed rule changes the language relating to failure to respond to a Board request for information.
7. 4761-5-02 and 4761-5-06: There are no changes proposed to either rule, and the rules will be filed without change for the 5-year rule review.

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

Authorized by Section 4761.03, Revised Code

Amplifies Sections 4761.03, 4761.04(A), 4761.04(B), 4761.05, 4761.06, 4761.07, 4761.10(B)(3), Revised Code

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

4. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

If yes, please briefly explain the source and substance of the federal requirement.

The proposed regulations do not implement a federal requirement, nor are they being adopted in connection with administering or enforcing a federal law or participating in a federal program.

5. **If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

The question is not applicable.

6. **What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The public purpose for the proposed regulations is to ensure the competent and safe practice of respiratory care in Ohio.

7. **How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The success of these regulations will be measured by the rules being written in plain, understandable language, licensee compliance with the rules, and minimal questions from the licensees about the proposed rules.

8. **Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. **Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

If applicable, please include the date and medium by which the stakeholders were initially contacted.

On April 22, 2019, Medical Board staff posted the proposed rules on the Medical Board website and circulated the rules to interested parties and all respiratory care licensees by

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

email. The deadline for written comments in the initial circulation period was May 10, 2019. In addition, on May 7, 2019, the proposed rules were sent to the Respiratory Care Advisory Council (“RCAC”) for review.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

On May 7, 2019, the RCAC recommended Board approval of the rules for filing with CSI as proposed in initial circulation with one addition. On proposed amended rule 4761-9-05 Approved Sources of RCCE, the RCAC recommended defining “relevant college credit” based on a recommendation of the RCAC to an inquiry about this term in May 2018 that was approved by the Board in June 2018.

The Medical Board received a total of five (5) written comments during the initial circulation comment period. Three (3) of the comments dealt with the proposed amendment to proposed amended rule 4761-5-01. Two of these comments, including the Ohio Society for Respiratory Care, favored the amendment to the rule. One commenter opposed the rule because she believes that having CRTs and RRTs leads to a beneficial division of labor and facilitates higher wages for RRTs.

The proposed amended rule has a grandfather clause that still allows licensees who obtained initial licensure with passage of the CRT exam to continue practicing as long as they timely renew their license. There was no change made to the amended proposed rule in response to this comment.

One comment supports the revision to proposed amended rule 4761-6-01 Limited permit application procedure. She raises several questions about the implementation of the form for documenting competencies and the verification of educational form. The Board requires the education verification form for renewal of a student limited permit and the proposed rule states that the Medical Board “may supply a sample form to document these competencies to be certified by the director of the respiratory care educational program.” Beyond these requirements, the Medical Board’s authorizing statutes for these rules do not contemplate a role for the Board in analyzing issues of legal liability for the respiratory care educational programs. There was no change made in response to this comment.

Another comment did not address the proposed rules and instead advocated for a law that requires a hospital to be staffed with a respiratory care professional at all times. As this is beyond the Medical Board’s jurisdiction, no change was made in response to this comment.

Lastly, OSRC raised a couple additional suggested amendments. For rule 4761-5-02 Admission to the Ohio Credentialing Exam, OSRC suggested specifying the exam for the Ohio credentialing exam. However, due to reciprocity statute changes and the proposed changes in 4761-5-01, this rule only applies to eight (8) L2 limited permit holders who were granted a license under R.C. 4761.05(B)(1)(b) under the qualification “Is employed as a provider of respiratory care in this state and was employed as a provider of respiratory care in this state prior to March 14, 1989.” This Ohio credentialing exam has not been accessed by these L2 limited permit holders for many years, and the expectation is that at this point in their careers

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

(30 years after they were grandfathered into the licensed practice of respiratory care) they will not be requesting the exam. Based on this, no change was made to this rule.

For proposed amended rule 4761-9-05 Approved Sources of RCCE, OSRC suggested amending paragraph (A) to define “relevant college credit” based on a recommendation of the RCAC in replying to an inquiry about this term in May 2018 that was approved by the Board in June 2018. **This following change is proposed to this rule:**

(A) Applicants for renewal shall successfully complete the required number of RCCE contact hours according to rule [4761-9-02](#) of the Administrative Code. RCCE earned from any combination of the following sources may be applicable towards meeting RCCE requirements:

(1) Relevant college credit awarded by an academic institution accredited by its regional accrediting association. **This is limited to respiratory care related classes.**

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Scientific data was not used to develop the rule or outcomes. The rules reflect the provisions of Chapter 4761 of the Revised Code.

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn’t the Agency consider regulatory alternatives?

As outlined in question 10, input from stakeholders was reviewed and changes were made to the rules.

13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don’t dictate the process the regulated stakeholders must use to achieve compliance.*

The rules are not performance-based because the rules are setting minimum requirements for examination, license application, limited permit holder supervision, and continuing education.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Medical Board is the only Ohio agency authorized to regulate respiratory care professionals licensing and practice.

15. Please describe the Agency’s plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

The Medical Board will educate its employees on the rules. Each department head will provide uniformity in interpretation of the rule by the department (such as Licensure or Investigations).

Adverse Impact to Business

16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community; and

The impacted business community is composed of respiratory care professionals and limited permit holders.

b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance); and

Respiratory care professionals must pay a fee of \$75.00 for initial licensure, \$20.00 for limited permits and \$ 75.00 for biannual renewal, \$100.00 for late renewal and \$125.00 for restoration (license expired for more than two years). Respiratory care professionals will also incur fees to take the initial licensure examination, the RRT, and continuing education courses.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

While the cost of licensure and renewal is definite, the costs of continuing education varies on the licensee’s choice of courses.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The Medical Board is charged with protecting the public by licensing and regulating the practice of respiratory care professionals. Requiring a demanding examination for licensure as well continuing education ensures that respiratory care professionals meet high standards for entrance into the profession and that respiratory care professionals keep up-to-date in their field.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

Protection of the public requires that the rules be evenly applied to licensees no matter the size of the practice entity.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

The rules are applicable to individuals and not to a business entity. The only paperwork violations that might be incurred are those relating to failure to provide required information on an application. The failure to provide required documents as part of licensure application does not incur a fine or penalty, but subjects the applicant to abandonment or denial of the application.

20. What resources are available to assist small businesses with compliance of the regulation?

Medical Board staff members are available to answer questions. Guidance documents are created to answer common questions.

4761-5-01

~~Waiver of licensure~~ Examination requirements pursuant to division (B) of section 4761.04 of the Revised Code.

(A) To meet the requirement of division (A)(3) of section 4671.04 of the Revised Code, an applicant for licensure must provide evidence that the applicant has successfully completed both portions of the registered respiratory therapist (R.R.T.) examination administered by the national board for respiratory care, inc. ("NBRC") or its successor organization.~~Recognition of current licensure in another state for the purposes of waiving division (A) of section 4761.04 of the Revised Code:~~

~~(1) Applicants meeting the following provisions shall be recognized as holding a license in another state based upon standards that are equivalent to those in the state of Ohio on the date of application. The board will waive the requirements of division (A) of section 4761.04 of the Revised Code with respect to any applicant that provides proof of the following:~~

~~(a) The applicant, on the date of application for an Ohio license, holds an active and valid license issued by another state or states and the license was issued in part or in whole based upon successful completion of either of the following examinations offered by the national board for respiratory care, inc.'s (NBRC) or its successor organization:~~

~~(i) The certified respiratory therapist (C.R.T.) examination taken prior to January 1, 2015; or~~

~~(ii) The registered respiratory therapist (R.R.T.) examination consisting of both the written and clinical simulation portions; and~~

~~(b) Each state of origin requires its licensees to complete at least as many contact hours of continuing education as the state of Ohio and the applicant is current on obtaining and reporting completed continuing education to each state of origin based on the renewal schedule of each state. If the applicant holds a license from a state that does not require as many contact hours of continuing education as the state of Ohio, the board will require the applicant to complete needed contact hours to make up the difference.~~

(B) All persons currently holding a license in this state to practice respiratory care who obtained an initial license in this state based on showing evidence of successful completion of the certified respiratory therapist (C.R.T.) examination may continue to practice respiratory care in this state if the following conditions are met:~~Recognition of examinations for the purpose of waiving divisions (A)(2) and (A)(3) of section 4761.04 of the Revised Code:~~

(1) the licensee continues to meet the requirements to renew a license under chapter 4761; and

(2) the licensee continues to timely renew the license through the state medical board.

~~(1) On and after January 1, 2015, the board recognizes successful completion of both portions of the R.R.T. examination administered by the NBRC or its successor organization as meeting the requirements of division (A)(3) of section 4761.04 of the Revised Code if the examination was passed within three years prior to the date of application for an Ohio license. The board will waive the requirements of divisions (A)(2) and (A)(3) of section 4761.04 for any applicant that has successfully completed both portions of the RRT examination in compliance with this rule.~~

~~(2) Prior to January 1, 2015, the board recognizes successful completion of the CRT examination administered by the NBRC as meeting the requirements of division (A)(3) of section 4761.04 of the Revised Code if the examination was passed within three years prior to the date of application for an Ohio license.~~

~~(3) The board will waive the three year examination recognition period contained in paragraphs (B)(1) and (B)(2) of this rule for persons demonstrating regular employment in the practice of respiratory care by an entity meeting the requirements of division (A)(2) of section 4761.11 of the Revised Code. Applicants meeting this requirement must show proof of successful completion of an examination recognized in paragraphs (B)(1) and (B)(2) of this rule.~~

~~(C) Recognition of examination for the purpose of Ohio credentialing:~~

~~(1) Applicants for licensure by Ohio credentialing must take and pass the Ohio state credentialing examination offered by the NBRC in accordance with rule 4761-5-02 of the Administrative Code. This examination shall be administered in accordance with the provisions of the agreement between the board and the NBRC; or~~

~~(2) Applicants must hold an active license from another state based on taking and passing a state credentialing examination that meets or exceeds the scope of the examination approved by the board under paragraph (C)(1) of this rule.~~

4761-5-02

Admission to the Ohio credentialing examination.

- (A) An applicant for the Ohio credentialing examination must have an approved preliminary application for licensure form on file with the board that authorizes a waiver of the education requirement for licensure as set forth in Section 6 of Sub. House Bill 111 of the 118th General Assembly.
- (B) An applicant for the Ohio credentialing examination shall file an application provided by the board to take the examination offered by the "National Board for Respiratory Care, Inc. (NBRC)." The original application shall be mailed to the NBRC, and a copy of the application shall be mailed to the board. The application mailed to the NBRC shall include an examination score release form.
- (C) The application mailed to the NBRC shall include the nonrefundable examination fee.
- (D) The applicant for the Ohio credentialing examination shall comply with any and all deadlines established by the NBRC.

4761-5-04

License application procedure.

(A) An applicant for licensure ~~by recognition of another state or jurisdiction's license~~ shall: submit to the board an application under oath in the manner determined by the board and provide such other facts and materials as the board requires. No application shall be considered submitted to the board until the appropriate fee has been received by the board.

~~(1) File an initial license application form (form reb-0002, revised 4/2013) approved by the board and shall pay the initial application fee prescribed by the board.~~

~~(2) Provide, in accordance with the license application form and as set forth in paragraph (A) of rule 4761-5-01 of the Administrative Code, verification of respiratory care licensure status from any state or jurisdiction in which the applicant holds or has ever held a respiratory care license. Acceptable methods of providing verification of licensure status from another state or jurisdiction are:~~

~~(a) A letter of license verification containing the official seal of the state or jurisdiction of origin; or~~

~~(b) An electronic license verification from an official state website, if the state or jurisdiction of origin validates the authenticity and accuracy of the electronic verification through a secure validation process.~~

~~(c) Documentation of the number of contact hours of continuing education completed in the state or jurisdiction of origin in accordance with paragraph (A)(1)(b) of rule 4761-5-01 of the Administrative Code.~~

(B) No application submitted to the board shall be considered complete until the applicant has complied with the requirements of Chapter 4731-4 of the Administrative Code and the board has received the results of the criminal records checks.~~A letter of licensure verification or electronic license verification must contain the following to be acceptable:~~

~~(1) Name of the state or jurisdiction of origin.~~

~~(2) Name of the licensee.~~

~~(3) Initial issuance date of the license.~~

~~(4) Current status of the license.~~

~~(5) Expiration date of the license.~~

~~(6) Examination basis upon which the license was issued. If the examination basis~~

~~is not obtainable from the state or jurisdiction of origin, the applicant is responsible for obtaining an official credential verification letter from the national board for respiratory care, inc. (NBRC) to verify that the license was issued based on the successful completion of an examination recognized by the board.~~

~~(C) An applicant for licensure by successful completion of an examination recognized by the board shall:~~

- ~~(1) File an initial license application form (form reb-0002, revised 4/2013) approved by the board and shall pay the initial application fee prescribed by the board.~~
- ~~(2) Provide, in accordance with the license application form and as set forth in paragraph (B) of rule 4761-5-01 of the Administrative Code, verification of successful completion of any examination recognized by the board.~~

~~(D)~~ (C) Licensure by examination:

An applicant for licensure by examination who filed a preliminary application for licensure and who qualified for the educational waiver provided for in Section 6 of Sub. House Bill 111 of the 118th General Assembly and who has passed the Ohio licensure examination in accordance with ~~paragraph (B) of rule 4761-5-01~~02 of the Administrative Code shall ~~file with the board a signed application on forms approved by the board, and shall pay the fee prescribed by the board.~~submit to the board an application under oath in the manner determined by the board, and provide such other facts and materials as the board requires. No application shall be considered submitted to the board until the appropriate fee has been received by the board.

~~(E)~~ (D) If an applicant fails to complete the application process within six months of initial application filing, the board may notify the applicant in writing of its intention to consider the application abandoned. If no response to that notice is received by the board within thirty days, the board shall consider the application as abandoned and no further processing shall be undertaken with respect to that application.~~Incomplete applications will be held open for ninety days following notification of incomplete requirements by regular mail. After sixty days, a final notice of incomplete application will be mailed by certified mail, return receipt requested. If the final notice is returned as unclaimed by the United States postal service, the board shall mail the final notice to the last address of record by regular mail. The final notice shall be deemed served on the date of mailing by regular mail. If, by the end of the ninety day period, the application remains incomplete, it will be considered abandoned. After ninety days, if desired, the applicant must submit a new application form, including fee.~~

~~(F)~~(E) If the application process extends for a period longer than six months, the board may require updated information as it deems necessary. ~~Application forms are available on the board's website at www.respiratorycare.ohio.gov.~~

(F) No application being investigated under section 4761.09 of the Revised Code, may be withdrawn without approval of the board.

(G) Application fees are not refundable.

4761-5-06

Respiratory care practice by polysomnographic technologists.

- (A) As used in division (B)(3) of section 4761.10 of the Revised Code, "a polysomnographic technologist" shall be defined as a person who holds a credential as a registered polysomnographic technologist (RPSGT) issued by the board of registered polysomnographic technologists (BRPT) or its successor organization.
- (B) As used in division (B)(3) of section 4761.10 of the Revised Code, "a trainee" shall be defined as a person who, under the direct supervision of a polysomnographic technologist, performs respiratory care tasks as a part of a defined course of education leading to eligibility to take the comprehensive registry exam for polysomnographic technologists.
- (C) As used in division (B)(3) of section 4761.10 of the Revised Code, "being eligible to be credentialled" shall be defined as a person who has completed the training and clinical experience required by the BRPT to take the comprehensive registry exam for polysomnographic technologists. Eligibility status shall not exceed eighteen months.
- (D) As used in division (B)(3) of section 4761.10 of the Revised Code, "direct supervision" shall be defined as being immediately available to oversee and direct the care rendered by a trainee.
- (E) The following respiratory care tasks performed in the diagnosis and therapeutic intervention of sleep-related breathing disorders may be performed upon the prescription or order under the general supervision of a physician:
 - (1) Application and titration of bi-level, continuous positive airway pressure, or non-invasive ventilation;
 - (2) Application and titration of supplemental low flow oxygen;
 - (3) Application and monitoring of pulse oximetry;
 - (4) Application and monitoring of capnometry; and
 - (5) Patient education in the application of bi-level or continuous positive airway pressure, low flow oxygen, or pulse oximetry for the ongoing management of sleep-related disorders.

4761-6-01

Limited permit application procedure.

(A) An applicant for a limited permit shall submit to the board an application under oath in the manner determined by the board, and provide such other facts and materials as the board requires. No application shall be considered submitted to the board until the appropriate fee has been received by the board. Application fees are not refundable.

(1) An applicant for a limited permit must provide proof of meeting one of the following requirements:

(a) Is enrolled in and is in good standing in a respiratory care educational program that meets the requirements of rule 4761-4-01 of the Administrative Code; or

(b) Is a graduate of a respiratory care educational program that meets the requirements of rule 4761-4-01 of the Administrative Code and is making application within one year of such graduation date; or

(c) Is employed as a provider of respiratory care in this state and was employed as a provider of respiratory care in this state prior to March 14, 1989, as provided by division (B)(1)(b) of section 4761.05 of the Revised Code.

(2) An applicant meeting the requirements of paragraph (A)(1)(a) of this rule shall file with the application a verification of education form provided by the board as proof of his/her enrollment and good standing in an approved educational program.

(3) An applicant meeting the requirements of paragraph (A)(1)(b) of this rule shall submit an official transcript.

(4) An applicant meeting the requirements of paragraph (A)(1)(c) of this rule shall submit proof of his/her record of employment as a provider of respiratory care in this state.

(5) A person issued a limited permit under paragraph (A)(1)(a) or (A)(1)(b) of this rule shall practice respiratory care only under the supervision of a respiratory care professional until whichever of the following occurs first:

(a) Three years after the date the limited permit is issued; or

(b) Until the holder discontinues enrollment in the educational program; or

- (c) One year following the date of receipt of a degree or certificate of completion from a board-approved respiratory care education program;
- (B) The respiratory care services which may be performed by the holders of a limited permit issued under paragraph (A)(1)(a) of this rule are limited to only those services which have been successfully completed by such persons as part of the curriculum of their respiratory care educational program, as certified by the director of the respiratory care educational program. ~~on the verification of education form filed with the board. A copy of the board approved verification of education form will be provided to the holder of a limited permit. The board may supply a sample form to document these competencies to be certified by the director of the respiratory care educational program.~~ The limited permit holder must provide ~~a copy of the board approved verification of education form~~ documentation of competencies certified by the director of the respiratory care educational program to all employers of respiratory care services. ~~An updated~~ Updated documentation of competencies shall ~~verification of education form may be provided by the limited permit holder to employers of respiratory care services filed with the board~~ upon successful completion of additional clinical courses as certified by the director of the respiratory care educational program.
- (C) A person issued a limited permit under paragraph (A)(1)(c) of this rule shall practice respiratory care only under the supervision of a respiratory care professional and may practice for not more than three years, unless the holder has been employed as a provider of respiratory care for an average of not less than twenty-five hours per week for a period of not less than five years by a hospital certified or accredited pursuant to section 3727.02 of the Revised Code.
- (D) If an applicant fails to complete the application process within six months of initial application filing, the board may notify the applicant in writing of its intention to consider the application abandoned. If no response to that notice is received by the board within thirty days, the board shall consider the application as abandoned and no further processing shall be undertaken with respect to that application.
- (E) If the application process extends for a period longer than six months, the board may require updated information as it deems necessary.
- (F) No application being investigated under section 4761.09 of the Revised Code, may be withdrawn without approval of the board.
- ~~(G) A person issued a limited permit in accordance with this rule must file a completed supervisor registration form within fifteen days of the beginning date of employment in the practice of respiratory care. A limited permit holder must file a new form for any change in respiratory care employment or upon being employed~~

~~by more than one respiratory care employer.~~

4761-7-04

Supervision.

As provided for in division (B) of section 4761.05 of the Revised Code, a limited permit holder must work under the supervision of a respiratory care professional (RCP) and may not be supervised by any other person, including those persons licensed to practice in any other profession.

"To practice under the supervision of a respiratory care professional" as used in division (B) of section 4761.05 of the Revised Code requires that an RCP be readily available in the facility and responsible at all times for the direction and actions of a limited permit holder under their supervision. Three types of limited permits are issued by the board: student-based, employment-based, and graduate-based. The level of supervision and the duties assigned may vary based upon the type of limited permit holder that is being supervised. The RCP shall determine the appropriate level of supervision and assigned respiratory care duties for an employment-based limited permit holder taking into consideration institutional competency reviews and work performance. For student limited permit holders, the appropriate level of supervision and assigned respiratory care duties shall be based, in part, on competencies approved ~~and on the verification of education form completed~~ documented by the student's respiratory care educational program director. At no time shall a supervising RCP assign duties that exceed the approved competencies ~~documented on the verification of education form.~~ Graduate-based limited permit holders may practice a full scope of respiratory care duties, but must still be supervised in accordance with this rule. Regardless of the type of limited permit held, an RCP shall not delegate to a less qualified person any service which requires the skill, knowledge and judgment of an RCP.

4761-9-01

Definition of respiratory care continuing education.

(A) "Respiratory care continuing education" (hereafter referred to as RCCE), as required under section 4761.06 of the Revised Code, means post-licensure learning experiences which are approved by the state medical board of Ohio (hereafter referred to as the board) and which enhance or build upon the licensee's current knowledge or educational background as it pertains to the practice of respiratory care, as set forth in section 4761.01 of the Revised Code.

(B) For the purposes of this chapter, the following definitions shall apply:

- (1) "Post-licensure" means the period following the granting of a license under section 4761.04 of the Revised Code or a limited permit issued under division (B) of section 4761.05 of the Revised Code.
- (2) "Learning experiences" means activities or programs which allow respiratory care providers to obtain or enhance skills, knowledge, or behavior needed to provide respiratory care.
- (3) "Approved by the state medical board of Ohio" means that the RCCE program or activity qualifies for official recognition by the board in accordance with one of the approval mechanisms set forth in rule [4761-9-04](#) and 4761-9-05 of the Administrative Code.
- (4) "Licensee" means the holder of a license issued under section 4761.04 of the Revised Code or a limited permit issued under division (B)(1)(b) of section 4761.05 of the Revised Code.
- (5) "Contact hour" means fifty or sixty minutes of planned classroom, clinical, or provider-directed independent study.
 - (a) Calculation of contact hours from credit hours earned in an academic institution shall be done using the following formula:
 - (i) Quarter system: one credit hour = ten contact hours;
 - (ii) Trimester system: one credit hour = twelve contact hours;
 - (iii) Semester system: one credit hour = fifteen contact hours.

4731-9-04

Ohio respiratory care law and professional ethics course criteria.

(A) An acceptable course in Ohio respiratory care law or professional ethics shall meet the following criteria and be taught by an individual with the appropriate qualifications and experience.

(1) The course shall be at least one contact hour in length; and

(2) The course content shall include one of the following:

(a) Standards of respiratory care practice and ethical conduct; or

(b) Acts that constitute violations of the respiratory care practice law under section 4761.09 of the Revised Code; or

(c) Obligations to report alleged violations of Chapter 4761 of the Revised Code or rules adopted thereunder; or

(d) Medical ethics.

(B) To be state medical board of Ohio approved RCCE for the one contact hour in respiratory care law or professional ethics required in rule 4761-9-02 of the Administrative Code, a course that meets the requirements of paragraph (A) of this rule shall also be approved by American association for respiratory care (A.A.R.C.), the American medical association (A.M.A.), the American nurses association (A.N.A.), the Ohio association of physician assistants (O.A.P.A.), the Ohio society for respiratory care (O.S.R.C.), the Ohio state medical association (O.S.M.A.), the Ohio nurses association (O.N.A.), the Ohio thoracic society (O.T.S.), the American college of chest physicians (A.C.C.P.), the American heart association (A.H.A.), the American lung association (A.L.A.), the Ohio lung association (O.L.A.), or the American association of critical care nurses (A.A.C.C.N.).

(C) The board may also, in its discretion, offer a respiratory care law or professional ethics course to meet the one contact hour respiratory care or professional ethics requirement in rule 4761-9-02 of the Administrative Code.

4761-9-05

Approved sources of RCCE.

- (A) Applicants for renewal shall successfully complete the required number of RCCE contact hours according to rule 4761-9-02 of the Administrative Code. RCCE earned from any combination of the following sources may be applicable towards meeting RCCE requirements:
- (1) Relevant college credit awarded by an academic institution accredited by its regional accrediting association. [This is limited to respiratory care related classes.](#)
 - (2) RCCE contact hours awarded by respiratory care educational programs approved by the board in accordance with rule 4761-4-01 of the Administrative Code.
 - (3) The successful completion of advanced life support programs and/or instructors for life support programs will qualify to meet the RCCE requirement. Those meeting this requirement are, but may not be limited to advanced cardiac life support (ACLS), pediatric advanced life support (PALS), neonatal resuscitation program (NRP), and advanced trauma life support (ATLS). The number of contact hours for each program must be assigned by the educational provider. Licensees will be responsible for acquiring documentation supporting completion of the program, the date of completion, and the number of contact hours earned.
 - (4) Recertification for ACLS, PALS, NRP, or ATLS. The number of contact hours for each program must be assigned by the educational provider. Licensees will be responsible for acquiring documentation supporting completion of the program, the date of completion, and the number of contact hours earned.
 - (5) All or portions of a continuing education activity relevant to the practice of respiratory care which meet the requirements of paragraph (A) of rule 4761-9-01 of the Administrative Code and which have been approved by a professional organization or association awarding continuing education contact hours, including, but not limited to the American association for respiratory care (A.A.R.C.), the American medical association (A.M.A.), the American nurses association (A.N.A.), the Ohio association of physician assistants (O.A. P.A.), the Ohio society for respiratory care (O.S.R.C.), the Ohio state medical association (O.S.M.A.), the Ohio nurses association (O.N.A.), the Ohio thoracic society (O.T.S.), the American college of chest physicians (A.C.C.P.), the American heart association (A.H.A.), the American lung association (A.L.A.), the Ohio lung association (O.L.A.), and the American association of critical care nurses (A.A.C.C.N.).

(6) Relevant education and training provided by a branch of the U.S. military for active duty military service members.

~~(7) Professional ethics or Ohio respiratory care law continuing education programs approved by the state medical board of Ohio for the purposes of meeting the requirements of rule 4761-9-04 of the Administrative Code. Providers must file a written request for approval with the board, including a description of the course and qualifications of the course instructors. The board, in its discretion, may approve or reject any course offering.~~

4761-9-07

Auditing for compliance with RCCE requirements.

(A) To monitor compliance with the RCCE requirements, audits ~~shall~~may be conducted retrospectively on random samples of licensees and permit holders, or in response to complaints received by the board.~~the following:~~

- ~~(1) A random sample of license and permit holders;~~
- ~~(2) Licensees who indicate non-compliance with the RCCE portion of the annual license or limited permit renewal form; and~~
- ~~(3) Licensees who fail to complete the RCCE portion of the license or limited permit renewal form.~~

~~(B) Audits may also be conducted in response to complaints received by the board or upon reporting less than the required number of contact hours on a renewal application.~~

~~(C)~~(B) Audits may be required at any time within the year following the renewal of a license or limited permit ~~or within the three year period following the renewal of a license.~~

~~(D)~~(C) The audit procedure shall be as follows:

- ~~(1) Licensees shall receive a notice of audit by regular mail which includes the rationale for the audit, the term of RCCE collection under consideration, and instructions for compliance with the audit;~~
- ~~(2) Audited licensees or limited permit holders shall be required to submit notarized proof of RCCE validating the evidence of completions of the required contact hours by license type under rule 4761-9-04 of this chapter;~~
- ~~(3) Licensees shall have thirty days to comply with the audit request;~~
- ~~(4) Audit investigations shall be conducted on a schedule determined by the board.~~
- ~~(5) Proof of RCCE submitted to the board in response to an audit shall not be returned to the licensee or retained by the board after verification of RCCE is established in accordance with this chapter;~~

~~(E) The board shall verify all proof of RCCE submitted in response to a notice of audit.~~

~~(1) If the information submitted to the board in response to a notice of audit meets the requirements of the board, no further action shall be taken.~~

~~(2) If the information submitted to the board in response to a notice of audit~~

~~indicates non-compliance of any kind, the licensee shall receive a report outlining the areas of non-compliance. The licensee will have fifteen days from the receipt of the report to file a written response with the board.~~

~~(3) If the board does not receive a satisfactory response to the notice of audit within thirty days, as set forth in paragraph (D)(3) of this rule, or to the report of non-compliance within fifteen days, as set forth in paragraph (E)(2) of this rule, there shall be an opportunity for hearing notice issued in accordance with Chapter 119. of the Revised Code and rule 4761-11-02 of the Administrative Code. Pursuant to a hearing in accordance with Chapter 119. of the Revised Code, the board may impose one or more of the sanctions provided in section 4761.09 of the Revised Code, including the imposition of fines, as set forth under rule 4761-11-03 of the Administrative Code.~~

4761-10-03

Providing information to the board.

- (A) A licensee or permit holder ~~shall~~ ~~may be considered negligent or guilty of gross misconduct for failing to~~ report to the board alleged violations of Chapter 4761. of the Revised Code~~the respiratory care law~~ or ~~these~~any rules ~~to~~ of the board in the manner prescribed by rule 4731-15-01 of the Administrative Code..
- (B) A licensee or permit holder shall notify the board office as soon as practicable, but no more than ~~within~~ sixty days after of any changes in address, academic standing or employment or other facts that might affect licensee or permit holder's ~~his~~ eligibility to practice respiratory care.
- (C) A licensee or permit holder may be considered ~~negligent~~ in violation of division (A)(19) of section 4761.09 of the Revised Code for failing to respond to a request for information or other correspondence relating to Chapter 4761. of the Revised Code or ~~agency-level~~ Chapter 4761. of the Administrative Code.