

**North Dakota**  
**Title 43**  
**Occupations and Professions**  
**CHAPTER 43-42**  
**RESPIRATORY CARE PRACTITIONERS**

- **Practice Act defines qualifications for sleep technologists**

**§43-42-01. Definitions. In this chapter, unless the context otherwise requires:**

1. "Board" means the state board of respiratory care.
2. "Bona fide respiratory care training program" means a program of respiratory care education which is accredited by the commission on accreditation of allied health educational programs, or the commission's successor organization.
3. "Certification examination" means the entry level examination for respiratory therapists administered by the national board for respiratory care.
4. "Certified respiratory therapist" means a person licensed by the board to practice respiratory care under the direction or supervision of a physician or registered respiratory therapist.
5. "National board for respiratory care" means the body issuing credentials for the respiratory care profession, or the board's successor organization.
- 6. "Polysomnography" means the practice of attending, monitoring, and recording physiologic data during sleep for the purpose of identifying and assisting in the treatment of sleep-wake disorders.**
- 7. "Registered polysomnographic technologist" means an individual licensed by the board to practice polysomnography under supervision as prescribed by the board by rule.**
8. "Registered respiratory therapist" means a person licensed by the board to practice respiratory care.
9. "Registry examination" means the advanced level examination for respiratory therapists administered by the national board for respiratory care.
10. "Respiratory care" means the health specialty involving the treatment, management, control, and care of patients with deficiencies and abnormalities of the cardiorespiratory systems. Respiratory care is implemented on an order from a licensed physician, and includes the use of medical gases, air and oxygen administering apparatuses, environmental control systems, humidification and aerosols, drugs and medications, apparatuses for cardiorespiratory support and control, postural drainage,

chest percussion and vibration and breathing exercises, pulmonary rehabilitation, assistance with cardiopulmonary resuscitation, maintenance of natural and artificial airways, and insertion of artificial airways. The term also includes testing techniques to assist in diagnosis, monitoring, treatment, and research, including the measurement of cardiorespiratory volumes, pressures and flows, and the drawing and analyzing of samples of arterial, capillary, and venous blood.

11. "Respiratory therapist" means a certified respiratory therapist or a registered respiratory therapist.

12. "Respiratory therapy" means respiratory care.

13. "Temporary respiratory therapist" means any individual who has successfully completed a bona fide respiratory care training program and is licensed by the board to practice respiratory care under the supervision or direction of either a physician, certified respiratory therapist, or registered respiratory therapist.

#### **§43-42-02. State board of respiratory care.**

1. The state board of respiratory care is responsible for the enforcement and administration of this chapter and for the adoption of any rules necessary to govern the practice of respiratory care in this state.

2. The board consists of seven members appointed by the governor. Four members must be respiratory therapists, chosen from a list of eight respiratory therapists supplied to the governor by the North Dakota society for respiratory care. One member must be a physician chosen from a list of two physicians supplied to the governor by the North Dakota medical association. The governor shall appoint one member to be a representative of the general public. One member must be a registered polysomnographic technologist chosen from a list of candidates recommended to the governor by the association of polysomnographic technologists. Members are appointed for terms of three years. Each member holds office until the member's successor is duly appointed and qualified. A vacancy in the office of any member may be filled for the unexpired term only. No member may serve more than two successive complete terms.

3. The board shall annually select a chairman from among its members. The board shall meet at least twice each year and also shall meet upon the call of the chairman.

#### **§43-42-03. Respiratory therapist and polysomnographic technologist licensing - Fees.**

1. The board shall license as a registered respiratory therapist any applicant whom the board determines to be qualified to perform the duties of a registered respiratory therapist. In making this determination, the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program and has passed

the registry examination. The board shall establish fees not in excess of one hundred dollars for the issuance and renewal of a registered respiratory therapist license.

2. The board shall license as a certified respiratory therapist any applicant whom the board determines to be qualified to perform the duties of a certified respiratory therapist. In making this determination, the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program and has passed the certification examination. The board shall establish fees not in excess of seventy dollars for the issuance and renewal of a certified respiratory therapist license.

3. The board shall license as a temporary respiratory therapist any applicant whom the board determines to be qualified to perform duties as a temporary respiratory therapist. In making this determination, the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program. The board shall establish fees not in excess of seventy dollars for the issuance of a temporary respiratory therapist license.

4. The board shall license as a registered polysomnographic technologist any applicant whom the board determines to be qualified to perform the duties of a registered polysomnographic technologist. In making this determination, the board shall require evidence that the applicant has complied with the rules adopted by the board under section 43-42-04.1. The board shall establish fees not in excess of seventy dollars for issuance and for renewal of a registered polysomnographic technologist license.

5. The board may assess a late fee not in excess of twenty-five dollars for all license renewal applications that are postmarked after December thirty-first of the year prior to the year of renewal.

6. The board shall refuse to license any applicant or shall suspend or revoke any license after proper notice and a hearing, if the applicant:

a. Is not qualified or competent to perform the duties of a registered respiratory therapist, a certified respiratory therapist, a temporary respiratory therapist, or a registered polysomnographic technologist.

b. Has attempted to obtain or has obtained licensure under this chapter by fraud or material misrepresentation.

c. Has been found by the board to have been grossly negligent as a registered respiratory therapist, certified respiratory therapist, temporary respiratory therapist, or registered polysomnographic technologist.

d. Has engaged in conduct as a registered respiratory therapist, certified respiratory therapist, temporary respiratory therapist, or registered polysomnographic technologist which is unethical, unprofessional, or detrimental to the health of the public.

e. Has failed to demonstrate satisfactory completion of such continuing courses of study in respiratory care as the board may require.

f. Has been convicted or adjudged guilty of an offense, as defined by section 12.1-01-04, determined by the board to have a direct bearing upon that individual's ability to practice respiratory care and is not sufficiently rehabilitated as determined by the board in accordance with section 12.1-33-02.1.

g. Is habitually drunk or is addicted to the use of a controlled substance as defined in chapter 19-03.1.

h. Has been declared mentally incompetent by a court of competent jurisdiction, and who has not thereafter been lawfully declared competent.

7. The board may impose a fee on any person subject to regulation under this chapter to reimburse the board for all or part of the costs of administrative actions resulting in disciplinary action, which are not reversed on appeal, including the amount paid by the board for services from the office of administrative hearings, attorney's fees, court costs, witness fees, staff time, and other expenses.

8. Licenses issued under this chapter expire annually, but may be renewed upon application to the board and payment of the annual renewal fee established by the board. Licenses which have expired, been suspended, or been revoked may be renewed or reissued upon satisfaction of any conditions that may be established by the board, and after payment of a fee established by the board. Temporary licenses may not be renewed.

9. The board shall require as a condition of renewal and relicensure that the applicant demonstrate satisfactory completion of continuing courses of study in respiratory care. 43-42-04. Respiratory care practice. The practice of respiratory care may be performed in hospitals, as ambulatory or in-home care, and in other settings where respiratory care is provided in accordance with a prescription of a licensed physician. In addition, respiratory care may be provided during the transportation of a patient, and under any circumstances in which an epidemic or public disaster necessitates respiratory care. A person may not practice, nor represent that the person is able to practice, as a registered respiratory therapist without being licensed as a registered respiratory therapist, or as a certified respiratory therapist without being licensed as a certified respiratory therapist, in accordance with this chapter.

#### **§43-42-04.1. Polysomnography practice.**

**1. After December 31, 2005, a person may not practice, nor represent that the person is able to practice, polysomnography unless licensed under this chapter as a registered polysomnographic technologist. A registered polysomnographic technologist may not practice respiratory care except as may be authorized by rules adopted by the board. A registered polysomnographic technologist is limited in**

**practice to polysomnography within the scope of practice and limitations as provided by rules adopted by the board.**

**2. The board shall adopt rules regulating registered polysomnographic technologists and establishing the scope of practice of a registered polysomnographic technologist. The rules may include requirements for examination requirements for licensure, education requirements for licensure, continuing courses of study in polysomnography, and student practice.**

**3. This section does not prohibit a respiratory therapist from practicing respiratory care.**

**§43-42-05. Application of chapter.**

1. This chapter does not prohibit a person enrolled in a bona fide respiratory care training program from performing those duties essential for completion of a student's clinical service; provided, that the duties are performed under the supervision or direction of a physician or registered respiratory therapist and the person is identified as a "student respiratory therapist".

2. A graduate of a bona fide respiratory care training program, who has applied for licensure under this chapter may practice respiratory care under the supervision or direction of a physician or a registered or certified respiratory therapist; provided, that the graduate holds a temporary respiratory therapist's license and is identified as a "graduate respiratory therapist". An applicant shall take the entry level certification examination within six months following eligibility. Failure to pass any examination that is taken results in termination of the privileges provided under this subsection.

3. If examinations prepared by the national board for respiratory care are no longer available or become unacceptable to the board, the board may develop, approve, and use examinations for the licensure of registered respiratory therapists and certified respiratory therapists.

4. This chapter does not prevent a licensed and qualified member of another health care profession from performing any of the duties of a registered respiratory therapist or a certified respiratory therapist that are consistent with the accepted standards of that person's profession, provided the person is not represented as a registered respiratory therapist or certified respiratory therapist.

5. This chapter does not prohibit self-care by a patient or the gratuitous care by a friend or member of the family who does not represent or hold out to be a registered or certified respiratory therapist.

6. This chapter does not prohibit a respiratory therapist from performing advances in the art or techniques of respiratory care learned through formal or specialized training.

7. This chapter does not prohibit an individual licensed or registered as a respiratory therapist in another state or country from providing respiratory care in an emergency in this state, providing respiratory care as a member of an organ harvesting team, or from providing respiratory care on board an ambulance as part of the ambulance treatment team.

**§43-42-06. Reciprocity.** An applicant for licensure under this chapter may be granted a license upon satisfactory proof to the board that the applicant is licensed to practice respiratory care under the laws of another state which impose substantially the same requirements as this chapter, and upon payment of the annual license fee.

**§43-42-07. Penalty.** Any person who violates this chapter or any rules adopted under this chapter is guilty of an infraction.

## **North Dakota State Board of Respiratory Care Administrative Rules**

### **ARTICLE 105-04**

#### **REGISTERED POLYSOMNOGRAPHY TECHNOLOGIST LICENSURE**

**105-04-01-01. Initial licensure application.** An application for a license to practice polysomnography must be made to the state board of respiratory care on forms approved by the board. The application must contain such information as the board may reasonably require.

1. Each application for a license must be accompanied by:
  - a. The prescribed fee.
  - b. A photocopy of the certificate from the board of registered polysomnographic technologists, or other nationally accredited body approved by the board.
2. All applications must be signed by the applicant and notarized.
3. The board may request such additional information or clarification of information provided in the application as it deems necessary.

**105-04-01-02. Licensure renewal.** Licenses are renewable annually.

1. Applications for renewal of license will be mailed by the board on or before December first to all licenseholders. Fees are payable to the board on or before December thirty-first of the year preceding the renewal year.
2. An application for renewal of license must be signed by the applicant and notarized.
3. License fees are considered delinquent and a late charge is assessed if the renewal application is not postmarked on or before December thirty-first of the year preceding the renewal year.
4. A license is considered as a renewal if renewal is sought within three years from the date of the last issuance. After three years any application is considered a new application.
5. Renewal of license must be mailed by January twenty-fourth of the renewal year if the renewal request is complete and postmarked on or before December thirty-first.

6. All late renewal applications will be audited and proof of continuing education units is required.

**105-04-01-03. Fees.** The board has adopted the following fee payment schedule:

1. Initial license fee and license fee for renewal are:

Registered polysomnographic technologist - \$60.00

Registered polysomnographic technologist - registered respiratory therapist - \$60.00

Registered polysomnographic technologist - certified respiratory therapist - \$60.00

2. Late fees in the amount of ten dollars must be charged for all applications received by the board which are postmarked after December thirty-first of the year prior to the year of renewal.

3. Registered polysomnographic technologists who initially become licensed after November first of the year are exempt from licensure renewal for a period of one year. There is no proration of fees.

**105-04-01-04. Continuing education.**

1. To renew a license, a person must present proof of having attended or acquired at least ten clock-hours of continuing education approved by the board. If any licensee allows the licensee's license to lapse for a period of more than one year, the licensee must be required to submit proof of attendance or acquisition of at least ten clock-hours of continuing education for each year that the license has lapsed up to a period of three years.

2. Continuing education for licensure renewal must be completed in the calendar year prior to the year for which licensure is sought. Under extraordinary circumstances, the board may consider a request for continuing education hours accrued in the same calendar year.

3. Continuing education courses must relate to or increase the professional competence of the attendee. This determination will be made by the board through approval of requested courses. The board has the authority to accept programs sponsored by a local, state, regional, national, international, scientific, or professional organization appropriate to provide continuing education (i.e., AARC, AMA, ALA, AHA, AASM, APT, BRPT, ASET, etc.).

**105-04-01-05. Passing score.** The successful passing of a national examination means obtaining a score equal to or greater than the passing score, which is in effect at the time of the administration of the test, established by the board of registered polysomnographic technologists or its successor, as recognized by the board.

## **ARTICLE 105-05 - PRACTICE OF POLYSOMNOGRAPHY**

**105-05-01-01. Display of license.** Every person licensed under North Dakota Century Code chapter 43-42 to practice as a registered polysomnographic technologist shall maintain such license or certificate in the office, department, business, or place in which the person practices, where, upon request, it is available to the public.

**105-05-01-02. Scope of practice.**

1. Polysomnographic technologists may only perform sleep diagnostics and analysis of data working in conjunction with physicians to provide comprehensive clinical evaluations that are required for the diagnosis of sleep disorders. By applying monitoring equipment, the technologist simultaneously monitors EEG (electroencephalography), EOG (electrooculography), EMG (electromyography), ECG (electrocardiography), multiple breathing variables, and blood oxygen levels during sleep. Interpretive knowledge is required to provide sufficient monitoring diligence to recording parameters and the clinical events observed during sleep. Technologists provide supportive services related to the ongoing treatment of sleep-related problems. The professional realm of this support includes guidance on the use of devices for the treatment of breathing problems during sleeping and helping individuals develop sleeping habits that promote good sleep hygiene.

2. Polysomnographic technologists shall:

- a. Follow procedural protocols such as multiple sleep latency test (MSLT), maintenance of wakefulness test (MWT), parasomnia studies, PAP, oxygen titration, etc. to ensure collection of appropriate data.
- b. Follow lights-out procedures, including physiological and instrument calibrations and instructing the patient on completing questionnaires, to establish and document baseline values such as body position, oxyhemoglobin saturation, respiratory and heart rates, etc.
- c. Perform polysomnographic data acquisition while monitoring study-tracing quality to ensure signals are artifact free and make adjustments, if necessary.
- d. Document routine observations, including sleep stages and clinical events, changes in procedure and significant events in order to facilitate scoring and interpretation of polysomnographic results.
- e. Implement appropriate interventions, including actions necessary for patient safety and therapeutic intervention such as continuous and bilevel positive airway pressure, oxygen administration, etc.
- f. Follow lights-on procedures to verify integrity of collected data and complete the data collection process (repeats the physiological and instrument calibrations and instructs the patient on completing questionnaires, etc.).
- g. Demonstrate the knowledge and skills necessary to recognize and provide age-specific care in the treatment, assessment, and education of neonatal, pediatric, adolescent, adult, and geriatric patients.
- h. Oversee and perform difficult and unusual procedures and therapeutic interventions as related to sleep medicine.

3. A licensed and qualified member of another health care profession is not prohibited from performing any of the duties of a registered polysomnographic technologist that are consistent with accepted standards of that person's profession, providing the person is not represented as a registered polysomnographic technologist.

**105-05-01-03. Clinical work experience.**

1. A person enrolled in a bona fide polysomnographic training program is not prohibited from performing those duties essential for completion of a student's clinical service;

provided, that the duties are performed under the direct supervision or direction of a licensed health care professional trained in sleep medicine or the procedure. The supervisor or director is responsible to the board for the actions of the trainee.

2. A trainee is an individual who has completed a minimum of one year of postsecondary education in a health-related field, or its equivalent as approved by the board, and works under the direct supervision of a licensed health care professional trained in sleep medicine. A student or trainee must be identified as such.

3. Individuals on the credentialing track are exempt from the requirement to have the RPSGT credential for a period not to exceed thirty-six months starting from the first day of training, provided they are practicing with appropriate levels of supervision, in accordance with the published job descriptions sanctioned by the APT, BRPT, AASM, and ASET, or substantially similar written standards developed by the training program.

## **CHAPTER 105-05-02 - CODE OF ETHICS**

**105-05-02-01. Code of ethics.** The board has adopted and incorporated into these rules by reference the national board of registered polysomnographic technologists statement of ethics and professional conduct as amended in 2000.

**105-05-02-02. Grievance procedure.** Grievances must be processed in accordance with the provisions of North Dakota Century Code chapter 28-32.

**105-05-02-03. Reporting disciplinary action.** The board shall report all disciplinary action taken by it to the national board of registered polysomnographic technologists.