

OHIO RESPIRATORY CARE BOARD

NOTICE OF PUBLIC HEARING OF INTENT TO AMEND ADMINISTRATIVE RULES AND FILE NO CHANGE ADMINISTRATIVE RULES FOR RULES SCHEDULED FOR FIVE YEAR RULE REVIEW IN 2015

The Ohio Respiratory Care Board announces its intent to adopt twenty-one amended rules regarding regulating both the practice of Respiratory Care under Section 4761 of the Ohio Revised Code and the field of Home Medical Services under Section 4752 of the Ohio Revised Code. These rules have been filed pursuant to Chapter 119.03 of the Revised Code and the filing is in compliance with Chapter 106.023 of the Revised Code.

A public hearing will be conducted on: **Wednesday, October 21, 2015 at 1:00 p.m. in Room West B&C, 31st Floor of the Vern Riffe Center for Government and the Arts, 77 South High Street, Columbus, OH 43215.** Any person affected by the proposed action may present oral or written testimony.

The following represents a summary of all the rules under review and all proposed rule amendments:

Respiratory Care ORC 4761 rules proposed for amendment:

Amended rule 4761-5-06 Respiratory care practice by polysomnographic technologists

Summary: The Board proposes to amend this rule to clarify that non-invasive ventilation is a respiratory care task which can be performed in certain circumstances by a polysomnographic technologist upon prescription or under the supervision of a physician.

Amended rule 4761-7-05 Administration of medications

Summary: The Board proposes to amend this rule to make a grammatical correction by making respiratory care professional(s) and limit permit holder(s) singular as opposed to plural to correct sentence tense.

Amended rule 4761-11-04 Representation; appearance; communication; applicability

Summary: The Board proposes to amend this rule to correct that the appointed hearing officer is elected by the Board from its members as currently provided in OAC 4761-2-01. Additionally, the Board proposes to amend this rule to correct that a hearing examiner for purposes of this chapter is already defined as being an attorney.

Amended rule 4761-11-05 Authority and duties of the board or attorney hearing examiner

Summary: The Board proposes to amend this rule to correct that a hearing examiner for purposes of this chapter is already defined as being an attorney.

Amended rule 4761-11-08 Service

Summary: The Board proposes to amend this rule to correct that a hearing examiner for purposes of this chapter is already defined as being an attorney.

Amended rule 4761-11-09 Computation and extension of time

Summary: The Board proposes to amend this rule to make a grammatical correction to replace “its” with the proper “the.”

Amended rule 4761-11-10 Motions

Summary: The Board proposes to amend this rule to make a grammatical correction to replace “board’s” or “its” with the proper “the.”

Amended rule 4761-11-12 Subpoenas for purposes of hearing

Summary: The Board proposes to amend this rule to make a grammatical correction to replace “its” with the proper “the.”

Amended rule 4761-11-17 Witnesses

Summary: The Board proposes to amend this rule to correct that a hearing examiner for purposes of this chapter is already defined as being an attorney. Also, the Board proposes to amend this rule to make a grammatical correction to replace “its” with the proper “the.”

Amended rule 4761-11-19 Exhibits

Summary: The Board proposes to amend this rule to make a grammatical correction to replace “board’s” or “its” with the proper “the.”

Amended rule 4761-12-03 Replacement of license or certificate

Summary: The Board proposes to amend this rule to reflect that since paper identification cards are no longer issued by the Board that a \$6 fee for requesting a replacement card may be confusing.

Home Medical Services ORC 4752 rules proposed for amendment:

Amended rule 4761:1-2-02 Personnel

Summary: The Board proposes to amend this rule to make a grammatical correction by making expenditure plural as opposed to singular to correct sentence tense.

Amended rule 4761:1-5-03 Failure to file a complete application for a license

Summary: The Board proposes to amend this rule to make a drafting correction. The term “and” is missing from between two cited code provisions.

Amended rule 4761:1-6-04 Failure to file a complete application for a certificate of registration

Summary: The Board proposes to amend this rule to make a drafting correction. The term “and” is missing from between two cited code provisions.

Amended rule 4761:1-11-03 Filing a request with the Ohio attorney general's office for injunctive relief or civil penalties

Summary: The Board proposes to amend this rule to make a grammatical correction by changing the tense of “filing” to “filed.”

Amended rule 4761:1-12-01 Representation; appearance; communication; applicability

Summary: The Board proposes to amend this rule to correct that the appointed hearing officer is elected by the Board from its members as currently provided in OAC 4761:1-2-01. Additionally, the Board proposes to amend this rule to correct that a hearing examiner for purposes of this chapter is already defined as being an attorney.

Amended rule 4761:1-12-02 Authority and duties of the board or attorney hearing examiner

Summary: The Board proposes to amend this rule to correct that a hearing examiner for purposes of this chapter is already defined as being an attorney.

Amended rule 4761:1-12-08 Exhibits

Summary: The Board proposes to amend this rule to make a grammatical correction to replace “board’s” or “its” with the proper “the.”

Amended rule 4761:1-12-09 Witnesses

Summary: The Board proposes to amend this rule to make a grammatical correction to the conjunction or in the proper position.

Amended rule 4761:1-12-17 Prior action by the board

Summary: The Board proposes to amend this rule to correct that a hearing examiner for purposes of this chapter is already defined as being an attorney. Additionally, the Board would clarify that the hearing officer is an appointed hearing officer.

The following **Respiratory Care ORC 4761 rules** are being filed as No Change pursuant to the Five-Year Rule Review process. As such, there are no changes being proposed to the following:

4761-2-01 Board organization

Public Hearing Notice for Proposed Rules

- 4761-2-02 Personnel
- 4761-5-02 Admission to the Ohio credentialing examination
- 4761-5-05 Non-resident practice of respiratory care
- 4761-6-01 Limited permit application procedure
- 4761-7-03 Scope of respiratory care defined
- 4761-7-04 Supervision
- 4761-8-02 Licensees not in active practice
- 4761-9-02 General RCCE requirements and reporting mechanism
- 4761-9-03 Activities which do not meet the Ohio RCCE requirements
- 4761-9-04 Ohio respiratory care law and professional ethics course criteria
- 4761-9-07 Auditing for compliance with RCCE requirements
- 4761-10-02 Proper use of credentials
- 4761-10-03 Providing information to the board
- 4761-11-01 Filing of complaints
- 4761-11-02 Administrative procedure for refusal to issue or renew a license or permit, deny, suspend, or revoke a certificate or license
- 4761-11-03 Board imposition of penalties
- 4761-11-07 Filing
- 4761-11-11 Transcripts
- 4761-11-13 Mileage reimbursement and witness fees
- 4761-11-14 Reports and recommendations
- 4761-11-16 Depositions and transcripts of prior testimony
- 4761-11-18 Expert Testimony
- 4761-12-01 Initial application fee
- 4761-12-02 Renewal fees
- 4761-13-01 Definitions for accessing confidential personal information
- 4761-13-02 Procedures for accessing confidential personal information
- 4761-13-03 Valid reasons for accessing confidential personal information
- 4761-13-04 Confidentiality statutes
- 4761-13-05 Restricting and logging access to confidential personal information in computerized information systems

The following **Home Medical Services ORC 4752 rules** are being filed as No Change pursuant to the Five-Year Rule Review process. As such, there are no changes being proposed to the following:

- 4761:1-1-01 Public hearings on adoption, amendment, or rescission of rules: methods of public notice
- 4761:1-2-01 Board organization
- 4761:1-3-01 Definition of terms
- 4761:1-3-02 Home medical equipment defined
- 4761:1-4-01 Recognition of accrediting organizations
- 4761:1-6-03 License and certificate of registration issuance and display
- 4761:1-7-01 Qualifications for license renewal
- 4761:1-7-02 Qualifications for certificate of registration renewal
- 4761:1-7-03 Lapsed license or certificate of registration reinstatement procedure
- 4761:1-8-01 Fees
- 4761:1-8-02 Late fees
- 4761:1-8-03 Inspection fees
- 4761:1-8-04 License and certificate of registration replacement fees
- 4761:1-10-01 Filing of complaints
- 4761:1-10-02 Authority of board investigators
- 4761:1-10-03 Licensees and certificate holders must comply with investigations conducted by

	the board
4761:1-11-01	Administrative procedure for refusal to issue or renew a license, suspend, or revoke a license or impose a fine or other disciplinary action
4761:1-11-02	Board imposition of penalties
4761:1-11-04	Other disciplinary action
4761:1-12-03	Filing
4761:1-12-04	Motions
4761:1-12-05	Service
4761:1-12-06	Computation and extension of time
4761:1-12-10	Subpoenas for purposes of hearing
4761:1-12-11	Expert testimony
4761:1-12-12	Mileage reimbursement and witness fees
4761:1-12-13	Depositions and transcripts of prior testimony
4761:1-12-14	Continuance of hearing
4761:1-12-15	Reports and recommendations
4761:1-12-16	Transcripts
4761:1-14-01	Inspection frequency
4761:1-15-01	Advertising and solicitation
4761:1-15-02	Signage
4761:1-16-01	Definitions for accessing confidential personal information
4761:1-16-02	Procedures for accessing confidential personal information
4761:1-16-03	Valid reasons for accessing confidential personal information
4761:1-16-04	Confidentiality statutes
4761:1-16-05	Restricting and logging access to confidential personal information in computerized information systems

All interested persons will be given the opportunity to be heard at the public hearing. Those persons who wish to provide oral testimony at the hearing are encouraged to pre-register by contacting Corey Schaal at the address below, and may be given preference in the order of their testimony. Persons providing oral testimony are encouraged to submit a written copy of the testimony at the hearing.

All written comments received by the Board before the close of the hearing record will be considered. **Oral and written comments may be provided at the public hearing; however, persons interested in providing written comments without attending the hearing are encouraged to do so no later than October 13, 2015 via e-mail to traci.mcdonald@rcb.state.oh.us or via regular mail to the attention of:**

**Ohio Respiratory Care Board
77 South High Street, 16th Floor
Columbus, Ohio 43215-6108**

Attn: Executive Director

Persons intending to testify before the Ohio Respiratory Care Board should notify: Traci L. McDonald, Administrative Professional I, Ohio Respiratory Care Board, 77 South High Street, 16th Floor, Columbus, Ohio 43215. Rules are available in printed form for the cost of copying and mailing by contacting: Ohio Respiratory Care Board, 77 South High St., 16th Fl. Columbus, OH 43215-6108, (614) 752-9218 or by obtaining a copy from:

- Ohio Respiratory Care Board's website: <http://respiratorycare.ohio.gov/LawsandRules.aspx>
- Register of Ohio website:
<http://www.registerofohio.state.oh.us/jsps/publicdisplayrules/searchAgency.jsp>