

An Act

ENROLLED HOUSE

BILL NO. 1032

By: Cox and Ritze of the House

and

Brinkley of the Senate

An Act relating to professions and occupations; amending 59 O.S. 2011, Sections 2027, 2028, 2033, 2034 and 2042, which relate to the Respiratory Care Practice Act; modifying definition; deleting definition; updating certain references; modifying credentialing requirements for certain members of the Respiratory Care Advisory Committee; modifying certain examination and licensing requirements; modifying requirement for provisional license; modifying licensing exception; and providing an effective date.

SUBJECT: Respiratory Care Practice Act

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2011, Section 2027, is amended to read as follows:

Section 2027. As used in the Respiratory Care Practice Act:

1. "Board" means the State Board of Medical Licensure and Supervision;

2. "Practice of respiratory care" shall include, but not be limited to, the direct and indirect respiratory care services including but not limited to the administration of medical gases, pharmacological, diagnostic, and therapeutic agents and services related to respiratory care procedures necessary to implement and administer treatment, ventilatory support, maintenance of the airway

via natural or artificial means, specimen collection, disease prevention, pulmonary rehabilitation, or diagnostic regimen prescribed by orders of a physician; observing and monitoring signs and symptoms, physiologic measurements of the cardiopulmonary system, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics; and implementation, based on clinical observations, of appropriate reporting, referral, respiratory care protocol, or changes in treatment, pursuant to a prescription by a person authorized to practice medicine under the laws of this state; or the initiation of emergency procedures under the rules of the Board or as otherwise permitted in the Respiratory Care Practice Act. The practice of respiratory care shall also include the terms "inhalation therapy" and "respiratory therapy". The practice of respiratory care shall not include the delivery, set-up, installation, maintenance, monitoring and the providing of instructions on the use of home oxygen and durable medical equipment;

3. "Qualified medical director" means the licensed physician responsible for respiratory care services or the licensed physician designated as such by the clinic, hospital, or employing health care facility. The physician must be a medical staff member or medical director of a health care facility licensed by the State Department of Health;

4. "Respiratory care practitioner" means a person licensed by this state and employed in the practice of respiratory care; and

5. "Respiratory therapist" means an individual who has graduated from a respiratory therapist program that is accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor organization; and

~~6. "Respiratory therapy technician" means an individual who has graduated from a respiratory therapy technician program accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its successor organization~~ for Respiratory Care (CoARC) or an equivalent national respiratory care educational accreditation agency as identified by the Respiratory Care Advisory Committee and approved by the State Board of Medical Licensure and Supervision.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 2028, is amended to read as follows:

Section 2028. A. 1. There is hereby created a Respiratory Care Advisory Committee within the State Board of Medical Licensure and Supervision, hereinafter referred to as the Committee, to assist in administering the provisions of the Respiratory Care Practice Act. The Committee shall consist of nine (9) members, appointed as follows:

- a. one member shall be a physician appointed by the Board from its membership,
- b. one member shall be a physician appointed by the Board from a list of qualified individuals submitted by the Oklahoma State Medical Association and who is not a member of the Board,
- c. one member shall be a physician appointed by the State Board of Osteopathic Examiners from its membership,
- d. one member shall be a physician appointed by the State Board of Osteopathic Examiners from a list of qualified individuals submitted by the Oklahoma Osteopathic Association and who is not a member of the State Board of Osteopathic Examiners, and
- e. five members shall be licensed respiratory care practitioners appointed by the Board from a list of respiratory care practitioners submitted by the Oklahoma Society for Respiratory Care (OSRC).

2. Other than the physicians appointed from the membership of the State Board of Medical Licensure and Supervision and of the State Board of Osteopathic Examiners, the physician members shall have special qualifications in the diagnosis and treatment of respiratory problems and, wherever possible, be qualified in the management of acute and chronic respiratory disorders.

3. The respiratory care practitioner members shall have been engaged in rendering respiratory care services to the public, teaching or research in respiratory care for at least five (5) years immediately preceding their appointments. These members shall at all times be holders of valid licenses for the practice of respiratory care in this state, except for the members first

appointed to the Committee. These initial members shall, at the time of appointment, be credentialed as a ~~Certified Respiratory Therapy Technician (CRTT) or a Registered Respiratory Therapist (RRT), conferred by the National Board for Respiratory Care (NBRC), or its successor organization, and all shall fulfill the requirements for licensure pursuant to this act or current~~ equivalent credential as identified by the Respiratory Care Advisory Committee and approved by the State Board of Medical Licensure and Supervision.

B. Members of the Committee shall be appointed for terms of four (4) years. Provided, the terms of office of the members first appointed shall begin November 1, 1995, and shall continue for the following periods: two physicians and two respiratory care practitioners for a period of three (3) years; and two physicians and three respiratory care practitioners for a period of four (4) years. Upon the expiration of a member's term of office, the appointing authority for that member shall appoint a successor pursuant to the provisions of subsection C of this section. Vacancies on the Committee shall be filled in like manner for the balance of an unexpired term. No member shall serve more than three consecutive terms. Each member shall serve until a successor is appointed and qualified.

C. Upon expiration or vacancy of the term of a member, the respective nominating authority may, as appropriate, submit to the appointing Board a list of three persons qualified to serve on the Committee to fill the expired term of their respective member. Appointments may be made from these lists by the appointing Board, and additional lists may be provided by the respective organizations if requested by the State Board of Medical Licensure and Supervision.

D. The State Board of Medical Licensure and Supervision may remove any member from the Committee for neglect of any duty required by law, for incompetency, or for unethical or dishonorable conduct.

SECTION 3. AMENDATORY 59 O.S. 2011, Section 2033, is amended to read as follows:

Section 2033. A. The applicant, except where otherwise defined in the Respiratory Care Practice Act, shall be required to pass an examination, whereupon the State Board of Medical Licensure and Supervision may issue to the applicant a license to practice

respiratory care. The Board is authorized, ~~in cooperation with the National Board for Respiratory Care (NBRC) as may be necessary or advisable,~~ to provide for the examination of applicants or to facilitate verification of any applicant's claim that the applicant has successfully completed the required examination for Certified Respiratory Therapy Technician (CRTT) or Registered Respiratory Therapist (RRT) national credentialing as a respiratory care practitioner.

B. The Board may issue a license to practice respiratory care by endorsement to:

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

2. Applicants holding credentials as a respiratory therapist conferred by the National Board for Respiratory Care (NBRC) as a Certified Respiratory Therapy Technician (CRTT) or as a Registered Respiratory Therapist (RRT) or its successor organization as identified by the Respiratory Care Advisory Committee and approved by the State Board of Medical Licensure and Supervision, provided such credentials have not been suspended or revoked; and

3. Applicants applying under the conditions of this section who certify under oath that their credentials have not been suspended or revoked.

SECTION 4. AMENDATORY 59 O.S. 2011, Section 2034, is amended to read as follows:

Section 2034. A. The State Board of Medical Licensure and Supervision may issue, upon payment of a fee established by the Board, a provisional license to practice respiratory care for a period of six (6) months under supervision of a consenting licensed respiratory care practitioner or consenting licensed physician. A provisional license may be issued to a person licensed in another state, territory or country who does not qualify for a license by endorsement but has applied to take the license examination and otherwise meets the qualifications of the Board. Provided, the applicant must show written evidence, verified by oath, that the applicant is currently practicing or has within the last six (6) months practiced respiratory care in another state, territory or country. A provisional license may be issued also to a graduate of

a respiratory care education program, approved by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its ~~successor organization~~ for Respiratory Care (CoARC) or an equivalent national respiratory care educational accrediting body as identified by the Respiratory Care Advisory Committee and approved by the State Board of Medical Licensure and Supervision, who has applied to take the license examination and otherwise meets the qualifications of the Board.

B. A currently enrolled student may receive a provisional license as set out by the rules of the Board.

C. Provisional licenses may be renewed at the discretion of the Board for additional six-month periods.

SECTION 5. AMENDATORY 59 O.S. 2011, Section 2042, is amended to read as follows:

Section 2042. A. No person shall practice respiratory care or represent themselves to be a respiratory care practitioner unless licensed under the Respiratory Care Practice Act, except as otherwise provided by the Respiratory Care Practice Act.

B. The Respiratory Care Practice Act does not prohibit:

1. The practice of respiratory care which is an integral part of the program of study by students enrolled in a respiratory care education program recognized by the State Board of Medical Licensure and Supervision. Students enrolled in respiratory therapy education programs shall be identified as "student - RCP" and shall only provide respiratory care under clinical supervision;

2. Self-care by a patient, or gratuitous care by a friend or family member who does not represent or hold out to be a respiratory care practitioner;

3. Monitoring, installation or delivery of medical devices, gases and equipment and the maintenance thereof by a nonlicensed person for the express purpose of self-care by a patient or gratuitous care by a friend or family member;

4. Respiratory care services rendered in the course of an emergency;

5. Persons in the military services or working in federal facilities from rendering respiratory care services when functioning in the course of their assigned duties;

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

7. For purposes of continuing education, consulting, or training, any person performing respiratory care in the state, if these services are performed for no more than thirty (30) days in a calendar year in association with a respiratory care practitioner licensed pursuant to the Respiratory Care Practice Act or in association with a licensed physician or surgeon, if:

- a. the person is licensed as a respiratory care practitioner or the equivalent, as determined by the State Board of Medical Licensure and Supervision, in good standing in another state or the District of Columbia, or
- b. the person ~~is a Certified Respiratory Therapy Technician (CRTT) or Registered Respiratory Therapist (RRT)~~ holds a professional respiratory care credential as conferred by the National Board for Respiratory Care or its successor or equivalent accrediting agency as identified by the Respiratory Care Advisory Committee and approved by the State Board of Medical Licensure and Supervision.

C. Nothing in the Respiratory Care Practice Act shall limit, preclude, or otherwise interfere with the lawful practices of persons working under the supervision of the responsible physician. In addition, nothing in the Respiratory Care Practice Act shall interfere with the practices of health care personnel who are formally trained and licensed by appropriate agencies of this state.

D. An individual who, by passing an examination which includes content in one or more of the functions included in the Respiratory Care Practice Act, and who has passed an examination that meets the standards of the National Commission for Health Certifying Agencies (NCHCA) or an equivalent organization, shall not be prohibited from performing the procedures for which they were tested. An individual who has demonstrated competency in one or more areas covered by the Respiratory Care Practice Act may perform only those functions for

which the individual is qualified by examination to perform. The standards of the National Commission for Health Certifying Agencies shall serve to evaluate those examinations and examining organizations.

E. Practitioners regulated under the Respiratory Care Practice Act shall be covered under the "Good Samaritan Act", Section 5 et seq. of Title 76 of the Oklahoma Statutes.

SECTION 6. This act shall become effective November 1, 2013.

Passed the House of Representatives the 11th day of March, 2013.

James H. Moore
Presiding Officer of the House
of Representatives

Passed the Senate the 15th day of April, 2013.

Anthony Sykes
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 16th

day of April, 20 13, at 6:01 o'clock P M.

By: Audrey Kerkwell

Approved by the Governor of the State of Oklahoma this 22nd

day of April, 20 13, at 2:42 o'clock P M.

Mary Fallin
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 22nd

day of April, 20 13, at 4:30 o'clock P. M.

By: Randy P. Thomas