

HB 2726

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WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1999

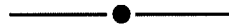


ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 2726

(By Delegates Staton, Leach, Compton,
Douglas, Hatfield, Beane and L. White)



Passed March 1, 1999

In Effect Ninety Days from Passage

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SECTION OF THE CLERK
STATE OF WEST VIRGINIA

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FOR

H. B. 2726

(BY DELEGATES STATON, LEACH, COMPTON,
DOUGLAS, HATFIELD, BEANE AND L. WHITE)

[Passed March 1, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact sections one, two, eight, twelve and fifteen, article thirty-four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to changing the definitions used with regard to respiratory therapists to bring the code into compliance with the references used by the national board of respiratory care.

Be it enacted by the Legislature of West Virginia:

That sections one, two, eight, twelve and fifteen, article thirty-four, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 34. BOARD OF RESPIRATORY CARE PRACTITIONERS.

§30-34-1. License required to practice.

- 1 In order to protect the life, health and safety of the public,
- 2 any person practicing or offering to practice as a licensed,
- 3 certified or registered respiratory therapist is required to submit

4 evidence that he or she is qualified to practice, and is licensed
5 as provided in this article. It is unlawful for any person not
6 licensed under the provisions of this article to practice as a
7 respiratory therapist in this state, to deliver any portion of the
8 description of services or scope of practice, or to use any title,
9 sign, card or device to indicate that he or she is a respiratory
10 therapist. The provisions of this article are not intended to limit,
11 preclude or otherwise interfere with the practice of other health
12 care providers including those health care providers working in
13 any setting and licensed by appropriate agencies or boards of
14 the state of West Virginia whose practices and training may
15 include elements of the same nature as the practice of a
16 licensed, certified or registered respiratory therapist.

§30-34-2. Definitions.

1 (a) "Board" means the West Virginia board for respiratory
2 care;

3 (b) "Formal training" means a supervised, structured
4 educational activity that includes preclinical didactic and
5 laboratory activities and clinical activities. The training must be
6 approved by an accrediting agency recognized by the board. It
7 shall include an evaluation of competence through standardized
8 testing mechanisms that the board determines to be both valid
9 and reliable;

10 (c) "Graduate respiratory care therapist" means an individ-
11 ual who has graduated from a respiratory therapist educational
12 program and is scheduled to take the next available examination
13 administered by the state or a national organization approved by
14 the board;

15 (d) "Practice of respiratory care" means the practice of
16 respiratory care, and any part of respiratory care, by persons
17 licensed under the provisions of this article and is limited to that
18 which has been learned through formal or special training
19 including performance evaluation to evaluate competence. The
20 practice of respiratory care may be performed in any clinic,
21 hospital, skilled nursing facility, private dwelling or other place
22 considered appropriate or necessary by the board in accordance

23 with the prescription or verbal orders of a licensed physician or
24 other legally authorized person with prescriptive authority, or
25 under the direction of a qualified medical director. Practice of
26 respiratory care includes, but is not limited to:

27 (1) The administration of pharmacological, diagnostic and
28 therapeutic agents related to respiratory care procedures
29 necessary to implement a treatment, disease prevention,
30 pulmonary rehabilitative or diagnostic regimen prescribed by a
31 physician;

32 (2) Transcription and implementation of written or verbal
33 orders of a physician or other legally authorized person with
34 prescriptive authority, pertaining to the practice of respiratory
35 care;

36 (3) Observing and monitoring signs and symptoms, general
37 behavior, general physical response to respiratory care treat-
38 ment and diagnostic testing, including determination of whether
39 such signs, symptoms, reactions, behavior or general response
40 exhibit abnormal characteristics;

41 (4) Based on observed abnormalities, appropriate reporting,
42 referral or implementation of respiratory care protocols or
43 changes in treatment pursuant to the written or verbal orders of
44 a person with prescriptive authority under the laws of the state
45 of West Virginia; or

46 (5) The initiation of emergency procedures under the rules
47 of the board or as otherwise permitted in this article;

48 (e) "Qualified medical director" means the medical director
49 of any inpatient or outpatient respiratory care service, depart-
50 ment or home care agency. The medical director shall be a
51 licensed physician who is knowledgeable in the diagnosis and
52 treatment of respiratory problems. This physician shall be
53 responsible for the quality, safety and appropriateness of the
54 respiratory services provided and require that respiratory care
55 be ordered by a physician, or other legally authorized person
56 with prescriptive authority, who has medical responsibility for
57 the patient. The medical director shall be readily accessible to
58 the respiratory care practitioners and assure their competency;

59 (f) "Respiratory care" means the allied health profession
60 responsible for the direct and indirect services in the treatment,
61 management, diagnostic testing and care of patients with
62 deficiencies and abnormalities associated with the cardio-
63 pulmonary system, under a qualified medical director. Respira-
64 tory care includes inhalation therapy and respiratory therapy;

65 (g) "Respiratory care education program" means a course
66 of study leading to eligibility for licensure, registry or certifica-
67 tion in respiratory care and the program is approved by the
68 board;

69 (h) "Respiratory therapist" means an individual who has
70 successfully completed an accredited training program, and
71 who has successfully completed a certification or registry
72 examination for respiratory therapists administered by the state
73 or a national organization approved by the board and who is
74 licensed by the board as a licensed respiratory therapist;

75 (i) "Student respiratory care therapist" means an individual
76 enrolled in a respiratory educational program and whose
77 sponsoring educational institution assumes responsibility for
78 the supervision of, and the services rendered by, the student
79 respiratory care practitioner while he or she is functioning in a
80 clinical training capacity.

§30-34-8. Criteria for licensure.

1 (a) Upon payment of the proper fees, an applicant for a
2 license to practice respiratory care shall submit to the board
3 written evidence, verified by oath, that the applicant:

4 (1) Has completed an approved respiratory care educational
5 program; and

6 (2) Passed a certification or registration examination,
7 except where otherwise provided in this article. This examina-
8 tion may be administered by the state or by a national agency
9 approved by the board. The board shall set the passing score for
10 the examination.

11 (b) The board may also issue a license to practice respira-
12 tory care by endorsement to an applicant who is currently
13 licensed to practice respiratory care under the laws of another
14 state, territory or country if the qualifications of the applicant
15 are considered by the board to be equivalent to, or greater than,
16 those required in this state.

17 (c) The board may also issue a license to practice respira-
18 tory care by endorsement to respiratory therapists holding
19 credentials conferred by the National Board for Respiratory
20 Care, Inc., or its successor organizations, if the credentials have
21 not been suspended or revoked. Applicants applying under the
22 conditions of this section shall be required to certify under oath
23 that their credentials have not been suspended or revoked.

24 (d) If an applicant fails to complete the requirements for
25 licensure within ninety days from the date of filing, the applica-
26 tion is considered to be abandoned.

§30-34-12. Professional identification.

1 (a) A person holding a license to practice respiratory care
2 as a respiratory therapist in this state who has successfully
3 completed the entry level examination of the national board of
4 respiratory care or any successor organization may use the title
5 "licensed respiratory therapist certified" and the abbreviation
6 "LRTC."

7 (b) A person holding a license to practice as a respiratory
8 therapist in this state who has successfully completed the
9 registry examination of the national board of respiratory care or
10 any successor organization may use the title "licensed respira-
11 tory therapist registered" and the abbreviation "LRTR."

12 (c) The board may change the professional identification
13 for its profession should the accepted reference to the providers
14 of respiratory care be changed by the national board of respira-
15 tory care or its successor organization.

16 (d) A licensee shall either show his or her license or provide
17 a copy thereof within twenty-four hours of a request from an
18 employer or the board.

§30-34-15. Exceptions.

1 (a) A person may not practice respiratory care or represent
2 himself or herself to be a respiratory care practitioner unless he
3 or she is licensed under this article except as otherwise provided
4 by this article.

5 (b) This article does not prohibit:

6 (1) The practice of respiratory care which is an integral part
7 of the program of study by students enrolled in respiratory care
8 education programs accredited by organizations approved by
9 the board. Students enrolled in respiratory care education
10 programs shall be identified as "student RCP" and may only
11 provide respiratory care under clinical supervision;

12 (2) Self-care by a patient, or gratuitous care by a friend or
13 family member who does not represent or hold himself or
14 herself out to be a respiratory care practitioner;

15 (3) Respiratory care services rendered in the course of an
16 emergency;

17 (4) Persons in the military services or working in federal
18 facilities providing respiratory care services when functioning
19 in the course of their assigned duties; or

20 (5) The respiratory care practitioner from performing
21 advances in the art and techniques of respiratory care learned
22 through formalized or specialized training approved by the
23 board.

24 (c) Nothing in this article is intended to limit, preclude or
25 otherwise interfere with the practices of other persons and
26 health care providers licensed by appropriate agencies of the
27 state.

28 (d) Nothing in this article prohibits home medical equip-
29 ment dealers from delivering and instructing persons in the
30 operation of home medical respiratory equipment, or from
31 receiving requests for changes in equipment and settings from
32 physicians or other authorized individuals.

33 (e) An individual who passes an examination or success-
34 fully completes training that includes content in one or more of
35 the functions included in this article is not prohibited from
36 performing those procedures for which he or she was tested, so
37 long as the testing body offering the examination or training is
38 approved by the board.



That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



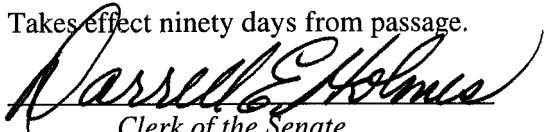
Chairman Senate Committee



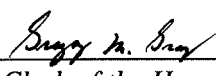
Chairman House Committee

Originating in the House.

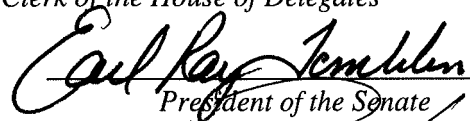
Takes effect ninety days from passage.



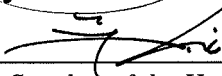
Clerk of the Senate



Clerk of the House of Delegates

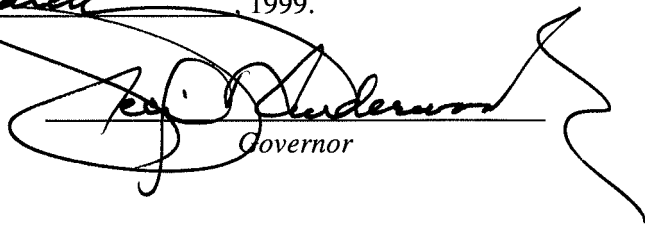


President of the Senate



Speaker of the House of Delegates

The within approved this the 11th
day of March, 1999.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/10/99

Time 9:40 a