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

§30-34-2. Definitions.

(a) “Board” means the West Virginia board for respiratory care;

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

(c) “Graduate respiratory care therapist” means an individual who has graduated from a respiratory therapist educational program and is scheduled to take the next available examination administered by the state or a national organization approved by the board;

(d) “Practice of respiratory care” means the practice of respiratory care, and any part of respiratory care, by persons licensed under the provisions of this article and is limited to that which has been learned through formal or special training including performance evaluation to evaluate competence. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place considered appropriate or necessary by the board in accordance
with the prescription or verbal orders of a licensed physician or
other legally authorized person with prescriptive authority, or
under the direction of a qualified medical director. Practice of
respiratory care includes, but is not limited to:

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

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

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

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

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

(e) "Qualified medical director" means the medical director
of any inpatient or outpatient respiratory care service, depart-
ment or home care agency. The medical director shall be a
licensed physician who is knowledgeable in the diagnosis and
treatment of respiratory problems. This physician shall be
responsible for the quality, safety and appropriateness of the
respiratory services provided and require that respiratory care
be ordered by a physician, or other legally authorized person
with prescriptive authority, who has medical responsibility for
the patient. The medical director shall be readily accessible to
the respiratory care practitioners and assure their competency;
(f) "Respiratory care" means the allied health profession responsible for the direct and indirect services in the treatment, management, diagnostic testing and care of patients with deficiencies and abnormalities associated with the cardio-pulmonary system, under a qualified medical director. Respiratory care includes inhalation therapy and respiratory therapy;

(g) "Respiratory care education program" means a course of study leading to eligibility for licensure, registry or certification in respiratory care and the program is approved by the board;

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

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


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

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

(2) Passed a certification or registration examination, except where otherwise provided in this article. This examination may be administered by the state or by a national agency approved by the board. The board shall set the passing score for the examination.
(b) The board may also issue a license to practice respiratory care by endorsement to 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 considered by the board to be equivalent to, or greater than, those required in this state.

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

(d) If an applicant fails to complete the requirements for licensure within ninety days from the date of filing, the application is considered to be abandoned.

§30-34-12. Professional identification.

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

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

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

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

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

(b) This article does not prohibit:

(1) The practice of respiratory care which is an integral part of the program of study by students enrolled in respiratory care education programs accredited by organizations approved by the board. Students enrolled in respiratory care education programs shall be identified as “student RCP” and may 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 himself or herself out to be a respiratory care practitioner;

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

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

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

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

(d) Nothing in this article prohibits home medical equipment dealers from delivering and instructing persons in the operation of home medical respiratory equipment, or from receiving requests for changes in equipment and settings from physicians or other authorized individuals.
(e) An individual who passes an examination or successfully completes training that includes content in one or more of the functions included in this article is not prohibited from performing those procedures for which he or she was tested, so long as the testing body offering the examination or training is 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