

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2982

By: Mulready

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5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 amending 59 O.S. 2011, Section 2027, which relates to
9 the Respiratory Care Practice Act; modifying
10 definition; deleting definition; updating certain
11 references; modifying fee for license to practice
12 respiratory care; and providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

- 1 a. one member shall be a physician appointed by the Board
2 from its membership,
- 3 b. one member shall be a physician appointed by the Board
4 from a list of qualified individuals submitted by the
5 Oklahoma State Medical Association and who is not a
6 member of the Board,
- 7 c. one member shall be a physician appointed by the State
8 Board of Osteopathic Examiners from its membership,
- 9 d. one member shall be a physician appointed by the State
10 Board of Osteopathic Examiners from a list of
11 qualified individuals submitted by the Oklahoma
12 Osteopathic Association and who is not a member of the
13 State Board of Osteopathic Examiners, and
- 14 e. five members shall be licensed respiratory care
15 practitioners appointed by the Board from a list of
16 respiratory care practitioners submitted by the
17 Oklahoma Society for Respiratory Care (OSRC).

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

1 3. The respiratory care practitioner members shall have been
2 engaged in rendering respiratory care services to the public,
3 teaching or research in respiratory care for at least five (5) years
4 immediately preceding their appointments. These members shall at
5 all times be holders of valid licenses for the practice of
6 respiratory care in this state, except for the members first
7 appointed to the Committee. These initial members shall, at the
8 time of appointment, be credentialed as a ~~Certified Respiratory~~
9 ~~Therapy Technician (CRTT) or a Registered Respiratory Therapist~~
10 ~~(RRT), conferred by the National Board for Respiratory Care (NBRC),~~
11 ~~or its successor organization, and all shall fulfill the~~
12 ~~requirements for licensure pursuant to this act~~ or current
13 equivalent credential as identified by the Respiratory Care Advisory
14 Committee and approved by the State Board of Medical Licensure and
15 Supervision.

16 B. Members of the Committee shall be appointed for terms of
17 four (4) years. Provided, the terms of office of the members first
18 appointed shall begin November 1, 1995, and shall continue for the
19 following periods: two physicians and two respiratory care
20 practitioners for a period of three (3) years; and two physicians
21 and three respiratory care practitioners for a period of four (4)
22 years. Upon the expiration of a member's term of office, the
23 appointing authority for that member shall appoint a successor
24 pursuant to the provisions of subsection C of this section.

1 Vacancies on the Committee shall be filled in like manner for the
2 balance of an unexpired term. No member shall serve more than three
3 consecutive terms. Each member shall serve until a successor is
4 appointed and qualified.

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

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

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

19 Section 2033. A. The applicant, except where otherwise defined
20 in the Respiratory Care Practice Act, shall be required to pass an
21 examination, whereupon the State Board of Medical Licensure and
22 Supervision may issue to the applicant a license to practice
23 respiratory care. The Board is authorized, ~~in cooperation with the~~
24 ~~National Board for Respiratory Care (NBRC) as may be necessary or~~

1 ~~advisable,~~ to provide for the examination of applicants or to
2 facilitate verification of any applicant's claim that the applicant
3 has successfully completed the required examination for ~~Certified~~
4 ~~Respiratory Therapy Technician (CRTT) or Registered Respiratory~~
5 ~~Therapist (RRT)~~ national credentialing as a respiratory care
6 practitioner.

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

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

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

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

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

1 Section 2034. A. The State Board of Medical Licensure and
2 Supervision may issue, upon payment of a fee established by the
3 Board, a provisional license to practice respiratory care for a
4 period of six (6) months under supervision of a consenting licensed
5 respiratory care practitioner or consenting licensed physician. A
6 provisional license may be issued to a person licensed in another
7 state, territory or country who does not qualify for a license by
8 endorsement but has applied to take the license examination and
9 otherwise meets the qualifications of the Board. Provided, the
10 applicant must show written evidence, verified by oath, that the
11 applicant is currently practicing or has within the last six (6)
12 months practiced respiratory care in another state, territory or
13 country. A provisional license may be issued also to a graduate of
14 a respiratory care education program, approved by the Commission on
15 Accreditation of Allied Health Education Programs (CAAHEP) or its
16 ~~successor organization~~ for Respiratory Care (CoARC) or an equivalent
17 national respiratory care educational accrediting body as identified
18 by the Respiratory Care Advisory Committee and approved by the State
19 Board of Medical Licensure and Supervision, who has applied to take
20 the license examination and otherwise meets the qualifications of
21 the Board.

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

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

3 SECTION 5. AMENDATORY 59 O.S. 2011, Section 2035, is
4 amended to read as follows:

5 Section 2035. A. The State Board of Medical Licensure and
6 Supervision may issue a license to practice respiratory care, upon
7 payment of a fee of ~~Seventy-five Dollars (\$75.00)~~ One Hundred
8 Dollars (\$100.00), to persons who have qualified pursuant to Section
9 ~~& 2033~~ of this ~~act~~ title.

10 B. 1. Other applicants who have not passed the CRTT or RRT
11 examination and who have been practicing respiratory care in a full-
12 time capacity for a period of more than twenty-four (24) months
13 prior to ~~the effective date of this act~~ November 1, 1995, may, at
14 the discretion of the Board, be issued a license to practice
15 respiratory care upon payment of a fee of ~~Seventy-five Dollars~~
16 ~~(\$75.00)~~ One Hundred Dollars (\$100.00). Provided, such applicant
17 must demonstrate through written evidence verified under oath and
18 certified to by the employing health care facility that applicant
19 has in fact been employed in such capacity for more than twenty-four
20 (24) months preceding ~~the effective date of this act~~ November 1,
21 1995.

22 2. All other applicants who have not passed ~~the CRTT or RRT~~
23 ~~examinations~~ a national credentialing examination and who have been
24 in the full-time practice of respiratory care for a period of less

1 than twenty-four (24) months, who, through written evidence verified
2 by oath, demonstrate as required by rules of the Board that they are
3 currently functioning in the capacity of a respiratory care
4 practitioner, may be given a special provisional license to practice
5 respiratory care under the supervision of a consenting licensed
6 respiratory care practitioner or consenting licensed physician for a
7 period of no longer than thirty-six (36) months from ~~the effective~~
8 ~~date of this act~~ November 1, 1995. Such applicants must pass an
9 entry level examination administered by the Board during the thirty-
10 six-month period in order to be issued a license to practice
11 respiratory care. The fee for a special provisional license shall
12 be ~~Seventy-five Dollars (\$75.00)~~ One Hundred Dollars (\$100.00).

13 SECTION 6. AMENDATORY 59 O.S. 2011, Section 2042, is
14 amended to read as follows:

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

19 B. The Respiratory Care Practice Act does not prohibit:

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

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

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

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

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

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

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

1 a. the person is licensed as a respiratory care
2 practitioner or the equivalent, as determined by the
3 State Board of Medical Licensure and Supervision, in
4 good standing in another state or the District of
5 Columbia, or

6 b. the person ~~is a Certified Respiratory Therapy~~
7 ~~Technician (CRTT) or Registered Respiratory Therapist~~
8 ~~(RRT)~~ holds a professional respiratory care credential
9 as conferred by the National Board for Respiratory
10 Care or its successor or equivalent accrediting agency
11 as identified by the Respiratory Care Advisory
12 Committee and approved by the State Board of Medical
13 Licensure and Supervision.

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

20 D. An individual who, by passing an examination which includes
21 content in one or more of the functions included in the Respiratory
22 Care Practice Act, and who has passed an examination that meets the
23 standards of the National Commission for Health Certifying Agencies
24 (NCHCA) or an equivalent organization, shall not be prohibited from

1 performing the procedures for which they were tested. An individual
2 who has demonstrated competency in one or more areas covered by the
3 Respiratory Care Practice Act may perform only those functions for
4 which the individual is qualified by examination to perform. The
5 standards of the National Commission for Health Certifying Agencies
6 shall serve to evaluate those examinations and examining
7 organizations.

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

11 SECTION 7. This act shall become effective November 1, 2012.

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