

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 1804** Session of
2007

INTRODUCED BY YUDICHAK, SOLOBAY, K. SMITH, SIPTROTH, PYLE,
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OCTOBER 15, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
FEBRUARY 11, 2008

AN ACT

1 Amending the act of December 20, 1985 (P.L.457, No.112),
2 entitled "An act relating to the right to practice medicine
3 and surgery and the right to practice medically related acts;
4 reestablishing the State Board of Medical Education and
5 Licensure as the State Board of Medicine and providing for
6 its composition, powers and duties; providing for the
7 issuance of licenses and certificates and the suspension and
8 revocation of licenses and certificates; providing penalties;
9 and making repeals," further providing for definitions and
10 for the State Board of Medicine; providing for jointly
11 promulgated regulations; and further providing for
12 respiratory care practitioners and for respiratory care
13 practitioner certificates and permits.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The definitions of "board regulated practitioner"
17 and "respiratory care practitioner" in section 2 of the act of
18 December 20, 1985 (P.L.457, No.112), known as the Medical
19 Practice Act of 1985, amended or added July 2, 1993 (P.L.424,
20 No.60) and December 10, 2001 (P.L.859, No.92), are amended to
21 read:

1 Section 2. Definitions.

2 The following words and phrases when used in this act shall
3 have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 * * *

6 "Board regulated practitioner." A medical doctor, midwife,
7 physician assistant, respiratory [care practitioner] therapist,
8 certified athletic trainer or drugless therapist or an applicant
9 for a license or certificate the board may issue.

10 * * *

11 "Respiratory [care practitioner] therapist." An individual
12 who is [certified] licensed to practice respiratory care by the
13 State Board of Medicine.

14 * * *

15 Section 2. Section 3(a) and (b) of the act, amended July 2,
16 1993 (P.L.424, No.60) and December 10, 2001 (P.L.859, No.92),
17 are amended to read:

18 Section 3. State Board of Medicine.

19 (a) Establishment.--The State Board of Medicine shall
20 consist of the commissioner or his designee, the Secretary of
21 Health or his designee, two members appointed by the Governor
22 who shall be persons representing the public at large and seven
23 members appointed by the Governor, six of whom shall be medical
24 doctors with unrestricted licenses to practice medicine and
25 surgery in this Commonwealth for five years immediately
26 preceding their appointment and one who shall be a nurse
27 midwife, physician assistant, certified registered nurse
28 practitioner, respiratory [care practitioner] therapist or
29 certified athletic trainer licensed or certified under the laws
30 of this Commonwealth. All professional and public members of the

1 board shall be appointed by the Governor, with the advice and
2 consent of a majority of the members elected to the Senate.

3 (b) Terms of office.--The term of each professional and
4 public member of the board shall be four years or until his or
5 her successor has been appointed and qualified, but not longer
6 than six months beyond the four-year period. In the event that
7 any of said members shall die or resign or otherwise become
8 disqualified during his or her term, a successor shall be
9 appointed in the same way and with the same qualifications and
10 shall hold office for the unexpired term. No member shall be
11 eligible for appointment to serve more than two consecutive
12 terms. The Governor shall assure that nurse midwives, physician
13 assistants, certified registered nurse practitioners and
14 respiratory [care practitioners] therapists are appointed to
15 four-year terms on a rotating basis so that, of every four
16 appointments to a four-year term, one is a nurse midwife, one is
17 a physician assistant, one is a certified registered nurse
18 practitioner and one is a respiratory [care practitioner]
19 therapist.

20 * * *

21 Section 3. The act is amended by adding a section to read:

22 Section 8.1. Jointly promulgated regulations.

23 The State Board of Medicine and the State Board of
24 Osteopathic Medicine shall jointly promulgate regulations
25 implementing sections 13.1 and 36.1, relating to the licensure
26 and practice of respiratory therapists.

27 Section 4. Section 13.1 of the act, added July 2, 1993
28 (P.L.424, No.60), is amended to read:

29 Section 13.1. Respiratory [care practitioners] therapists.

30 [(a) Certificate required.--Eighteen months after the

1 effective date of this section, it shall be unlawful for any
2 person to hold himself out to the public as a respiratory care
3 practitioner and to practice or offer to practice respiratory
4 care unless he holds a valid, current temporary permit or
5 certificate issued by the board.

6 (b) Use of title.--A respiratory care practitioner who holds
7 a valid, current temporary permit or certificate issued by the
8 board may use the title respiratory care practitioner or
9 respiratory care practitioner-certified or an appropriate
10 abbreviation of that title such as "R.C.P." or "R.C.P.-C."]

11 (a) Qualifications.--An individual shall be eligible to
12 apply for licensure as a respiratory therapist if that
13 individual satisfies all of the following:

14 (1) Submits evidence satisfactory to the board, on forms
15 approved by the board, that the applicant has met one or more
16 of the following criteria:

17 (i) Has graduated from a respiratory care program
18 approved by the Committee on Accreditation for
19 Respiratory Care and passed the Certified Respiratory
20 Therapist Examination as determined by the National Board
21 for Respiratory Care.

22 (ii) Holds a valid license, certificate or
23 registration as a respiratory therapist in another state,
24 territory or the District of Columbia which has been
25 issued based on requirements substantially similar to
26 those required by the Commonwealth, including having
27 successfully passed the entry level examination.

28 (2) Has paid a licensure fee as established by the board
29 by regulation.

30 (3) Has proved to the satisfaction of the board that the

1 individual is of good moral character, and is not unfit or
2 unable to practice as a respiratory therapist by reason of
3 physical or mental ~~disability~~ IMPAIRMENT. ←

4 (a.1) License required.--It shall be unlawful for any
5 individual to hold himself out to the public as a respiratory
6 therapist or to practice or offer to practice respiratory
7 therapy unless the individual holds a valid, current license
8 issued by the board or the State Board of Osteopathic Medical ←
9 ~~Examiners~~ MEDICINE. ←

10 (a.2) Use of title.--It shall be unlawful for an individual
11 to use the title of "licensed respiratory therapist" or to use
12 the letters "LRT" or "RT" or to hold oneself out as a licensed
13 respiratory therapist unless that individual is licensed to
14 practice respiratory care as provided under this act or the act
15 of October 5, 1978 (P.L.1109, No.261), known as the Osteopathic
16 Medical Practice Act.

17 (b) Licensure without examination.--For a period of two
18 years following the effective date of this act, an individual
19 shall be eligible to apply for licensure without examination if
20 the individual meets the qualifications for licensure under
21 subsection (a) and holds valid certification as a respiratory
22 care practitioner as issued by the board or the State Board of
23 Osteopathic Medicine.

24 (c) Regulations.--The board is authorized to promulgate
25 regulations to implement this section.

26 (d) Supervision and scope of practice.--A respiratory [care
27 practitioner certified] therapist licensed by the board may
28 implement direct respiratory care to an individual being treated
29 by either a licensed medical doctor or a licensed doctor of
30 osteopathic medicine, upon physician prescription or referral,

1 or under medical direction and approval consistent with standing
2 orders or protocols of an institution or health care facility.

3 This care may constitute indirect services such as consultation
4 or evaluation of an individual and also includes, but is not
5 limited to, the following services:

6 (1) Administration of medical gases.

7 (2) Humidity and aerosol therapy.

8 (3) Administration of aerosolized medications.

9 (4) Intermittent positive pressure breathing.

10 (5) Incentive spirometry.

11 (6) Bronchopulmonary hygiene.

12 (7) Management and maintenance of natural airways.

13 (8) Maintenance and insertion of artificial airways.

14 (9) Cardiopulmonary rehabilitation.

15 (10) Management and maintenance of mechanical
16 ventilation.

17 (11) Measurement of ventilatory flows, volumes and
18 pressures.

19 (12) Analysis of ventilatory gases and blood gases.

20 (e) Exemptions.--This section shall not prevent or restrict
21 the practices, services or activities of:

22 (1) A person licensed or certified in this Commonwealth
23 to provide another health care service, including, but not
24 limited to, physicians, physical therapists, chiropractors,
25 nurses, dentists, physician assistants and podiatrists.

26 (2) A person rendering respiratory care services
27 pursuant to employment by a Federal agency.

28 (3) A person pursuing a course of study leading to a
29 degree or certificate in respiratory care in an accredited
30 educational program, if he is clearly designated as a student

1 and provides care under supervision implemented through that
2 program.

3 (4) A person executing or conveying medical orders
4 pursuant to lawful delegation by a physician.

5 (5) A person who, pursuant to lawful delegation by a
6 physician, delivers, installs, monitors or maintains a device
7 which enables an individual to self-administer respiratory
8 care.

9 (6) A person qualified by academic and clinical
10 education to operate extracorporeal circulation equipment in
11 a medical or surgical setting which requires support to or
12 the temporary replacement of a patient's circulatory or
13 respiratory functions.

14 (f) Referrals to State Board of Osteopathic Medicine.--
15 Information or allegations filed with the board against a
16 respiratory [care practitioner certified] therapist licensed by
17 the State Board of Osteopathic Medicine shall be referred to
18 that board for appropriate action.

19 Section 5. Section 36.1 of the act, amended or added July 2,
20 1993 (P.L.424, No.60) and July 2, 2004 (P.L.484, No.55), is
21 amended to read:

22 Section 36.1. Respiratory [care practitioner certificates]
23 therapist licenses and permits.

24 (a) General rule.--A respiratory [care practitioner
25 certificate] therapist license issued by the board empowers the
26 holder to practice respiratory care under the supervision of a
27 licensed medical doctor or a licensed doctor of osteopathic
28 medicine. In a health care facility, that supervision may
29 consist of standing orders or protocols approved by the
30 institution, consistent with acceptable and prevailing medical

1 standards, which may include services rendered directly to the
2 patient in his home or other residence.

3 (b) Temporary permits.--The board shall issue temporary
4 permits for the practice of respiratory care to individuals who
5 have applied for [certification] licensure from the board and
6 who meet any of the following requirements:

7 (1) Graduation from an accredited respiratory care
8 training program recognized by the board.

9 (2) Enrollment in an accredited respiratory care
10 training program recognized by the board, if the individual
11 is expected to graduate within 30 days from the date of
12 application.

13 (3) [Designation as a "Certified Respiratory Therapist"
14 or a "Registered Respiratory Therapist" by a nationally
15 recognized credentialing agency approved by the board.

16 (4) Continuous provision of respiratory care services
17 for a minimum of 12 months immediately preceding the
18 effective date of this section.

19 (5) Holding certification, licensure or registration as
20 a respiratory care practitioner issued by another state, the
21 District of Columbia or a territory of the United States,
22 where the requirements for licensure, registration or
23 certification are substantially similar to those required by
24 the board.] Recognition as a credentialed respiratory
25 therapist as approved by the board.

26 (c) Duration and effect of temporary permits.--Temporary
27 permits shall be valid for a period of 12 months and for such
28 additional period as the board may, in each case, specially
29 determine, except that a temporary permit shall expire if the
30 holder fails the examination. An appropriate fee for a temporary

1 permit shall be established by the board by regulation. If [he]
2 the temporary permit holder is not in violation of any other
3 provision of this act, a holder of a temporary permit qualifies
4 for admission to the examination and shall apply for the next
5 regularly scheduled [certification] licensure examination
6 administered by the board. The board is authorized to promulgate
7 regulations to establish procedures for application, credentials
8 verification, examination and [certification] licensure,
9 together with appropriate fees.

10 (d) Examination.--Pursuant to section 812.1 of the act of
11 April 9, 1929 (P.L.177, No.175), known as The Administrative
12 Code of 1929, the board shall contract for the development and
13 administration of an examination for the [certification]
14 licensure of respiratory [care practitioners. At least one
15 administration of this examination shall be given within 12
16 months of the effective date of this section, and the]
17 therapists. The examination shall [thereafter] be given at least
18 twice per year. [An individual qualifying for a temporary permit
19 under subsection (b)(5) shall be issued a certificate by the
20 board without examination. An individual qualifying for a
21 temporary permit under subsection (b)(3) shall be issued a
22 certificate by the board without examination if the individual
23 passed an examination in order to obtain designation as a
24 "Certified Respiratory Therapy Technician" or a "Registered
25 Respiratory Therapist" and that examination was comparable to
26 the examination developed and administered pursuant to this
27 subsection.]

28 (e) Biennial renewal.--A respiratory [care practitioner
29 certificate] therapist license shall be renewed biennially upon
30 application on a form prescribed by the board and upon payment

1 of a renewal fee adopted by the board by regulation.

2 (f) Continuing education.--

3 (1) The board shall adopt, promulgate and enforce rules
4 and regulations consistent with the provisions of this act
5 establishing requirements of continuing education to be met
6 by individuals holding [certification] licensure as
7 respiratory [care practitioners] therapists under this act as
8 a condition [for certificate] of biennial license renewal.
9 The regulations shall include any fees necessary for the
10 board to carry out its responsibilities under this section.

11 (2) Beginning with the [license period designated by
12 regulation, certificate] first biennial license renewal
13 period following promulgation of regulations, license holders
14 shall be required to attend and complete [20] 30 hours of
15 mandatory continuing education during each two-year
16 [certificate] license period. At least one credit hour shall
17 be in ethics, and one credit hour shall be in patient safety.

18 (3) An individual applying for the first time for
19 [certification] licensure in this Commonwealth shall be
20 exempted from the continuing education requirement for the
21 biennial renewal period [following initial certification] in
22 which licensure is obtained.

23 (4) [The board may waive all or a portion of the
24 continuing education requirement for biennial renewal for a
25 certificate holder who shows to the satisfaction of the board
26 that he or she was unable to complete the requirements due to
27 serious illness, military service or other demonstrated
28 hardship. The request shall be made in writing, with
29 appropriate documentation, and shall include a description of
30 circumstances sufficient to show why the certificate holder

1 is unable to comply with the continuing education
2 requirement. Waiver requests shall be evaluated by the board
3 on a case-by-case basis. The board shall send the certificate
4 holder written notification of its approval or denial of a
5 waiver request.] The board shall, by regulation, provide for
6 the waiver of continuing education requirements in case of
7 illness, hardship and armed services duties. A request for
8 waiver shall be evaluated on a case-by-case basis.

9 (5) A [certificate holder] licensee seeking to reinstate
10 an inactive or lapsed [certificate] license shall show proof
11 of compliance with the continuing education requirement for
12 the preceding biennium.

13 (6) All courses, locations, instructors and providers
14 shall be approved by the board. No credit shall be given for
15 any course in office management or practice building.

16 [(7) The board shall initiate the promulgation of
17 regulations to carry out the provisions of this section
18 within one year of the effective date of this section.]

19 Section 6. The State Board of Osteopathic Medicine and the
20 State Board of Medicine shall jointly promulgate regulations to
21 implement the amendment or addition of sections 2, 3(a) and (b),
22 8.1, 13.1 and 36.1 of the act within 18 months of the effective
23 date of this section.

24 Section 7. This act shall take effect as follows:

25 (1) This section shall take effect immediately.

26 (2) Section 6 of this act shall take effect immediately.

27 (3) The remainder of this act shall take effect in 60
28 days.