

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representative Dietz**

A Bill

ACT 1094 OF 1995
HOUSE BILL 1370

For An Act To Be Entitled

"AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
RESPIRATORY CARE ACT; AND FOR OTHER PURPOSES."

Subtitle

"TO AMEND VARIOUS SECTIONS OF THE
ARKANSAS RESPIRATORY CARE ACT."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code 17-84-102 is amended to read as follows:

"17-84-102. Definitions. As used in this chapter, unless the context
otherwise requires:

(1) Respiratory care means the practice of the principles, techniques,
psychology, and theories of cardiopulmonary medicine under the verbal or
written direction or prescription of a licensed physician and/or under the
supervision of a qualified medical director. Respiratory care shall include,
but not be limited to, the following:

(A) Evaluation and treatment of individuals whose cardiopulmonary
functions have been threatened or impaired by developmental defects, the aging
process, physical injury or disease, or anticipated dysfunction of the
cardiopulmonary system;

(B) Evaluation techniques including cardiopulmonary function
assessment, gas exchange evaluation, the need and effectiveness of therapeutic
modalities and procedures, and assessment and evaluation of the need for
extended care and home care procedures and equipment; and

(C) The professional application of techniques, equipment, and
procedures involved in the administration of respiratory care such as
therapeutic gas administration; prescribed medications; emergency cardiac,
respiratory, and cardiopulmonary resuscitation measures; establishing and

1 maintaining artificial airways; cardiopulmonary function tests; testing and
2 obtaining physiological evaluation of arterial and venous blood samples;
3 exercises designed for the rehabilitation of the cardiopulmonary handicapped;
4 maintaining postural drainage, vibration and chest percussion, aerosol
5 administration, breathing exercises, artificial and mechanical ventilation;
6 cleaning and sterilization of cardiopulmonary function equipment and its
7 maintenance. Those techniques may be applied in the treatment of the
8 individual or patient in groups or through health care facilities,
9 organizations, or agencies;

10 (2) Respiratory care practitioner means a licensed person who practices
11 respiratory care as defined in this chapter under the prescription and
12 direction of a licensed physician;

13 (3) Board means the Arkansas State Medical Board;

14 (4) Committee means the Arkansas State Respiratory Care Examining
15 Committee;

16 (5) Qualified Medical Director means a licensed physician who is the
17 medical director of any inpatient or outpatient respiratory care service,
18 department or home care agency, or long-term care facility."

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21 SECTION 2. Arkansas Code 17-84-201 is amended to read as follows:

22 "17-84-201. Medical Board - Powers and duties.

23 (a) The Board shall administer the provisions of this chapter.

24 (b) The board, with the advice and assistance of the Arkansas State
25 Respiratory Care Examining Committee, shall pass upon the qualifications of
26 applicants for licensure, provide for a nationally standardized examination,
27 determine the applicants who successfully pass the examinations, and license
28 those applicants who meet the qualifications provided in this chapter.

29 (c) In addition to the other powers and duties set out elsewhere in this
30 chapter, the board shall:

31 (1) Adopt and put into effect rules and regulations to carry this chapter
32 into effect;

33 (2) Investigate reported violations of this chapter and take such steps
34 as may be necessary to enforce the chapter;

35 (3) Keep a record of its proceedings and a record of all persons

1 registered under this chapter. The register shall show the name of every
2 registrant, his last known place of business, his last known place of
3 residence, and the date and number of his license;

4 (4) Compile a list, which shall be printed annually, of all respiratory
5 care practitioners who are licensed to practice respiratory care in the State
6 of Arkansas. It shall furnish a copy of the list to all persons requesting it
7 upon the payment of such fee as may be fixed by the board to compensate for
8 the cost of printing the list;

9 (5) With the advice and assistance of the Arkansas State Respiratory Care
10 Examining Committee, adopt rules and regulations for issuance of temporary
11 permits for students and graduates of approved training programs to practice
12 limited respiratory care under the supervision of a licensed respiratory care
13 practitioner or physician. Rules and regulations shall be adopted defining
14 for the purposes of this chapter the terms _students_, _limited_,
15 _supervision_, and _approved training programs_; and

16 (6) With the advice and assistance of the Arkansas State Respiratory Care
17 Examining Committee, adopt rules and regulations for the issuance of licenses
18 for respiratory care practitioners and put them into effect."

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20 SECTION 3. Arkansas Code 17-84-203 is amended to read as follows:

21 "17-84-203. Arkansas State Respiratory Care Examining Committee.

22 (a) There is created the Arkansas State Respiratory Care Examining
23 Committee to assist the board in carrying out the provisions of this chapter.

24 (b) The examining committee shall consist of five (5) members, appointed
25 by the Governor for a term of three (3) years:

26 (1) One (1) member shall be a board certified anesthesiologist. The
27 Governor shall appoint that member upon the advice and recommendation of the
28 Arkansas State Medical Board;

29 (2) One (1) member shall be a member of the American College of Chest
30 Physicians. The Governor shall appoint that member upon the advice and
31 recommendation of the Arkansas State Medical Board;

32 (3) Three (3) members shall be licensed under this chapter. The Governor
33 shall appoint those members upon the advice and recommendation of the Arkansas
34 Society for Respiratory Care.

35 (c) (1) The examining committee shall meet with the board at its regular

1 meetings and assist in conducting all examinations and shall have the power to
2 call special meetings at such times as it deems necessary.

3 (2) A majority of the committee shall have the power to call a special
4 meeting."

5

6 SECTION 4. Arkansas Code 17-84-301 is amended to read as follows:

7 "17-84-301. License required - Exceptions.

8 (a) It shall be unlawful for any person to practice respiratory care or
9 to profess to be a respiratory care practitioner or to use any initials,
10 letters, words, abbreviations, or insignia which indicate that he is a
11 respiratory care practitioner, or to practice or to assume the duties incident
12 to respiratory care without first obtaining from the board a license
13 authorizing the person to practice respiratory care in this state.

14 (b) (1) Nothing in this chapter shall be deemed to prohibit any person
15 licensed under any act in this state from engaging in the practice for which
16 he is licensed.

17 (2) A A licensed registered nurse or a licensed practical nurse qualified
18 in and engaged in respiratory care under the supervision of a licensed
19 physician, shall be exempt from the requirement of obtaining a license to
20 practice respiratory care.

21 (3) Nothing in this chapter shall be construed to prohibit or to require
22 a license hereunder with respect to:

23 (A) The rendering of services in case of an emergency; and

24 (B) The administration of oxygen or other resuscitation procedures to
25 participants in or spectators at athletic events;

26 (C) Any person pursuing a course of study leading to a degree or
27 certificate in respiratory care at an accredited or approved educational
28 program approved by the Committee, if the activities and services constitute a
29 part of the supervised course of study and the person is designated by a title
30 which clearly indicates the student or trainee status;

31 (D) Self-care by a patient, or gratuitous care by a friend or family
32 member who does not represent or hold himself out to be a respiratory care
33 practitioner;

34 (E) The respiratory care practitioner who demonstrates advances in the
35 art and techniques of respiratory care learned through formalized or

1 specialized training;

2 (F) Any person working in the military service or federal health care
3 facilities when functioning in the course of their assigned duties;

4 (G) Any person who has demonstrated his competency in one or more areas
5 covered by this chapter who performs only those functions that he is qualified
6 by examination to perform. The Committee and the Board shall have the
7 authority to evaluate the standards of examinations and examining
8 organizations and to reject qualification by inadequate examinations and
9 *examining organizations;*

10 (H) *Employees of licensed hospitals with one hundred sixty-nine (169)*
11 *beds or less; and*

12 (I) *The practice of Respiratory Care, when done in connection with the*
13 *practice of the religious principles or tenets of any well-recognized church*
14 *or denomination which relies upon prayer or spiritual means of healing."*

15

16 SECTION 5. Arkansas Code 17-84-302 is amended to read as follows:

17 "17-84-302. Qualifications and examination of applicants - Fees -
18 Waiver.

19 (a) The board shall register as a respiratory care practitioner and shall
20 issue a license to:

21 (1) any person who satisfactorily passes the examination provided
22 for in this chapter and who otherwise meets the requirements for qualification
23 contained herein and pays a fee not to exceed one hundred fifty dollars
24 (\$150);

25 (2) any person who furnishes sufficient and satisfactory written
26 evidence to the Board that the person has received registration and/or
27 certification by the National Board for Respiratory Care, or successor
28 organization, and who shall, at the time of his or her application, pay the
29 Board a fee not to exceed one hundred and fifty dollars (\$150.00);

30 (3) any person, whether or not he has passed the examination
31 provided for in this chapter, who through a notarized affidavit, submitted to
32 the Board by January 1, 1996, demonstrates that he, as of September 1, 1995,
33 or within the three (3) year period prior to September 1, 1995, is or was
34 providing respiratory care as defined in Arkansas Code 17-84-102, and who
35 submits an application and a fee not to exceed one hundred and fifty dollars

1 (\$150.00).

2 (b) Each applicant must:

3 (1) Be at least eighteen (18) years of age;

4 (2) Be of good moral character;

5 (3) Have been awarded a high school diploma or its equivalent;

6 (4) Have satisfactorily completed training in a respiratory care program
7 which has been approved by the Committee, to include adequate instruction in
8 basic medical science, clinical science, and respiratory care theory and
9 procedures; and

10 (5) Have passed a written examination approved by the board and the
11 committee, unless exempted by other provisions of this chapter.

12 (c) All examinations of applicants for a license to practice respiratory
13 care shall be held in the City of Little Rock at a time and place published by
14 the board.

15 (d) Applicants shall be given written examinations on the following
16 subjects:

17 (1) Clinical data;

18 (2) Equipment; and

19 (3) Therapeutic procedures.

20 (e) A fee not to exceed the sum of one hundred fifty dollars (\$150) must
21 accompany the application.

22 (f) (1) Any applicant who fails an examination and is refused a license
23 may take the next examination upon payment of an additional fee, as
24 established by the board, not to exceed one hundred fifty dollars (\$150).

25 (2) Any applicant who fails the second examination may take subsequent
26 examinations when the application is accompanied by a fee not to exceed one
27 hundred fifty dollars (\$150)."

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29 SECTION 6. Arkansas Code 17-84-303 is amended to read as follows:

30 "17-84-303. Issuance and recording.

31 (a) The board shall register as a respiratory care practitioner each
32 applicant who provides evidence of his fitness for licensure under the terms
33 of this chapter.

34 (b) It shall issue to each person registered a license which shall be
35 prima facie evidence of the right of the person to practice respiratory care,

1 subject to the conditions and limitations of this chapter.

2 (c) Proof of licensure must be made upon request.

3 (d) Whenever the Board determines, for any reason, not to issue a
4 license it shall enter an order denying the application. Whenever the Board
5 determines, for any reason, to suspend, revoke, or refuse to renew a license,
6 it shall enter an order taking that action. All review proceedings shall be
7 governed by the Administrative Procedure Act, Arkansas Code 25-15-201, et
8 seq."

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10 SECTION 7. Arkansas Code 17-84-305 is amended to read as follows:

11 "17-84-305. Temporary permits. In cases of emergency, the executive
12 secretary of the board may issue a temporary permit without examination to
13 practice respiratory care to persons who are not licensed in other states but
14 who otherwise meet the qualifications for licensure set out in this chapter.
15 Such emergency temporary license shall expire at the date of the next Board
16 meeting unless the Board ratifies or extends the action of the executive
17 secretary."

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19 SECTION 8. Arkansas Code 17-84-306 is amended to read as follows:

20 "17-84-306. Annual registration - Failure to reregister.

21 (a) (1) A license or reregistration fee not to exceed fifty dollars
22 (\$50.00) shall be paid to the board by each respiratory care practitioner who
23 holds a license to practice respiratory care in the State of Arkansas.

24 (2) The reregistration fee shall be paid during the month of January of
25 each year.

26 (3) Failure to reregister and pay the fee by March 1 shall cause the
27 license of any person so failing to reregister to expire automatically.

28 (b) (1) Any delinquent license of less than five (5) years may be
29 reinstated by paying all delinquent fees and a penalty not to exceed fifty
30 dollars (\$50.00) for each year or part of year it has been delinquent.

31 (2) Any person who shall fail to reregister and pay the annual license
32 fee for five (5) or more consecutive years shall be required to be reexamined
33 by the board before the license may be reinstated."

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35 SECTION 9. Arkansas Code 17-84-307 is amended to read as follows:

1 "17-84-307. Denial, suspension, or revocation - Grounds. The board,
2 after due notice and hearing, may revoke, suspend or refuse to renew any
3 license or permit or place on probation or otherwise reprimand a licensee or
4 permit holder, or deny a license to an applicant who:

5 (1) is habitually drunk or who is addicted to the use of narcotic drugs;
6 (2) is, in the judgment of the board, guilty of immoral or unprofessional
7 conduct;

8 (3) has been convicted of any crime involving moral turpitude;

9 (4) is guilty, in the judgment of the board, of gross negligence in his
10 practice as a respiratory care practitioner;

11 (5) has obtained, or attempted to obtain, registration by fraud or
12 material misrepresentation;

13 (6) has treated, or undertaken to treat, ailments of human beings other
14 than by respiratory care and as authorized by this chapter, or who has
15 undertaken to practice independent of the prescription and direction of a
16 licensed physician; or

17 (7) has been found to have violated any provisions of this chapter or
18 rules and regulations of the Committee or Board."
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20 SECTION 10. Subchapter 3 of Chapter 84 of Title 17 of the Arkansas Code
21 is amended by adding an additional section to read as follows:

22 "17-84-309. A legally licensed practitioner who has been issued a
23 license to practice respiratory care in another state or territory whose
24 requirements for licensure were equal at the time of his licensure to the
25 requirements contained in this chapter may be licensed by the Board, provided
26 the state or territory from which the applicant comes accords a similar
27 privilege of registration and licensure to persons licensed in the State of
28 Arkansas by the Board. The issuance of a license by reciprocity by the Board
29 shall be at the sole discretion of the Board."
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31 SECTION 11. Subchapter 3 of Chapter 84 of Title 17 of the Arkansas Code
32 is amended by adding an additional section to read as follows:

33 "17-84-310. A qualified medical director shall:

34 (1) be readily available to respiratory care practitioners
35 employed by or providing services for the organization he directs; and

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