

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1351

By: Representative Wimberly

"THE ARKANSAS HEMODIALYSIS TECHNICIAN LICENSING ACT."

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

SECTION 1. Hemodialysis Technician - Definitions. In this Act, unless the context otherwise requires a different definition:

(a) "Hemodialysis" means the mechanical purification of the blood whereby dissolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semi-permeable membrane.

(b) "Hemodialysis Technician" means a lay person who assists in hemodialysis under the prescription and direction of a licensed physician or registered professional nurse. The practice of a hemodialysis technician includes performing venipuncture and arterial puncture, as well as the administration intradermally, subcutaneously or topically, of local anesthetics, heparin, and sodium chloride solution pursuant to a protocol established by the medical director of the dialysis facility and under the immediate supervision of a licensed physician or a registered professional nurse. Immediate supervision means supervision of dialysis treatment in the same room in which dialysis treatment is being performed.

(c) "Hemodialysis Technician Trainee" means a person who is receiving training to satisfy the requirements to obtain a hemodialysis license. A person may perform the duties of a hemodialysis technician except for the administration of medicine for a period not to exceed six (6) months pending receipt of a license.

(d) "Board" means the Arkansas State Medical Board.

(e) "Committee" means the Arkansas State Hemodialysis Technician Examining Committee.

(f) Words importing the masculine gender may be applied to females.

SECTION 2. Examining committee created - Qualification of members - Appointment - Terms. There is hereby created the Arkansas State Hemodialysis Technician Examining Committee to assist the Board in carrying out the provisions of this Act. The Examining Committee shall consist of five (5) members, two (2) Board Certified Nephrologists, and three (3) members each of whom are licensed under this Act. The Governor shall appoint the Nephrologists upon the advice and recommendation of the Arkansas State Medical Board for a term of three (3) years and he shall appoint the three (3) members who are licensed under this Act. One (1) of said members shall be appointed to serve for one (1) year, one (1) to two (2) years, and one (1) for three (3) years, and thereafter each member shall serve for a term of three (3) years.

SECTION 3. Meetings of examining committee. The Examining Committee shall meet with the Board at its regular meetings and shall have the power to call special meetings at such times as it deems necessary. A majority of the Committee shall have the power to call a special meeting.

SECTION 4. Powers and duties of board. In addition to the other powers and duties set out elsewhere in this Act, the Board shall: (a) adopt and put into effect rules and regulations to carry this Act into effect; (b) investigate reported violations of this Act and shall take such steps as may be necessary to enforce the Act; (c) keep a record of its proceedings and a record of all persons registered under this Act. The register shall show the name of every registrant, his last known place of business, his last known place of residence, and the date and number of his license; and, (d) compile a list of all Hemodialysis Technicians who are licensed to practice in the State of Arkansas, which list it shall cause to be printed annually. It shall furnish a copy of said list to all persons requesting same upon the payment of such fee as may be fixed by the Board to compensate for the cost of printing such list.

SECTION 5. Qualifications of applicants. Examinations - Fees. Each applicant must meet the following conditions: (a) be at least 18 years of age; (b) be a citizen of the United States; (c) be a resident of the State of Arkansas; (d) be of good moral character; (e) have completed four (4) years of high school or its equivalent; (f) satisfactorily completed a

training program designed to develop the required proficiency on the type of dialyzer and equipment utilized at the dialysis facility, and including instruction in the administration of the medications specified in Section 1(b); and, (g) must have passed the required examination.

SECTION 6. Issuance of licenses. (a) The Board within thirty (30) days of the receipt of an application shall register and issue a license to each applicant who proves to the satisfaction of the Board his fitness for licensure under the terms of this Act, provided that such application includes a certification from the medical director of the dialysis facility at which such applicant received training of the following:

(1) that the applicant has worked at least three (3) months as a hemodialysis technician trainee under the supervision of a licensed physician or a registered professional nurse, with satisfactory performance;

(2) that the applicant has completed a training program and successfully passed an examination designed to accurately develop and test the proficiency of hemodialysis technician trainees in the use of the type of dialyzer and equipment utilized at the facility, and in the administration of the medications specified in Section 1(b). A description of the training program and examination, as well as a copy of the written test administered shall accompany the certification. At such time as the standardized test developed by the Board pursuant to Section 2(b) is developed, such test shall be administered as part of the examination.

(b) Within six (6) months after the effective date of this Act, the Board, in consultation with the University of Arkansas School for Medical Science, shall develop a standardized test that measures the hemodialysis technician's competency to administer the medications specified in Section 1(b). Such test shall be available for administration within nine (9) months after the effective date of this Act. During the first twelve (12) months after the effective date of this Act, all hemodialysis technicians licenses issued shall be conditioned upon the licensee's passing the standardized test within twelve (12) months after the effective date of this Act. Hemodialysis technicians who fail the standardized test are prohibited from administering medications until they successfully complete the standardized test.

(c) All licenses shall identify the type of dialyzer and equipment for which the hemodialysis technician nurse has been trained. A hemodialysis

technician shall be prohibited from practicing as a hemodialysis technician at any facility which utilizes dialyzers or equipment other than those types for which such person has received a license. If the hemodialysis technician changes employment to a facility with a different type of dialyzer and equipment, the hemodialysis technician must apply for a new license, and must complete the facility's training program and pass the examination for the type of dialyzer and equipment at such new place of employment, provided that if the applicant has already passed the standardized test, the facility need not administer that test as part of the examination.

SECTION 7. License fee - Effect of failure to reregister - Penalty for Delinquency. (a) A fee of Twenty-five Dollars (\$25.00) must accompany the application.

(b) A license of reregistration fee of Five Dollars (\$5.00) shall be paid to the Board by each Hemodialysis Technician who holds a license in the State of Arkansas. Said registration fee shall be paid during the month of January of each year. Failure to reregister and pay said fee by March 1, shall cause the license of any person so failing to reregister to expire automatically. Any delinquent license of less than five (5) years may be reinstated by paying all delinquent fees and a penalty of Five Dollars (\$5.00) for each year or part of year he has been delinquent. Any person who shall fail to reregister and pay the annual license fee for five (5) consecutive years shall be required to be retrained, and must pass a re-examination before his license may be reinstated.

SECTION 8. Refusal or revocation of registration - Grounds - Hearing and notice - Procedure. The Board, after due notice and hearing, may refuse to register any applicant, and may revoke the registration of any registered person; (a) who is habitually drunk or who is addicted to the use of narcotic drugs; (b) who is, in the judgment of the Board, guilty of immoral or unprofessional conduct; (c) who has been convicted of any crime involving moral turpitude; (d) who is guilty, in the judgment of the Board, of gross negligence in his practice as a Hemodialysis Technician; (e) who has obtained, or attempted to obtain registration by fraud or material misrepresentations; (f) who has been declared insane by a court of competent jurisdiction and had not thereafter been lawfully declared sane; (g) who has treated, or under-

taken to treat, ailments of human beings otherwise than as authorized as a licensed hemodialysis technician or who has undertaken to practice as a licensed hemodialysis technician but independent of the direction of a licensed physician or registered professional nurse. The procedure hereunder on all refusals, revocations and suspensions of registration shall be as prescribed by the Medical Practices Act.

SECTION 9. Complaint - Contents - Procedure - Appeal. Any person may file a complaint with the Board against any person having a hemodialysis technician license charging said person with having violated the provisions of Section 13. The said complaint shall set forth a specification of charges in sufficient detail so as to disclose to the accused fully and completely the alleged acts of misconduct for which he is charged. When such complaint is filed the Secretary of the Board shall mail a copy thereof to the accused by registered mail at his last address of record with a written notice of the time and place of hearing thereof, advising him that he may be present in person and by counsel if he so desires, to offer evidence and be heard in his defense.

At the time and place fixed for a hearing before the Board, the Board shall receive evidence upon the subject matter under consideration and shall accord the person against whom charges are preferred a full and fair opportunity to be heard in his defense. The Board shall not be bound by strict or technical rules of evidence but shall consider all evidence fully and fairly, provided, however, that all oral testimony considered by the Board must be under oath. Appeal may be had by either of the parties from the decision of the Board as now provided by law. All evidence considered by the Board shall be reduced in writing and available for the purposes of appeal. Nothing herein shall be construed as to deprive any person of his or her rights without full, fair and impartial hearing.

SECTION 10. Offenses and penalties - Exceptions. It shall be unlawful for any person to practice or profess to be a hemodialysis technician or to use any initials, letters, words, abbreviations, or insignia which indicate that he is a hemodialysis technician, or to practice or to assume the duties incident thereto without first obtaining a license from the Board unless such person is a hemodialysis technician trainee; provided, that nothing in this Act

shall be deemed to prohibit any person licensed under any Act in this State from engaging in the practice for which he is licensed; and also provided that nothing in this Act shall be construed to prohibit or to require a license hereunder with respect to the rendering of services in case of emergency.

Any person violating the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00); or by imprisonment in the county jail for a period of not less than one (1) month nor more than six (6) months, or by fine and imprisonment both; and each day of such violation shall constitute a separate offense.

SECTION 11. Injunctions. The courts of record in this State having general equity jurisdiction are hereby vested with jurisdiction and power to enjoin the unlawful practice of performing the duties of a hemodialysis technician without a license in the county in which the alleged unlawful practice occurred or in which the defendant resides. The issuance of an injunction shall not relieve a person from criminal prosecution for violation of this Act but remedy of injunction shall be in addition to liability for criminal prosecution.

SECTION 12. Disposition of fees and penalties - Compensation of examining committee - State not to be charged with obligations. All fees and penalties provided for in this Act shall be received by the Arkansas Medical Board and shall be expended by them in furtherance of the purposes of this Act, and in accordance with the provisions of Section 18 of Act 198 of 1957 (Arkansas Medical Practices Act).

The members of the Arkansas State Hemodialysis Technician Examining Committee shall receive as compensation for their services such sums as the Board may deem appropriate.

It shall not be lawful for the Board, or any member thereof, in any manner whatever, or for any purpose, to charge or obligate the State of Arkansas for the payment of any money whatever.

SECTION 13. Short title. This Act shall be cited as the "Arkansas Hemodialysis Technician Licensing Act".

