

State of Arkansas

76th General Assembly

Regular Session, 1987

SENATE BILL 300

By: Senator Allen

As engrossed 2-18-87 As engrossed 4-2-87

"AN ACT TO AMEND VARIOUS SECTIONS OF ACT 168 OF 1969 [ARK. STAT. 72-1601 ET SEQ.] TO CHANGE THE NAME OF THE 'ARKANSAS STATE INHALATION THERAPY EXAMINING COMMITTEE' TO THE 'ARKANSAS STATE RESPIRATORY CARE EXAMINING COMMITTEE'; TO ALLOW FOR A NATIONALLY STANDARDIZED TEST; TO INCREASE FEES; TO PROVIDE FOR CONTINUING EDUCATION; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 1 of Act 168 of 1969, the same being Arkansas Statutes 72-1601, is hereby amended to read as follows:

"Section 1. In this act unless the context otherwise requires a different definition:

(1) 'Respiratory Care' shall mean the practice of the principles, techniques, psychology and theories of cardiopulmonary medicine under the written prescription of a licensed physician, which 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 maintaining

artificial airways; cardiopulmonary function tests; to test and obtain physiological evaluation of arterial and venous blood samples; exercises designed for the rehabilitation of the cardiopulmonary handicapped; to maintain postural drainage, vibration and chest percussion, aerosol administration, breathing exercises, artificial and mechanical ventilation; cleaning and sterilization of cardiopulmonary function equipment and its maintenance. Such techniques are applied in the treatment of the individual and/or patient in groups, or through health care organizations or agencies.

(2) 'Respiratory Care Practitioner' means a lay person who practices Respiratory Care as defined in this act under the prescription and direction of a licensed physician.

(3) 'Board' means Arkansas State Medical Board.

(4) 'Committee' means the Arkansas State Respiratory Care Examining Committee.

(5) Word importing the masculine gender may be applied to females."

SECTION 2. Section 2 of Act 168 of 1969, the same being Arkansas Statutes 72-1602, is hereby amended to read as follows:

"Section 2. The Arkansas State Medical Board, herein referred to as the 'Board', shall administer the provisions of the Act. The Board, with the advice and assistance of the Arkansas State Respiratory Care Examining Committee, shall pass upon the qualifications of applicants for licensure, provide for a nationally standardized examination, determine the applicants who successfully pass said examinations, and license such applicants as meet the qualifications provided in this Act."

SECTION 3. Section 3 of Act 168 of 1969, the same being Arkansas Statutes 72-1603, is hereby amended to read as follows:

"Section 3. There is hereby created the Arkansas State Respiratory Care Examining Committee to assist the Board in carrying out the provisions of this Act. The Examining Committee shall consist of five (5) members, one (1) Board Certified Anesthesiologist, one (1) Fellow of American College of Chest Physicians and three (3) members each of whom are licensed under this Act. The governor shall appoint the anesthesiologist and chest physician 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 upon the advice and recommendation of the Arkansas Society for Respiratory Care. One (1) of said members shall be appointed to serve for one (1) year, and one (1) for two years (2) and one (1) for three (3) years, and thereafter each member shall serve for a term of three (3) years."

SECTION 4. Section 6 of Act 168 of 1969, the same being Arkansas Statutes 72-1606, is hereby amended to read as follows:

"Section 6. 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 Respiratory Care Practitioners who are licensed to practice Respiratory Care 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. Section 7 of Act 168 of 1969, the same being Arkansas Statutes 72-1607, is hereby amended to read as follows:

"Section 7. Each applicant must meet the following conditions:

(a) be at least 18 years of age;

(b) be a citizen of the United States or has made applications for citizenship;

(c) be of good moral character;

(d) have been awarded a high school diploma or its equivalent,

(e) satisfactorily completed training in an AMA approved Respiratory Care program to include adequate instruction in basic medical science, clinical science and Respiratory Care theory and procedures;

(f) must have passed a written examination approved by the

Board and Committee. All examinations of applicants for a license to practice Respiratory Care shall be held in the City of Little Rock at a time and place published by the Board. Applicants shall be given written examinations on the following subjects: Clinical Data, Equipment, and Therapeutic Procedures. A fee not to exceed the sum of one hundred and fifty dollars (\$150.00) must accompany the application. Any applicant who fails an examination and is refused a license, may take the next examination upon payment of an additional fee, as established by the Board, not to exceed one hundred and fifty dollars (\$150.00). Any applicant who fails the second examination may take subsequent examinations when the application is accompanied by a fee not to exceed one hundred and fifty dollars (\$150.00)."

SECTION 6. Section 8 of Act 168 of 1969, the same being Arkansas Statutes 72-1608, is hereby amended to read as follows:

"Section 8. The Board shall register, as a Respiratory Care Practitioner each applicant who proves to the satisfaction of the Board his fitness for licensure under the terms of this Act. It shall issue to each person registered a license which shall be prima facie evidence of the right of such person to practice Respiratory Care subject to the conditions and limitations of this Act. Every person receiving a license from the Board shall have such license recorded in the office of the County Clerk in the county where he is practicing or proposed to practice, and when such person moves to another county for the purpose of continuing the practice of Respiratory Care he shall have his license recorded in the county to which he moves."

SECTION 7. Section 9 of Act 168 of 1969, the same being Arkansas Statutes 72-1609, is hereby amended to read as follows:

"Section 9. In cases of emergency the Secretary of the Board may issue a temporary permit without examination to practice Respiratory Care to persons who are not licensed in other states but otherwise meet the qualifications for licensure set out in the Act.

SECTION 8. Section 10 of Act 168 of 1969, the same being Arkansas Statutes 72-1610, is hereby amended to read as follows:

"Section 10. (A) The Board shall register as Respiratory Care Practitioners

and shall issue a license to:

(1) any person who satisfactorily passes the examination provided for in this Act, and who otherwise meets the requirements for qualification contained herein and pays a fee of one hundred and fifty dollars (\$150.00); and

(2) all persons who on or before October 1, 1987 furnish sufficient and satisfactory written evidence to the Board that he or she has been engaged in the practice of Respiratory Care continuously in the State of Arkansas for a period of three (3) years under prescription and supervision of a physician or physicians who are licensed to practice in the State of Arkansas by the Arkansas State Medical Board and who shall, at the time of his or her application, pay the Board a fee of one hundred and fifty dollars (\$150.00).

(B) A person who on or before July 1, 1988 furnishes sufficient and satisfactory written evidence to the Board that the person has received registration as a registered respiratory therapist or certification as a certified respiratory therapy technician by the National Board for Respiratory Care shall not be required to take an examination as a condition for licensure.

(C) After July 1, 1988 the Board may waive the examination as a condition for licensure for all persons who have received registration as a registered respiratory therapist or certification as a certified respiratory therapy technician by the National Board for Respiratory Care, if the Board determines that the registration or certification is equivalent to the requirements for licensure provided in this Act."

SECTION 9. Section 11 of Act 168 of 1969, the same being Arkansas Statutes 72-1611, is hereby amended to read as follows:

"Section 11. A legally licensed Practitioner who has been issued a license to practice Respiratory Care in another state or territory whose requirements for registration and licensure were equal at the time of his registration or licensure to the requirements contained in this Act may be registered and issued a license by the Board, provided the state or territory from which the applicant comes accords a similar privilege of registration and licensure to persons registered and licensed in the State of Arkansas by the Board. The issuance of such license by reciprocity by the Board shall be

at the sole discretion of the Board, and the Board may provide such rules and regulations governing such admission as it may deem necessary or desirable."

SECTION 10. Section 12 of Act 168 of 1969, the same being Arkansas Statutes 72-1612, is hereby amended to read as follows:

"Section 12. A license or reregistration fee not to exceed fifty dollars (\$50.00) shall be paid to the Board by each Respiratory Care Practitioner who holds a license to practice Respiratory Care in the State of Arkansas. Said reregistration 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 not to exceed fifty dollars (\$50.00) 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 re-examined by the Board before their license may be reinstated."

SECTION 11. Section 13 of Act 168 of 1969, the same being Arkansas Statutes 72-1613, is hereby amended to read as follows:

"Section 13. 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 has been convicted of violation of a State or Federal Narcotic Law;
- (c) who is, in the judgment of the Board, guilty of immoral or unprofessional conduct;
- (d) who has been convicted of any crime involving moral turpitude;
- (e) who is guilty, in the judgment of the Board, of gross negligence in his practice as a Respiratory Care Practitioner;
- (f) who has obtained or attempted to obtain registration by fraud or material misrepresentation;
- (g) who has been declared insane by a court of competent jurisdiction and has not thereafter been lawfully declared sane;

(h) who has treated, or undertaken to treat, ailments of human beings other than by Respiratory Care and as authorized by this Act, or who has undertaken to practice independent of the prescription and direction of a licensed physician. The procedure hereunder on all refusals, revocations and suspensions of registration shall be prescribed by the Medical Practices Act."

SECTION 12. Section 14 of Act 168 of 1969, the same being Arkansas Statutes 72-1614, is hereby amended to read as follows:

"Section 14. Any person may file a complaint with the Board against any person having a license to practice Respiratory Care in this State 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 who 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 to 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 13. Section 15 of Act 168 of 1969, the same being Arkansas Statutes 72-1615, is hereby amended to read as follows:

"Section 15. It shall be unlawful for any person to practice Respiratory Care or to profess to be a Respiratory Care Practitioner or to use any initials, letters, words, abbreviations, or insignia which indicate that he is a Respiratory Care Practitioner or to practice or to assume the duties incident

to Respiratory Care without first obtaining from the Board a license authorizing such person to practice Respiratory Care in this State; provided, that nothing in the 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. Provided further that an employee of a licensed hospital or a licensed nursing home, or an employee, a licensed registered nurse or a licensed practical nurse engaged in Respiratory Care under the supervision of a Doctor of Medicine shall be exempt from the provisions of this act; also provided that nothing in this Act shall be construed to prohibit or to require a license hereunder with respect to:

(a) the rendering of services in case of an emergency, and  
(b) the administration of oxygen, or other resuscitation procedures to participants in athletic events;

(c) any person pursuing a course of study leading to a degree or certificate in respiratory care at an accredited or approved educational program by the American Medical Association is such activities and services constitute a part of the supervised course of study and such person is designated by a title which clearly indicates the student or trainee status.

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 \$100.00 nor more than \$1,000.00; or by imprisonment in the county jail for a period of not less than one (1) month or more than six (6) months, or by fine and imprisonment both; and each day of such violation shall constitute a separate offense."

SECTION 14. Section 16 of Act 168 of 1969, the same being Arkansas Statutes 72-1616, is hereby amended to read as follows:

"Section 16. The courts of record in this State having general equity jurisdiction are hereby vested with jurisdiction and power to enjoin the unlawful practice of Respiratory Care 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 such remedy of injunction shall be in addition to liability from criminal prosecution."

SECTION 15. Section 17 of Act 168 of 1969, the same being Arkansas



Statutes 72-1617, is hereby amended to read as follows:

"Section 17. All fees and penalties provided for in this act shall be received by the Arkansas State 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 Respiratory Care Examining Committee shall receive as compensation for their services such sums as the Board shall 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 16. Act 168 of 1969, the same being Arkansas Statutes 72-1601 et seq., is hereby amended to add a new Section to read as follows:

"Section 20. The Board, in cooperation with the Arkansas Society for Respiratory Care, shall develop and implement rules and regulations for continuing education within two years of the effective date of this bill. Continuing education requirements shall not exceed fifteen (15) hours every two years."

SECTION 17. Section 19 of Act 168 of 1969, the same being Arkansas Statutes 72-1618, is hereby amended to read as follows:

"Section 19. This Act shall be cited as the 'Arkansas Respiratory Care Act.'"

SECTION 18. All laws and parts of laws in conflict with this Act are hereby repealed.

/s/ Allen

