

No. 1993-60

## AN ACT

HB 1010

Amending the act of December 20, 1985 (P.L.457, No.112), entitled "An act relating to the right to practice medicine and surgery and the right to practice medically related acts; reestablishing the State Board of Medical Education and Licensure as the State Board of Medicine and providing for its composition, powers and duties; providing for the issuance of licenses and certificates and the suspension and revocation of licenses and certificates; providing penalties; and making repeals," further providing for the State Board of Medicine; and regulating the practice of respiratory care practitioners.

The General Assembly finds and declares that the practice of respiratory care in this Commonwealth affects the public health, safety and welfare and is to be subject to regulation and control in the public interest to protect the public from the unauthorized and unqualified practice of respiratory care and from unprofessional conduct by persons certified to practice respiratory care.

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

Section 1. Section 2 of the act of December 20, 1985 (P.L.457, No.112), known as the Medical Practice Act of 1985, is amended by adding definitions to read:

Section 2. Definitions.

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

\* \* \*

***"Respiratory care."*** *A health care specialty employing evaluation, analysis, care and treatment of patients with cardiopulmonary disorders and related diseases.*

***"Respiratory care practitioner."*** *An individual who is certified to practice respiratory care by the State Board of Medicine.*

\* \* \*

Section 2. Section 3(a) and (b) of the act are amended to read:

Section 3. State Board of Medicine.

(a) Establishment.—The State Board of Medicine shall consist of the commissioner *or his designee*, the Secretary of Health *or his designee*, two members appointed by the Governor who shall be persons representing the public at large and seven members appointed by the Governor, six of whom shall be medical doctors with unrestricted licenses to practice medicine and surgery in this Commonwealth for five years immediately preceding their appointment and one who shall be a nurse midwife, physician assistant [or],

certified registered nurse practitioner *or respiratory care practitioner* licensed or certified under the laws of this Commonwealth. All professional and public members of the board shall be appointed by the Governor, with the advice and consent of a majority of the members elected to the Senate.

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

\* \* \*

Section 3. The act is amended by adding sections to read:

**Section 13.1. Respiratory care practitioners.**

(a) *Certificate required.*—Eighteen months after the effective date of this section, it shall be unlawful for any person to hold himself out to the public as a respiratory care practitioner and to practice or offer to practice respiratory care unless he holds a valid, current temporary permit or certificate issued by the board.

(b) *Use of title.*—A respiratory care practitioner who holds a valid, current temporary permit or certificate issued by the board may use the title respiratory care practitioner or respiratory care practitioner-certified or an appropriate abbreviation of that title such as “R.C.P.” or “R.C.P.-C.”

(c) *Regulations.*—The board is authorized to promulgate regulations to implement this section.

(d) *Supervision and scope of practice.*—A respiratory care practitioner certified by the board may implement direct respiratory care to an individual being treated by either a licensed medical doctor or a licensed doctor of osteopathic medicine, upon physician prescription or referral, or under medical direction and approval consistent with standing orders or protocols of an institution or health care facility. This care may constitute indirect services such as consultation or evaluation of an individual and also includes, but is not limited to, the following services:

- (1) Administration of medical gases.
- (2) Humidity and aerosol therapy.
- (3) Administration of aerosolized medications.
- (4) Intermittent positive pressure breathing.
- (5) Incentive spirometry.
- (6) Bronchopulmonary hygiene.

- (7) *Management and maintenance of natural airways.*
- (8) *Maintenance and insertion of artificial airways.*
- (9) *Cardiopulmonary rehabilitation.*
- (10) *Management and maintenance of mechanical ventilation.*
- (11) *Measurement of ventilatory flows, volumes and pressures.*
- (12) *Analysis of ventilatory gases and blood gases.*

(e) *Exemptions.*—*This section shall not prevent or restrict the practices, services or activities of:*

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

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

(3) *A person pursuing a course of study leading to a degree or certificate in respiratory care in an accredited educational program, if he is clearly designated as a student and provides care under supervision implemented through that program.*

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

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

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

(f) *Referrals to State Board of Osteopathic Medicine.*—*Information or allegations filed with the board against a respiratory care practitioner certified by the State Board of Osteopathic Medicine shall be referred to that board for appropriate action.*

**Section 36.1. Respiratory care practitioner certificates and permits.**

(a) *General rule.*—*A respiratory care practitioner certificate issued by the board empowers the holder to practice respiratory care under the supervision of a licensed medical doctor or a licensed doctor of osteopathic medicine. In a health care facility, that supervision may consist of standing orders or protocols approved by the institution, consistent with acceptable and prevailing medical standards, which may include services rendered directly to the patient in his home or other residence.*

(b) *Temporary permits.*—*Twelve months after the effective date of this section, the board shall issue temporary permits for the practice of respiratory care to individuals who have applied for certification from the board and who meet any of the following requirements:*

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

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

(3) *Designation as a "Certified Respiratory Therapy Technician" or a "Registered Respiratory Therapist" by a nationally recognized credentialing agency approved by the board.*

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

(5) *Holding certification, licensure or registration as a respiratory care practitioner issued by another state, the District of Columbia or a territory of the United States, where the requirements for licensure, registration or certification are substantially similar to those required by the board.*

(c) *Duration and effect of temporary permits.—Temporary permits shall be valid for a period of 12 months and for such additional period as the board may, in each case, specially determine, except that a temporary permit shall expire if the holder fails the examination. An appropriate fee for a temporary permit shall be established by the board by regulation. If he is not in violation of any other provision of this act, a holder of a temporary permit qualifies for admission to the examination and shall apply for the next regularly scheduled certification examination administered by the board. The board is authorized to promulgate regulations to establish procedures for application, credentials verification, examination and certification, together with appropriate fees.*

(d) *Examination.—Pursuant to section 812.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, the board shall contract for the development and administration of an examination for the certification of respiratory care practitioners. At least one administration of this examination shall be given within 12 months of the effective date of this section, and the examination shall thereafter be given at least twice per year. An individual qualifying for a temporary permit under subsection (b)(5) shall be issued a certificate by the board without examination. An individual qualifying for a temporary permit under subsection (b)(3) shall be issued a certificate by the board without examination if the individual passed an examination in order to obtain designation as a "Certified Respiratory Therapy Technician" or a "Registered Respiratory Therapist" and that examination was comparable to the examination developed and administered pursuant to this subsection.*

(e) *Biennial renewal.—A respiratory care practitioner certificate shall be renewed biennially upon application on a form prescribed by the board and upon payment of a renewal fee adopted by the board by regulation.*

Section 4. This act shall take effect in 180 days.

APPROVED—The 2nd day of July, A.D. 1993.

MARK S. SINGEL  
ACTING GOVERNOR