

RESPIRATORY CARE PRACTICES ACT

58-57-1. Short title.

This chapter is known as the "Respiratory Care Practices Act".

58-57-2. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Board means the Respiratory Care Licensing Board created under Section 58-57-3.
- (2) "Health care facility" means any facility or institution in which health care services are performed or furnished and includes a hospital, clinic, or emergency care center.
- (3) "Practice of respiratory care":
 - (a) means the treatment, operation of equipment, management, diagnostic testing, and care of any human disease, deficiency, pain, injury, or other physical condition associated with the cardiopulmonary system under the qualified medical direction or supervision of a practitioner who has training and knowledge in the diagnosis, treatment, and assessment of respiratory problems.
 - (b) includes:
 - (i) accepting and carrying out a practitioner's written, verbal, or telephonic prescription or order specifically relating to respiratory care in a hospital or other health care setting and includes consultation with licensed nurses, as appropriate;
 - (ii) administering respiratory care during transportation of a patient and under other circumstances where an emergency requires immediate respiratory care;
 - (iii) serving as a resource to other health care professionals and hospital administrators in relation to the technical aspects of, and the safe and effective methods for, administering respiratory care;
 - (iv) functioning in situations of patient contact requiring individual judgment in administering respiratory care under the general supervision of a qualified practitioner; and
 - (v) supervising, directing, or teaching personnel in the performance of respiratory care modalities as part of a respiratory care education program; and
 - (c) does not include a person who delivers, installs, or maintains respiratory related durable medical equipment and who gives instructions regarding the use of that equipment as long as that person does not perform clinical evaluation or treatment of the patient.
- (4) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by the appropriate jurisdiction to prescribe and administer drugs and order respiratory care in the course of professional practice.
- (5) "Respiratory care practitioner" means any person licensed to practice respiratory care under this chapter.
- (6) "Respiratory related durable medical equipment" means:
 - (a) medical grade oxygen;
 - (b) equipment and supplies related to medical gases;
 - (c) apnea monitors;
 - (d) oximeters;
 - (e) noninvasive positive pressure generators, except those with back-up respiratory rate or when used invasively;
 - (f) bilirubin lights;
 - (g) suctioning equipment;
 - (h) large volume nebulizers with compressors, except when used invasively in conjunction with an artificial airway;

- (i) medication nebulizers;
 - (j) enteral nutrition equipment; and
 - (k) other respiratory related equipment intended for use in the home as defined by the division by rule.
- (7) "Unlawful conduct" is defined in Sections 58-1-501 and 58-57-14.
- (8) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further defined by rule includes:
- (a) acting contrary to the instructions of the practitioner responsible for supervising the licensee;
 - (b) knowingly operating any respiratory care equipment that is unsafe or not in compliance with standards of condition or operation consistent with the patient's safety;
 - (c) permitting any person to operate respiratory care equipment who is not competent or not allowed to operate the equipment;
 - (d) revealing to any unauthorized person confidential or privileged information about a patient;
 - (e) using any controlled substance, unless the controlled substance is prescribed by a practitioner and used in accordance with the practitioner's instructions; and
 - (f) making any statement that is incorrect due to negligence, willfulness, or intent to provide false information or entry on any patient record or other record that is used for payment of respiratory care services.

58-57-3. Board created - Membership - Duties.

- (1) There is created a five member Respiratory Care Licensing Board consisting of the following persons:
- (a) one physician who is a member of either the American Society of Anesthesiologists, the American College of Chest Physicians, the American Thoracic Society or the American Academy of Pediatrics;
 - (b) three licensed respiratory care practitioners who have practiced respiratory care for a period of not less than three years immediately preceding their appointment to the board; and
 - (c) one member from the general public.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.

58-57-4. Qualifications for a license.

- (1) The division shall issue a respiratory care practitioner license to an applicant who meets the requirements specified in this section.
- (2) An applicant seeking licensure as a respiratory care practitioner shall:
- (a) submit an application on a form prescribed by the division;
 - (b) pay a fee as determined by the department pursuant to Section 63J-1-504;
 - (c) show evidence of good moral character;
 - (d) possess a high school education or its equivalent, as determined by the division in collaboration with the board;
 - (e) have completed a respiratory care practitioner educational program that is accredited by a nationally accredited organization acceptable to the division as defined by rule; and
 - (f) pass an examination approved by the division in collaboration with the board.

58-57-5. Licensure by endorsement.

If an applicant has completed a respiratory care practitioner education program that is approved by the board and accredited by a nationally accredited organization acceptable to the division, as defined by rule, the board may

recommend that the division issue a license without examination to any applicant currently licensed by another state as a respiratory care practitioner or its equivalent, if the requirements for licensing in that state are at least as stringent as the requirements under this chapter.

58-57-6. Term of license - Expiration - Renewal.

- (1) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule. A renewal period may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle.
- (2) Each license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

58-57-7. Exemptions from licensure.

- (1) For purposes of Subsection (2)(b), "qualified" means an individual who is a registered polysomnographic technologist or a Diplomate certified by the American Board of Sleep Medicine.
- (2) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of respiratory therapy subject to the stated circumstances and limitations without being licensed under this chapter:
 - (a) any person who provides gratuitous care for a member of his immediate family without representing himself as a licensed respiratory care practitioner;
 - (b) any person who is a licensed or qualified member of another health care profession, if this practice is consistent with the accepted standards of the profession and if the person does not represent himself as a respiratory care practitioner;
 - (c) any person who serves in the Armed Forces of the United States or any other agency of the federal government and is engaged in the performance of his official duties;
 - (d) any person who acts under a certification issued pursuant to Title 26, Chapter 8a, Utah Emergency Medical Services Systems Act, while providing emergency medical services;
 - (e) any person who delivers, installs, or maintains respiratory related durable medical equipment and who gives instructions regarding the use of that equipment in accordance with Subsections 58-57-2(3) and (6), except that this exemption does not include any clinical evaluation or treatment of the patient.
 - (f)
 - (i) any person who is working in a practitioner's office, acting under supervision; and
 - (ii) for purposes of this Subsection (2)(f) and Subsection (g), "supervision" means one of the following will be immediately available for consultation in person or by phone:
 - (A) a practitioner;
 - (B) a respiratory therapist;
 - (C) a Diplomate of the American Board of Sleep Medicine; or
 - (D) a registered polysomnographic technologist; and
 - (g) a polysomnographic technician or trainee, acting under supervision, as long as they only administer the following in a sleep lab, sleep center, or sleep facility:
 - (i) oxygen titration; and
 - (ii) positive airway pressure that does not include mechanical ventilation.
- (3) Nothing in this chapter permits a respiratory care practitioner to engage in the unauthorized practice of other health disciplines.

58-57-8. Grounds for denial of license - Disciplinary proceedings.

Grounds for refusal to issue a license to an applicant, for refusal to renew the license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be in accordance with Section 58-1-401.

58-57-9. Repealed.

58-57-10. Use of title or designation.

- (1) Only a respiratory care practitioner may use the following titles or designations in this state:
 - (a) respiratory care practitioner;
 - (b) respiratory therapist; or
 - (c) respiratory technician.
- (2) Any person who violates this section is guilty of a class A misdemeanor.

58-57-11. Provision for current practitioners.

Any person who is engaged in the practice of respiratory care as defined in Section 58-57-2 and who is not licensed under this chapter as a respiratory care practitioner, shall by January 1, 2007, obtain a license under this chapter unless exempt from licensure under the provisions of Section 58-1-307 or 58-57-7.

58-57-12. Independent practice prohibited.

A respiratory care practitioner may not:

- (1) practice independently of a practitioner or of a health care facility while under the supervision of a practitioner; or
- (2) charge a fee for his services independently of a practitioner or health care facility.

58-57-13. Repealed.

58-57-14. Unlawful conduct - Penalty.

- (1) Beginning January 1, 2007, "unlawful conduct" includes:
 - (a) using the following titles, names, or initials, if the user is not properly licensed under this chapter:
 - (i) respiratory care practitioner;
 - (ii) respiratory therapist; and
 - (iii) respiratory technician; and
 - (b) using any other name, title, or initials that would cause a reasonable person to believe the user is licensed under this chapter if the user is not properly licensed under this chapter.
- (2) Any person who violates the unlawful conduct provision specifically defined in Subsection 58-1-501(1)(a) is guilty of a third degree felony.
- (3) Any person who violates any of the unlawful conduct provisions specifically defined in Subsections 58-1-501(1)(b) through (f) and Subsection (1) of this section is guilty of a class A misdemeanor.
- (4) After a proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act, and Title 58, Chapter 1, Division of Occupational and Professional Licensing Act, the division may assess administrative penalties for acts of unprofessional or unlawful conduct or any other appropriate administrative action.

RESPIRATORY CARE PRACTICES ACT

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