

HOUSE BILL NO. HB0175

Wyoming Respiratory Practice Act.

Sponsored by: Representative(s) Meuli and McMurtrey and
Senator(s) Barrasso, Boggs and Massie

A BILL

for

1 AN ACT relating to the board of respiratory care; creating
2 a board of respiratory care; specifying membership;
3 specifying duties and powers; providing for licensure of
4 respiratory care practitioners; specifying requirements for
5 licensure; providing exception; granting rulemaking
6 authority; providing definitions; specifying grounds for
7 denial, suspension or revocation of license; providing for
8 appeals; providing penalties; and providing for an
9 effective date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 33-42-101 through 33-42-118 are
14 created to read:

15

16

CHAPTER 42

1 RESPIRATORY CARE PRACTITIONERS

2

3 **33-42-101. Short title.**

4

5 This act shall be known and may be cited as the
6 "Respiratory Care Practice Act of 2003."

7

8 **33-42-102. Definitions.**

9

10 (a) As used in this chapter:

11

12 (i) "Board" means the state board for
13 respiratory care;

14

15 (ii) "Performance of respiratory care" means
16 respiratory care in accordance with the prescription or
17 verbal order of a licensed physician or other authorized
18 health care professional and includes the diagnostic and
19 therapeutic use of the following:

20

21 (A) Administration of aerosols,
22 humidification and medical gases, except for the purpose of
23 anesthesia;

24

1 (B) Hyperbaric therapy;

2

3 (C) Pharmacologic agents related to
4 respiratory care procedures;

5

6 (D) Mechanical or physiological ventilatory
7 support;

8

9 (E) Bronchopulmonary hygiene;

10

11 (F) Cardiopulmonary resuscitation;

12

13 (G) Maintenance of the natural airway;

14

15 (H) Insertion and maintenance of artificial
16 airways;

17

18 (J) Specific diagnostic and testing
19 techniques employed in the monitoring, treatment and
20 research of pulmonary abnormalities, including measurements
21 of ventilatory volumes, pressures and flows, collection of
22 specimens of blood and blood gases, expired and inspired
23 gas samples, respiratory secretions and pulmonary function
24 testing;

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

(K) Hemodynamic and other related physiologic measurements of the cardiopulmonary system;

(M) Respiratory care telecommunications;

(N) Cardiopulmonary disease management;

(O) Tobacco cessation;

(P) Sleep diagnostic procedures; and

(Q) Neurodiagnostics.

(iii) "Practice of respiratory care" means services which may be performed in any clinic, hospital, skilled nursing facility and private dwelling or other place deemed appropriate or necessary by the board, in accordance with the prescription or verbal order of a physician or other authorized health care professional and shall be performed under the supervision of a qualified medical director and shall include:

1 (A) Direct and indirect respiratory care
2 services, including the administration of pharmacological,
3 diagnostic and therapeutic agents related to respiratory
4 care procedures necessary to implement a treatment, disease
5 prevention, pulmonary rehabilitative, or diagnostic regimen
6 prescribed by a physician or other authorized health care
7 professional;

8
9 (B) Transcription and implementation of the
10 written or verbal orders of a physician or other authorized
11 health care professional pertaining to the practice of
12 respiratory care;

13
14 (C) Observing and monitoring signs and
15 symptoms, general behavior, general physical response to
16 respiratory care treatment and diagnostic testing,
17 including determining whether the signs, symptoms,
18 reactions, behavior or general response exhibit abnormal
19 characteristics;

20
21 (D) Implementation, based on observed
22 abnormalities, of appropriate reporting, referral,
23 respiratory care protocols or changes in treatment,

1 pursuant to a prescription by a person authorized to
2 practice medicine under the laws of the state of Wyoming;

3

4 (E) Initiation of emergency procedures
5 under the regulations of the board or as otherwise
6 permitted in this act.

7

8 (iv) "Qualified medical director" means a
9 licensed physician who has a special interest in the
10 diagnosis and treatment of respiratory problems. The
11 physician shall be, wherever possible, qualified by special
12 training or experience in the management of acute and
13 chronic respiratory disorders. The physician shall be
14 competent to monitor and assess the quality, safety and
15 appropriateness of the respiratory care services being
16 provided. The medical director shall be accessible to and
17 assure the competency of the respiratory care practitioner
18 as well as require that respiratory care be ordered by a
19 physician who has medical responsibility for that patient;

20

21 (v) "Respiratory care" means the allied health
22 profession responsible for the treatment, management,
23 diagnostic testing, control and care of patients with
24 deficiencies and abnormalities associated with the

1 cardiopulmonary systems under the supervision of a
2 qualified medical director and includes the terms
3 "inhalation therapy" and "respiratory therapy";

4

5 (vi) "Respiratory care practitioner" means:

6

7 (A) A person employed in the practice of
8 respiratory care who has the knowledge and skill necessary
9 to administer respiratory care as defined in paragraphs
10 (ii) and (iii) of this subsection;

11

12 (B) A person who is capable of serving as a
13 resource to the physician in relation to the technical
14 aspects of respiratory care as to safe and effective
15 methods for administering respiratory care modalities;

16

17 (C) A person who is able to function in
18 situations of unsupervised patient contact requiring
19 individual judgment; and

20

21 (D) A person capable of supervising,
22 directing or teaching less skilled personnel in the
23 provision of respiratory care services.

24

1 (vii) "This act" means W.S. 33-42-101 through
2 33-42-118.

3

4 **33-42-103. Board created; members; appointment;**
5 **terms; qualification; removal; vacancies.**

6

7 (a) There is created a state board for respiratory
8 care within the department of administration and
9 information to administer the provisions of this act. The
10 board shall consist of five (5) members. The initial board
11 shall consist of one (1) public member, one (1) physician
12 member who is licensed in the state of Wyoming with a
13 special interest in pulmonary medicine, and three (3)
14 members who shall have been engaged in the practice of
15 respiratory care for a period of not less than five (5)
16 years immediately preceding appointment to the board.
17 Thereafter, practitioner members shall be licensed under
18 this act prior to appointment to the board.

19

20 (b) The governor shall appoint the members of the
21 board. Of the initial members appointed to the board, the
22 physician member and the public member shall be appointed
23 for terms as specified in paragraphs (i) and (iii) of this
24 subsection, and one (1) respiratory care practitioner shall

1 be appointed for a term of three (3) years, one (1)
2 respiratory care practitioner shall be appointed for a term
3 of two (2) years and one (1) respiratory care practitioner
4 shall be appointed for a term of one (1) year. Thereafter,
5 the terms of office of the members appointed shall be for
6 the following periods:

7

8 (i) Physician member, three (3) years;

9

10 (ii) Respiratory care practitioner members,
11 three (3) years each;

12

13 (iii) Public member, three (3) years.

14

15 (c) Vacancies in the board shall be filled by
16 appointment by the governor as provided in subsection (b)
17 of this section for the balance of an unexpired term and
18 each member shall serve until his successor is appointed
19 and qualified.

20

21 (d) The governor may remove any member from the board
22 as provided in W.S. 9-1-202.

23

24 **33-42-104. Board meetings; elections; quorum.**

1

2 (a) The board shall meet at least twice each year and
3 shall elect a chairman at the first meeting each year. The
4 board may convene at the request of the chairman or as the
5 board may determine for any other meeting as may be deemed
6 necessary to transact its business.

7

8 (b) Three (3) board members constitute a quorum.

9

10 **33-42-105. Board responsibilities; duties.**

11

12 (a) The board shall:

13

14 (i) Examine, license and renew the licenses of
15 duly qualified applicants;

16

17 (ii) Maintain an up-to-date list of every person
18 licensed to practice respiratory therapy under this act.
19 The list shall show the licensee's last known place of
20 employment, last known place of residence and the date and
21 number of his license;

22

1 (iii) Keep a record of all proceedings of the
2 board and make the record available to the public for
3 inspection during reasonable business hours;

4
5 (iv) Maintain an up-to-date list of persons
6 whose licenses have been suspended, revoked or denied.
7 This list shall include the names, social security numbers,
8 type and cause of action, date and penalty incurred, and
9 the length of penalty. This list shall be available for
10 public inspection during reasonable business hours. This
11 list shall be supplied to similar boards in other states
12 upon request;

13
14 (v) Establish fees for licenses, permits,
15 renewals and reinstatements in accordance with W.S.
16 33-1-201.

17

18 **33-42-106. Board; general powers.**

19

20 (a) The board may:

21

22 (i) In accordance with the Wyoming
23 Administrative Procedure Act, adopt rules and regulations

1 not inconsistent with the law as may be necessary to enable
2 it to carry into effect the provisions of this act;

3

4 (ii) Employ personnel as necessary to perform
5 the functions of the board;

6

7 (iii) Establish relicensure requirements and
8 procedures as are appropriate, including adopting and
9 publishing a code of ethics;

10

11 (iv) Secure the services of resource consultants
12 as deemed necessary by the board. Resource consultants
13 shall receive travel and per diem expenses in the same
14 manner and amount as state employees, while engaged in
15 consultative service to the board;

16

17 (v) Enter into agreements or contracts with
18 outside organizations for the purpose of developing,
19 administering, grading or reporting the results of
20 licensing examinations. The contracting organizations shall
21 be capable of providing an examination which meets the
22 standards of the national commission for health certifying
23 agencies, or their equivalent, be validated, and nationally
24 recognized as testing respiratory care competencies.

1

2 **33-42-107. Compensation of board members; immunity.**

3

4 (a) Members of the board shall not receive
5 compensation for their services but shall receive mileage
6 and per diem in the same manner and amount as state
7 employees while engaged in the discharge of official
8 duties.

9

10 (b) Members of the board shall have the same
11 immunities from personal liability as state employees for
12 actions taken in the performance of their duties under this
13 act, as provided in W.S. 1-39-104.

14

15 **33-42-108. Application for license; qualifications.**

16

17 (a) An applicant for a license to practice
18 respiratory care shall submit to the board written
19 evidence, verified by oath, that the applicant:

20

21 (i) Has completed an approved four (4) year high
22 school course of study or the equivalent thereof determined
23 by the appropriate educational agency; and

24

1 (ii) Has completed a respiratory care
2 educational program. A respiratory care educational
3 program means a program accredited by the council on allied
4 health education programs (CAHEP) in collaboration with the
5 committee on accreditation for respiratory care (CoARC) or
6 their successor organizations.

7

8 (b) The board may issue a license to practice
9 respiratory care by endorsement to:

10

11 (i) An applicant who is currently licensed to
12 practice respiratory care under the laws of another state,
13 territory or country if the qualifications of the applicant
14 are deemed by the board to be equivalent to those required
15 in this state;

16

17 (ii) Applicants holding credentials, conferred
18 by the national board for respiratory care, as a certified
19 respiratory therapist (CRT) or as a registered respiratory
20 therapist (RRT), provided the credential has not been
21 suspended or revoked.

22

23 (c) Applicants applying for licensure under
24 subsection (b) of this section shall be required to certify

1 under oath that their credentials have not been suspended
2 or revoked.

3

4 **33-42-109. Licensure; fees.**

5

6 An applicant applying for a license to practice respiratory
7 care shall pay an administrative fee to the board. Fees
8 under this section shall be set by the board in accordance
9 with W.S. 33-1-201. If an applicant fails to complete the
10 requirements for licensing within three (3) years from the
11 date of filing, the application is deemed to be abandoned.

12

13 **33-42-110. Temporary permits.**

14

15 Upon payment of a fee set by the board in accordance with
16 W.S. 33-1-201, the board may issue a temporary permit to
17 practice respiratory care for a period of six (6) months to
18 an applicant for licensing, pending compliance with the
19 requirements for licensing, providing the applicant shows
20 written evidence, verified by oath, that the applicant is
21 currently practicing, or has within the last six (6) months
22 practiced respiratory care in another state, territory or
23 country and was licensed to practice respiratory care in
24 that state or is a student in a committee on accreditation

1 for respiratory care (CoARC) approved respiratory care
2 education program who expects to graduate within the next
3 thirty (30) calendar days. Upon notification that a student
4 in an approved program who has received a temporary permit
5 under this section fails to successfully complete the
6 program, the board shall revoke the temporary permit. On
7 expiration of the permit and on payment of an additional
8 fee set by the board in accordance with W.S. 33-1-201, the
9 board may issue a permit to perform respiratory care for an
10 additional period not to exceed twelve (12) months from the
11 date of issuance of the original permit. Reapplication
12 following abandonment of an application shall not entitle
13 the applicant to a permit.

14

15 **33-42-111. Temporary licenses.**

16

17 The board shall issue a license to perform respiratory care
18 to an applicant, who, prior to July 1, 2003, has passed the
19 entry level or advanced practitioner examinations
20 administered by the national board for respiratory care or
21 its equivalent. Other applicants who are not students in a
22 respiratory care education program and have not passed
23 either of the examinations under this section or their
24 equivalents prior to July 1, 2003, and who through written

1 evidence, verified by oath, demonstrate that they are
2 presently functioning in the capacity of a respiratory care
3 practitioner as defined by this act, shall be given a
4 temporary license to practice respiratory care for a period
5 up to twenty-four (24) months from July 1, 2003. The
6 applicants shall pass the licensure examination
7 administered by the board during the twenty-four (24) month
8 period in order to be issued a license to practice
9 respiratory care.

10

11 **33-42-112. Licensed respiratory care practitioner;**
12 **use of L.R.C.P. professional.**

13

14 (a) A person holding a license to practice
15 respiratory care in this state may use the title, "licensed
16 respiratory care practitioner" and the abbreviation,
17 "L.R.C.P.".

18

19 (b) A licensee shall show his license when requested.

20

21 **33-42-113. Renewal of license; lapse; reinstatement.**

22

23 (a) A license shall be renewed annually except as
24 hereafter provided. The board shall mail notices and

1 applications for renewal at least sixty (60) calendar days
2 prior to expiration for renewal of licenses to every person
3 to whom a license was issued or renewed during the
4 preceding renewal period. The licensee shall complete the
5 application for renewal and return it to the board with the
6 renewal fee set by the board in accordance with W.S.
7 33-1-201 before the date of expiration.

8

9 (b) Upon receipt of the application for renewal and
10 the fee, the board shall verify its contents and shall
11 issue the license for the current renewal period, which
12 shall be valid for the period stated thereon. The board may
13 establish continuing education requirements for annual
14 renewal of the license.

15

16 (c) A licensee who allows his license to lapse by
17 failing to renew it, may be reinstated by the board upon
18 payment of the renewal fee and reinstatement fee set by the
19 board in accordance with W.S. 33-1-201 provided that the
20 request for reinstatement is made within thirty (30) days
21 of the end of the renewal period.

22

23 (d) A respiratory care practitioner who does not
24 engage in the practice of respiratory care during the

1 succeeding renewal period is not required to pay the
2 renewal fee as long as he remains inactive. If he desires
3 to resume the practice of respiratory care, he shall notify
4 the board of his intent and shall satisfy the current
5 requirements of the board in addition to remitting the
6 renewal fee for the current renewal period and the
7 reinstatement fee.

8

9 (e) The board is authorized to establish reasonable
10 fees for replacement and duplicate licenses.

11

12 **33-42-114. Disposition of fees.**

13

14 Fees received by the board and any monies collected under
15 this act shall be deposited with the state treasurer, who
16 shall credit the money to an account within the earmarked
17 revenue fund which shall only be used by the board to
18 defray costs incurred in the administration of this act.

19

20 **33-42-115. License revocation; discipline.**

21

22 (a) The board may revoke, suspend or refuse to renew
23 any license or permit or place on probation, or otherwise

1 reprimand a licensee or permit holder or deny a license to
2 an applicant if, after hearing, it finds that the person:

3

4 (i) Is guilty of fraud or deceit in procuring or
5 attempting to procure a license or renewal of license to
6 practice respiratory care;

7

8 (ii) Is unfit or incompetent by reason of
9 negligence, habits or other causes of incompetency as
10 defined in the rules and regulations promulgated by the
11 board;

12

13 (iii) Is addicted to a drug or intoxicant to a
14 degree to render the licensee unsafe or unfit to practice
15 respiratory care;

16

17 (iv) Is guilty of unprofessional conduct as
18 defined by the rules established by the board, or has
19 violated the code of ethics adopted and published by the
20 board;

21

22 (v) Has practiced respiratory care after his
23 license or permit has expired or has been suspended;

24

1 (vi) Has practiced respiratory care under cover
2 of any permit or license illegally or fraudulently obtained
3 or issued;

4

5 (vii) Has violated or aided or abetted others in
6 violation of any provision of this act.

7

8 (b) Upon receipt from the department of family
9 services of a certified copy of an order from a court to
10 withhold, suspend or otherwise restrict a license issued by
11 the board, the board shall notify the party named in the
12 court order of the withholding, suspension or restriction
13 of the license in accordance with the terms of the court
14 order.

15

16 **33-42-116. Board hearings; investigations.**

17

18 (a) Upon filing of written complaint with the board,
19 charging a person with having been guilty of any of the
20 acts described in W.S. 33-42-115, the administrative
21 secretary, or other authorized employee of the board shall
22 make an investigation. If the board finds reasonable
23 grounds for the complaint, a time and place for a hearing
24 shall be set, notice of which shall be served on the

1 licensee, permit holder or applicant at least fifteen (15)
2 calendar days prior thereto. The notice shall be by
3 personal service or by certified or registered mail sent to
4 the last known address of the person.

5

6 (b) The board may issue subpoenas for the attendance
7 of witnesses and the production of necessary evidence in
8 any hearing before it. Upon request of the respondent or
9 his counsel, the board shall issue subpoenas on behalf of
10 the respondent.

11

12 (c) Unless otherwise provided in this act, hearing
13 procedures shall be promulgated in accordance with, and a
14 person aggrieved by a decision of the board may take an
15 appeal pursuant to, the Wyoming Administrative Procedure
16 Act.

17

18 **33-42-117. Exceptions.**

19

20 (a) No person shall practice respiratory care or
21 represent himself to be a respiratory care practitioner
22 unless he is licensed under this act, except as otherwise
23 provided by this act.

24

1 (b) This act does not prohibit:

2

3 (i) The practice of respiratory care which is an
4 integral part of the program of study by students enrolled
5 in a respiratory care education program recognized by the
6 committee on accreditation for respiratory care (CoARC) or
7 its successor. Students enrolled in a respiratory therapy
8 care education program shall be identified as "student-
9 respiratory care practitioner" and shall only provide
10 respiratory care under direct clinical supervision;

11

12 (ii) Self-care by a patient, or gratuitous care
13 by a friend or family member who does not represent or hold
14 himself out to be a respiratory care practitioner;

15

16 (iii) Respiratory care services rendered in the
17 course of an emergency;

18

19 (iv) Respiratory care rendered by persons in the
20 military services or working in federal facilities when
21 functioning in the course of their assigned duties;

22

23 (v) The respiratory care practitioner from
24 performing advances in the art and techniques of

1 respiratory care learned through formalized or specialized
2 training;

3

4 (vi) An individual, other than a respiratory
5 care practitioner, employed by a home medical equipment
6 company, from installing and maintaining home respiratory
7 equipment, provided he does not perform patient assessment
8 or patient care relating to home respiratory care.

9

10 (c) Nothing in this act is intended to limit,
11 preclude or otherwise interfere with the practices of other
12 persons and health providers licensed by appropriate
13 agencies of the state of Wyoming.

14

15 (d) An individual who, by passing an examination
16 which includes content in one (1) or more of the functions
17 included in this act, offered by a testing body certified
18 by the national commission for health certifying agencies
19 or its equivalent, shall not be prohibited from performing
20 procedures for which they were tested.

21

22 (e) Nothing in this act shall be construed to permit
23 the practice of medicine.

24

1 **33-42-118. Offenses.**

2

3 (a) It is a violation of this act for any person to:

4

5 (i) Sell, fraudulently obtain or furnish any
6 respiratory care permit, license or record, or aid or abet
7 therein;

8

9 (ii) Practice respiratory care under cover of
10 any respiratory care diploma, permit, license or record
11 illegally or fraudulently obtained or issued;

12

13 (iii) Practice respiratory care unless duly
14 licensed or otherwise authorized to do so under the
15 provisions of this act;

16

17 (iv) Impersonate in any manner or pretend to be
18 a respiratory care practitioner or use the title, "licensed
19 respiratory care practitioner," the letters, "L.R.C.P.," or
20 any other words, letters, signs, symbols or devices to
21 indicate the person using them is a licensed respiratory
22 care practitioner, unless duly authorized by license or
23 permit to perform under the provisions of this act;

24

1 (v) Practice respiratory care during the time
2 his license or permit is suspended, revoked or expired;

3

4 (vi) Fail to notify the board of the suspension,
5 probation or revocation of any past or currently held
6 licenses, certifications or registrations required to
7 practice respiratory care in this or any other
8 jurisdiction;

9

10 (vii) Knowingly employ unlicensed persons in the
11 practice of respiratory care in the capacity of a
12 respiratory care practitioner;

13

14 (viii) Make false representations or impersonate
15 or act as a proxy for another person or allow or aid any
16 person to impersonate him in connection with any
17 examination for licensing or request to be examined or
18 licensed;

19

20 (ix) Otherwise violate any provision of this
21 act.

22

23 (b) Any violation of this act is a misdemeanor and
24 upon conviction shall be punishable by a fine of not more

1 than one thousand dollars (\$1,000.00), imprisonment for not
2 more than six (6) months, or both fine and imprisonment for
3 each offense.

4

5 **Section 2.** This act is effective July 1, 2003.

6

7

(END)