GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 71
Feb 6, 2025
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10041-NB-42

Short Title:	Respiratory Care Modernization Act.	(Public)
Sponsors:	Representative Moss.	
Referred to:		

A BILL TO BE ENTITLED

AN ACT TO UPDATE THE GENERAL STATUTES OF NORTH CAROLINA GOVERNING THE PRACTICE OF RESPIRATORY CARE TO BETTER REFLECT THE CHANGES IN EDUCATION, EXPERIENCE, AND PRACTICE OF THE PROFESSION IN ORDER TO ENHANCE THE HEALTH AND WELFARE OF NORTH CAROLINA CITIZENS.

Whereas, it is the intention of the North Carolina General Assembly to promote the health and welfare of the citizens of this State; and

Whereas, the COVID-19 pandemic has placed increasing demands on all health care professionals; and

Whereas, it is the intention of the North Carolina General Assembly that statutes governing the profession of respiratory care reflect current practices, improvements, and other developments that have occurred in the profession; and

Whereas, the current statutory language does not fully encompass current practices, improvements, and other developments; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Article 38 of Chapter 90 of the General Statutes reads as rewritten:

"Article 38.

"Respiratory Care Practice Act.

…

"**§ 90-648. Definitions.**

The following definitions apply in this Article:

(1) Advanced respiratory care practitioner (ARCP). – A person licensed in this State who has gained additional specialized knowledge, skills, and experience through a postgraduate advanced practice respiratory therapy program of study as defined by the Board and is authorized to perform advanced respiratory therapy practices under the supervision of a physician licensed to practice medicine in accordance with Article 1 of this Chapter.

(1a) Advanced respiratory care procedures. – Procedures that require additional competency training in accordance with rules adopted by the Board.

~~(1)~~(1b) Board. – The North Carolina Respiratory Care Board.

(2) Diagnostic testing. – Cardiopulmonary procedures and tests performed on the written order of a physician licensed under Article 1 of this Chapter that provide information to the physician to formulate a diagnosis of the patient's condition. The tests and procedures may include pulmonary function testing, electrocardiograph testing, cardiac stress testing, and sleep related testing.

(3) Direct supervision. – The authority and responsibility to direct the performance of activities as established by policies and procedures for safe and appropriate completion of services.

(3a) Endorsement. – A designation issued by the Board recognizing the person named on the endorsement as having met the requirements to perform advanced respiratory care procedures as defined by rules adopted by the Board.

(4) Individual. – A human being.

(4a) Invasive diagnostic and therapeutic procedure. – Any test or treatment that uses instruments to cut, puncture, or otherwise enter the body.

(5) License. – A certificate issued by the Board recognizing the person named therein as having met the requirements to practice respiratory care as defined in this ~~Article.~~Article as a respiratory care practitioner or advanced respiratory care practitioner.

(6) Licensee. – A person who has been issued a license under this Article.

(7) Medical director. – An appointed physician who is licensed under Article 1 of this Chapter and a member of the entity's medical staff, and who is granted the authority and responsibility for assuring and establishing policies and procedures and that the provision of such is provided to the quality, safety, and appropriateness standards as recognized within the defined scope of practice for the entity.

(8) Person. – An individual, corporation, partnership, association, unit of government, or other legal entity.

(9) Physician. – ~~A doctor of medicine~~ An individual licensed to practice medicine by the State of North Carolina in accordance with Article 1 of this Chapter.

(9a) Practice of advanced practice respiratory therapy. – The scope of practice as determined by the supervising physician at the practice level in any health care setting authorized by the supervising physician and the Board. It shall not include (i) medical diagnosis; (ii) prescribing; (iii) interpretation of medical diagnostic imaging studies; (iv) final interpretation of sleep studies or pulmonary function tests; (v) surgery; (vi) delivery of anesthesia; and (vii) ordering or performing diagnostic and therapeutic procedures that are more than minimally invasive and have known complications that involve serious injury and death, unless a physician is physically present to supervise the advanced practice respiratory care therapist or the procedure is provided pursuant to subdivision (10) of this section. The advanced respiratory care practitioner may perform acts, tasks, or functions in any health care setting for which the physician is responsible, and which are as follows:

a. Related to the care of persons with problems affecting the cardiovascular and cardiopulmonary systems.

b. Delegated by a supervising physician.

c. Appropriate to the advanced respiratory care practitioner's education, training, experience, and level of competence.

(10) Practice of respiratory care. – As defined by the written order of a physician licensed under Article 1 of this ~~Chapter,~~ Chapter for respiratory care practitioners, the observing and monitoring of signs and symptoms, general behavior, and general physical response to respiratory care treatment and diagnostic testing, including the determination of whether such signs, symptoms, reactions, behavior, or general response exhibit abnormal characteristics, and the performance of diagnostic testing and therapeutic application of:

a. Medical gases, humidity, and aerosols including the ~~maintenance~~ use of associated ~~apparatus,~~ respiratory care equipment, except for the purpose of anesthesia.
b. Pharmacologic agents related to respiratory care procedures, including those agents necessary to perform hemodynamic monitoring.
c. Mechanical or physiological ventilatory support.
d. Cardiopulmonary resuscitation and maintenance of natural airways, the insertion and maintenance of artificial airways under the direct supervision of a recognized medical director in a health care environment which identifies these services within the scope of practice by the facility's governing board.
e. Hyperbaric oxygen therapy.
f. New and innovative respiratory care and related support activities in appropriately identified environments and under the training and practice guidelines established by the American Association of Respiratory Care.

The term also means the interpretation and implementation of a physician's written or verbal order pertaining to the acts described in this subdivision.

(11) Respiratory care. – As defined by the written order of a physician licensed under Article 1 of Chapter 90, the treatment, management, diagnostic testing, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system.

(12) Respiratory care practitioner. – A person who has been licensed by the Board to engage in the practice of respiratory care.

(12a) Serious injury. – An injury that creates a substantial risk of impairment of any bodily function that requires immediate medical attention or hospitalization.

(12b) Supervising physician. – A physician with the competencies and authority to supervise advanced respiratory care practitioners.

(13) Support activities. – ~~Procedures~~ Tasks that do not require formal academic training, including the delivery, setup, and routine maintenance and repair of ~~apparatus.~~ respiratory care equipment. The term also includes giving instructions on the use, fitting, and application of ~~apparatus,~~ respiratory care equipment but does not include therapeutic evaluation and ~~assessment.~~assessment for an individual patient as defined in rules adopted by the Board.

"**§ 90-649. North Carolina Respiratory Care Board; creation.**

(a) The North Carolina Respiratory Care Board is created. The Board shall consist of 10 members as follows:

(1) Two members shall be respiratory care practitioners.
(2) Four members shall be physicians licensed to practice in North Carolina, and whose primary practice is Pulmonology, Anesthesiology, Critical Care Medicine, or whose specialty is Cardiothoracic Disorders.
(3) One member shall represent the North Carolina Hospital Association.
(4) One ~~member~~ member, who is a resident of this State, shall represent the ~~North Carolina Association of~~ Atlantic Coast Medical Equipment ~~Services.~~Services Association.
(5) Two members shall represent the public at large.

…

"**§ 90-650. Appointments and removal of Board members; terms and compensation.**

(a) The members of the Board shall be appointed as follows:

…

(7) The ~~North Carolina Association of~~ Atlantic Coast Medical Equipment Services Association shall appoint the member described in G.S. 90-649(a)(4).

…

"**§ 90-652. Powers and duties of the Board.**

The Board shall have the power and duty to:

(1) Determine the qualifications and fitness of applicants for licensure, renewal of licensure, and reciprocal licensure. The Board shall, in its discretion, investigate the background of an applicant to determine the applicant's qualifications with due regard given to the applicant's competency, honesty, truthfulness, and integrity. The State Bureau of Investigation may provide a criminal record check to the Board for a person who has applied for a license through the Board. The Board shall provide to the State Bureau of Investigation, along with the request, the fingerprints of the applicant, any additional information required by the State Bureau of ~~Investigation, and a form signed by the applicant consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories.~~ Investigation. The applicant's fingerprints shall be used by the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Board shall keep all information pursuant to this subdivision privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes. The Board shall collect any fees required by the State Bureau of Investigation and shall remit the fees to the State Bureau of Investigation for expenses associated with conducting the criminal history record check.

…

(14) Establish and adopt rules defining the education and credential requirements for persons seeking endorsement under this Article.

"**§ 90-653. Licensure requirements; examination.**

(a) Each applicant for ~~licensure~~ a respiratory care practitioner license under this Article shall ~~meet the following requirements:~~do all of the following:

(1) Submit a completed application as required by the ~~Board.~~Board, which shall include a form signed by the applicant consenting to the check of the applicant's criminal record and to the use of the applicant's fingerprints and other identifying information required by the State and national repositories.

(2) Submit any fees required by the Board.

(3) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the ~~minimal~~ entry-level degree requirements of a respiratory care education program as approved by the Commission ~~for Accreditation of Allied Health Educational Programs, or the Canadian Council on~~ on Accreditation for Respiratory ~~Therapy Education.~~Care (CoARC) or its successor by arranging for the applicant's respiratory care education program to submit an official transcript confirming successful completion of the respiratory care education program directly to the Board.

(4) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements for Basic Cardiac Life

Support as recognized by the American Heart Association, the American Red Cross, or the American Safety and Health Institute.

(5) ~~Pass~~ Submit to the Board written evidence, verified by oath, that the ~~entry-level~~ applicant passed the examination requirements as defined by the rules adopted by the Board given by the National Board for Respiratory Care, ~~Inc.~~Inc., or its successor, for entry-level respiratory care practitioners.

~~(b) At least three times each year, the Board shall cause the examination required in subdivision (5) of subsection (a) of this section to be given to applicants at a time and place to be announced by the Board. Any applicant who fails to pass the first examination may take additional examinations in accordance with rules adopted pursuant to this Article.~~

(c) Each applicant for an advanced respiratory care practitioner license under this Article shall do all of the following:

(1) Submit a completed application as required by the Board, including a form signed by the applicant consenting to the check of the applicant's criminal record and to the use of the applicant's fingerprints and other identifying information required by the State and national repositories.

(2) Submit any fees required by the Board.

(3) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the postgraduate degree requirements of respiratory care education for the advanced practice respiratory therapist as approved by the Commission on Accreditation for Respiratory Care (CoARC) or its successor by arranging for the applicant's respiratory care education program to submit an official transcript confirming successful completion of the advanced respiratory care education program directly to the Board.

(4) Submit to the Board written evidence, verified by oath, that the applicant has successfully completed the minimal requirements for Basic Cardiac Life Support as recognized by the American Heart Association, the American Red Cross, and the American Safety and Health Institute.

(5) Submit to the Board written evidence, verified by oath, that the applicant passed the examination requirements as defined by Board rules pursuant to this Article given by the National Board for Respiratory Care, Inc., or its successor, for advanced-level respiratory care practitioners and defined by Board rules pursuant to this Article.

(d) When issuing a license, the Board shall state the terms and conditions of use of the license to the licensee.

…

"**§ 90-660. Expenses; fees.**

…

(b) All monies received by the Board pursuant to this Article shall be deposited in an account for the Board and shall be used for the administration and implementation of this Article. The Board shall establish fees in amounts to cover the cost of services rendered for the following purposes:

(1) For an initial application, a fee not to exceed fifty dollars ($50.00).

~~(2) For examination or reexamination, a fee not to exceed two hundred dollars ($200.00).~~

…

~~(6) For a license with a provisional or temporary endorsement, a fee not to exceed fifty dollars ($50.00).~~

…

"**§ 90-661. Requirement of license.**

It shall be unlawful for any person who is not currently licensed under this Article to:

(1) Engage in the practice of respiratory care.
(2) Use the title "respiratory care ~~practitioner".~~practitioner" or "advanced respiratory care practitioner."
(3) Use the letters "RCP", "RTT", "RT", "ARCP", or any facsimile or combination in any words, letters, abbreviations, or insignia.
(4) Imply orally or in writing or indicate in any way that the person is a respiratory care ~~practitioner~~ practitioner, advanced respiratory care practitioner, or is otherwise licensed under this Article.
(5) Employ or solicit for employment unlicensed persons to practice respiratory care.

…

"**§ 90-667. Confidentiality of Board investigative information.**

(a) All records, papers, investigative information, and other documents containing information that the Board, its members, or its employees possess, gather, or receive as a result of investigations, inquiries, assessments, or interviews conducted in connection with a licensing complaint, appeal, assessment, potential impairment matter, or disciplinary matter shall not be considered public records within the meaning of Chapter 132 of the General Statutes and are privileged, confidential, not subject to discovery, subpoena, or any means of legal compulsion for release to anyone other than the Board, its employees, or consultants involved in the application for license, impairment assessment, or discipline of the licensee, except as provided in subsection (b) of this section. For the purposes of this section, "investigative information" means investigative files and reports, information relating to the identity and report of a physician or other professional performing an expert review for the Board, and any of the Board's investigative materials that are not admitted into evidence.

(b) The Board shall provide the licensee or applicant for license access to all information in its possession that the Board intends to offer into evidence at the licensee's or applicant's hearing. The Board shall not be required to produce (i) information subject to attorney-client privilege or (ii) investigative information that the Board will not offer into evidence and is related to advice, opinions, or recommendations of the Board's staff, consultants, or agents.

(c) Any licensee's notice of statement of charges, notice of hearing, and all information contained in those documents shall be public records under Chapter 132 of the General Statutes.

(d) If the Board, its employees, or its agents possess investigative information indicating a crime may have been committed, the Board may report the information to the appropriate law enforcement agency or district attorney of the district in which the offense was committed. The Board shall cooperate with and assist any law enforcement agency or district attorney conducting a criminal investigation or prosecution of a licensee by providing relevant information. This information shall be confidential under G.S. 132-1.4 and shall remain confidential after disclosure to a law enforcement agency or district attorney.

(e) All licensees shall self-report to the Board any of the following within 30 days of their arrest or indictment:

(1) Any felony or arrest or indictment.
(2) Any arrest for driving while impaired or driving under the influence.
(3) Any arrest or indictment for the possession, use, or sale of any controlled substance.

(f) The Board, its members, or its staff may release confidential information concerning the denial, annulment, suspension, or revocation of a license to any other health care licensing board in this State, other state, or country, or authorized Department of Health and Human Services personnel who are charged with the enforcement or investigative responsibilities of licensure. If the Board releases this confidential information, the Board shall notify and provide a summary of the information to the licensee within 60 days after the information is transmitted. The licensee may make a written request that the Board provide the licensee a copy of all

information transmitted within 30 days of receiving notice of the initial transmittance. The Board shall not provide the information if the information relates to an ongoing criminal investigation by any law enforcement agency or authorized Department of Health and Human Services personnel with enforcement or investigative responsibilities.

(g) Notwithstanding the provisions of this section, the Board shall withhold the identity of a patient, including information relating to dates and places of treatment, or any other information that would tend to identify the patient, in any proceeding, record of a hearing, and in the notice of charges against any licensee, unless the patient or the patient's representative expressly consents to the public disclosure.

"**§ 90-668. Limitations on advanced respiratory care practitioners.**

(a) Individuals who are licensed under this Article as advanced respiratory care practitioners may use the title "advanced respiratory care practitioner." Individuals who hold themselves out as advanced respiratory care practitioners without being licensed are in violation of this Article.

(b) Individuals who are licensed under this Article as advanced respiratory care practitioners may practice advanced respiratory care under the supervision of a physician licensed under Article 1 of this Chapter and within the scope of rules adopted by the Board."

SECTION 2. The North Carolina Respiratory Care Board shall adopt rules to implement and administer the provisions of this act no later than October 1, 2025.

SECTION 3. Section 1 of this act becomes effective on October 1, 2025. Except as otherwise provided, this act is effective when it becomes law.