

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1984 to June 20, 1985

Chapters 1-384

PUBLISHED BY THE REVISOR OF STATUTES IN ACCORDANCE WITH
MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 163-A,
SUBSECTION 4.

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PUBLIC LAWS
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projects for certification of administrators. The commissioner may use the school based innovative grants established in the Maine Revised Statutes, Title 20-A, section 17103, for those projects and waive the local match requirement established in the Maine Revised Statutes, Title 20-A, section 4254 for those projects. At least 2 of the projects given such a waiver will include the study of the mentor concept or the development of administrator action plans for certification and recertification of administrators. The study required by Public Law 1983, chapter 845, to be conducted by the commissioner and the state board and the report required of the state board shall also include consideration of administrator certification. The study required by Public Law 1983, chapter 845, to be conducted by the joint standing committee of the Legislature having jurisdiction over education shall also include administrator certification.

Sec. 8. Effective date. Section 2 of this Act shall be effective July 1, 1988.

Effective September 19, 1985, unless otherwise indicated.

CHAPTER 288

S.P. 591 - L.D. 1554

AN ACT to License Respiratory Care Practitioners.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §12004, sub-§1, ¶A, sub-¶33-A is enacted to read:

(33-A) Board of Respiratory Care Practitioners \$35/Day 32 MRSA §9703

Sec. 2. 10 MRSA §8001, as amended by PL 1983, c. 746, §1 and c. 758, §1, is repealed and the following enacted in its place:

§8001. Department; agencies within department

There is created and established the Department of Business, Occupational and Professional Regula-

tion, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, commercial sports, grantors of consumer credit and to license and regulate professions and occupations. The department shall be composed of the following bureaus, boards and commissions:

Banking, Bureau of;

Consumer Credit Protection, Bureau of;

Insurance, Bureau of;

Athletic Commission, Maine;

Penobscot Bay and River Pilotage Commission;

Real Estate Commission;

Running Horse Racing Commission, State;

Arborist Examining Board;

Auctioneers Advisory Board;

Commercial Driver Education, Board of;

Electricians' Examining Board;

Foresters, State Board of Registration for Professional;

Funeral Service, State Board of;

Geologists and Soil Scientists, State Board of Certification for;

Hearing Aid Dealers and Fitters, Board of;

Manufactured Housing Board;

Occupational Therapy Practice, Board of;

Oil and Solid Fuel Board;

Physical Therapy, Board of Examiners in;

Plumbers' Examining Board;

Psychologists, State Board of Examiners of;

Respiratory Care Practitioners, Board of;

Social Worker Registration, State Board of;

Speech Pathology and Audiology, Board of Examiners on; and

Substance Abuse Counselors, Board of Registration of.

Sec. 3. 32 MRSA c. 97 is enacted to read:

CHAPTER 97

RESPIRATORY CARE PRACTITIONERS

§9701. Declaration of purpose

In order to safeguard the public health, safety and welfare, to protect the public from incompetent and unauthorized persons; to assure the highest degree of professional conduct on the part of respiratory care practitioners; and to assure the availability of respiratory care services of high quality to persons in need of those services, it is the purpose of this chapter to provide for the regulation of persons offering respiratory care services.

§9702. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Board. "Board" means the Board of Respiratory Care Practitioners established under this chapter.

2. Commissioner. "Commissioner" means the Commissioner of Business, Occupational and Professional Regulation.

3. Department. "Department" means the Department of Business, Occupational and Professional Regulation.

4. Person. "Person" means any individual, partnership, unincorporated organization or corporation.

5. Respiratory care. "Respiratory care" means the therapy, management, rehabilitation, diagnostic evaluation and care, administered on the order of a physician or surgeon, of patients with deficiencies and abnormalities affecting the cardiopulmonary system and associated aspects of other bodily systems, including, but not limited to, the following:

A. Direct and indirect pulmonary care services that are of comfort, safe, aseptic, preventative and restorative care to the patient;

B. Direct and indirect respiratory care services including, but not limited to, the administration of pharmacological, diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative or diagnostic regimen prescribed by a physician;

C. Observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether those signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics;

D. Implementation based on observed abnormalities, appropriate reporting, referral, respiratory care protocols or changes in treatment, pursuant to a prescription by a person authorized to prescribe respiratory care or the initiation of emergency procedures; and

E. Diagnostic and therapeutic use of the following:

(1) Administration of medical gases, aerosols and humidification;

(2) Environmental control mechanisms and baromedical therapy;

(3) Pharmacological agents related to respiratory care procedures;

(4) Mechanical or physiological ventilatory support;

(5) Bronchopulmonary hygiene;

(6) Cardiopulmonary resuscitation;

(7) Maintenance of natural airways;

(8) Insertion and maintenance of artificial airways;

(9) Specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring,

treatment and research of pulmonary abnormalities, including measurement of ventilatory volumes, pressures and flows, collection of specimens of blood and collection of specimens from the respiratory tract;

(10) Analysis of blood gases and respiratory secretions and pulmonary function testing; and

(11) Hemodynamic and physiologic measurement and monitoring of cardiac functions as it relates to cardiopulmonary pathophysiology.

F. Initial and follow-up instruction and patient evaluation in a nonhospital setting for the diagnostic and therapeutic uses described in paragraph E.

"Respiratory care" includes the terms "respiratory therapy" or "inhalation therapy."

6. Respiratory care practitioner. "Respiratory care practitioner" means a person licensed as a respiratory therapist or as a respiratory care technician under this chapter.

§9703. Board of respiratory care practitioners; establishment; compensation

1. Establishment and membership. There is established within the Department of Business, Occupational and Professional Regulation, in accordance with Title 5, section 12004, subsection 1, a Board of Respiratory Care Practitioners. The board shall consist of 5 members appointed by the Governor as follows:

A. Three respiratory care practitioners who have been engaged in the practice of respiratory care for at least 2 years immediately preceding their appointments and who shall be at all times holders of valid licenses for the practice of respiratory care in the State, except for the members of the first board, each of whom shall fulfill the requirements for licensure of this chapter; and

B. Two public members who are residents of the State, who do not hold a license to practice respiratory care, and who have no direct or indirect

financial interest in the practice or delivery of respiratory care.

2. Terms of appointment. To the first board established under this chapter, the Governor shall appoint 2 board members for a term of one year, 2 for a term of 2 years and one for a term of 3 years. Appointments made thereafter shall be for 3-year terms, but no person may be appointed to serve more than 3 consecutive terms, provided that, for this purpose only, a period actually served which exceeds 1/2 of a 3-year term shall be deemed a full term. Any member of the board may be removed from office for cause by the Governor.

3. Meetings. The board shall meet at least once a year to conduct its business and to elect a chairman. Additional meetings shall be held as necessary to conduct the business of the board and may be convened at the call of the chairman or a majority of the board members. Three members of the board shall constitute a quorum for all purposes.

4. Compensation. Members of the board shall receive compensation and expenses as provided in Title 5, section 12004, subsection 1, paragraph A.

§9704. Board of Respiratory Care Practitioners; powers and duties

1. Powers. The board shall administer and enforce this chapter and evaluate the qualifications of applicants for licensure. The board may issue subpoenas, examine witnesses, administer oaths and may investigate or cause to be investigated any complaints made to it or any cases of noncompliance with or violation of this chapter.

2. Rules. The board may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, adopt rules to carry out the policy of this chapter, including, but not limited to, rules relating to professional licensure, professional conduct, continuing education and to the establishment of ethical standards of practice for persons holding a license to practice respiratory care in this State.

3. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter. Hearings shall be conducted in accordance

with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable.

4. Records. The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

5. Contracts. The board may enter into contracts to carry out its responsibilities under this chapter.

6. Reports. No later than August 1st of each year, the board shall submit to the commissioner, for the preceding fiscal year, its annual report of its operations, together with such comments and recommendations as the commissioner deems essential.

7. Employees. With the advice of the board, the commissioner may appoint, subject to the Personnel Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the department and under the administrative and supervisory direction of the commissioner.

8. Budget. The board shall submit to the commissioner its budgetary requirements in the same manner as is provided in Title 5, section 1665.

§9705. License required

1. License required. After January 1, 1987, no person may practice, or hold himself out as authorized to practice, as a respiratory care practitioner in this State or use the words "respiratory care practitioner" or other words or letters to indicate that the person is a licensed respiratory care practitioner, unless he is licensed in accordance with this chapter.

2. Individual license. Only an individual may be licensed under this chapter.

3. Penalty; injunction. A person who violates this section is guilty of a Class E crime.

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

§9706. Persons and practices exempt

Nothing in this chapter may be construed as preventing or restricting the practice, services or activities of:

1. Licensed persons. Any person licensed or registered in this State by any other law from engaging in the profession or occupation for which he is licensed or registered;

2. Students or trainees. Any person pursuing a supervised course of study leading to a degree or certificate as a respiratory care practitioner at an educational institution accredited by the American Medical Association's Committee on Allied Health Educational Accreditation, if the person is designated by a title which clearly indicates his status as a student or trainee;

3. Associates. Any person performing respiratory care services in the State, if these services are performed for no more than 30 days in a calendar year and are rendered in association with a respiratory care practitioner licensed under this chapter, if:

A. The associate is licensed under the law of another state which has licensure requirements equivalent to the requirements of this chapter; or

B. The associate is certified as a respiratory therapist or a respiratory therapy technician by the Joint Review Committee for Respiratory Therapy Education, in collaboration with the American Medical Association's Committee on Allied Health Education and Accreditation, and resides in a nonlicensure state;

4. Gratuitous care. Family members, friends and others who give gratuitous care to a patient and do not hold themselves out as respiratory care practitioners;

5. Self care. Persons who administer respiratory care to themselves; or

6. Emergency. Persons who administer respiratory assistance in case of an emergency.

§9707. Temporary license

A temporary license may be granted to a person who has completed the education requirements of this chapter. This license allows the holder to practice

respiratory care under the direct supervision of a licensed respiratory care practitioner. This license shall be issued for a term of one year and may not be renewed.

§9708. Requirements for licensure; levels of licensure

An applicant applying for a license as a respiratory care practitioner shall file a written application provided by the board, showing to the satisfaction of the board that he meets the following requirements.

1. Residence. An applicant need not be a resident of this State.

2. Ethical practice. An applicant shall exhibit adherence to established ethical professional standards.

3. Education and qualifications. An applicant shall present evidence satisfactory to the board that:

A. For a license as a respiratory therapist:

(1) The applicant is presently credentialed by the National Board for Respiratory Care as a registered respiratory therapist; or

(2) The applicant:

(a) Is a graduate of an educational program for respiratory therapists which is recognized by the board and accredited by the American Medical Association in collaboration with the Joint Review Committee for Respiratory Therapy Education; and

(b) Has passed an examination as provided for in section 9709; or

B. For a license as a respiratory care technician:

(1) The applicant is presently credentialed by the National Board for Respiratory Care as a certified respiratory therapy technician; or

(2) The applicant:

(a) Is a graduate of an educational program for respiratory therapists or respiratory care technicians which is recognized by the board and accredited by the American Medical Association in collaboration with the Joint Review Committee for Respiratory Therapy Education; and

(b) Has passed an examination as provided for in section 9709.

§9709. Examination for licensure

1. Requirements. Only a person satisfying the requirements of this chapter may apply for examination in such a manner as the board prescribes.

2. Content. Written examinations shall be designed or adopted by the board and shall test the applicant's knowledge of the basic and clinical sciences relating to respiratory care, respiratory care techniques and methods and such other subjects as the board may include to determine the applicant's fitness to practice.

3. Time and place. Examinations shall be given at least twice each year at such places as the board determines. The board shall give reasonable public notice of these examinations in accordance with its rules.

§9710. Fees

1. Amount. Application and examination fees may be established by the board in amounts which are reasonable and necessary for their respective purposes. License fees may not exceed the following amounts:

A. For an original respiratory care practitioner's license, \$80;

B. For a renewal respiratory care practitioner's license, \$40; and

C. For a temporary license, \$40.

2. Deposit of fees. All fees received by the board shall be paid to the Treasurer of State to be used for carrying out this chapter. Any balance of fees shall not lapse, but shall be carried forward as

a continuing account to be expended for the same purposes in the following fiscal years.

§9711. Issuance of license

The board shall issue a license to any person who meets the requirements of this chapter upon payment of the prescribed license fee.

§9712. Term of licenses

1. Annual renewal. Licenses shall expire annually on December 31st or on such other date as the commissioner determines. Notice of expiration shall be mailed to each licensee's last known address at least 30 days in advance of the expiration of his license. The notice shall include any requests for information necessary for renewal.

Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license renewal date shall be subject to all requirements governing new applicants under this chapter, except that the board may, giving due consideration to the protection of the public, waive examination if that renewal application is made within 2 years from the date of that expiration.

2. Continuing education. Each license renewal shall be accompanied by evidence of continuing education or other requirements as determined by the board.

§9713. Disciplinary actions

1. Complaints. The board may order an investigation of a complaint on its own motion or on written complaint filed with the board regarding noncompliance with or violation of any section of this chapter or of any rules adopted by the board.

2. Disciplinary actions; grounds. The board may suspend or revoke a license pursuant to Title 5, section 10004. The board may refuse to issue or renew or the Administrative Court may revoke, suspend or refuse to renew any license issued under this chapter on any of the following grounds:

A. The practice of any fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;

B. Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice of respiratory care;

C. Subject to the limitations of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the licensee is licensed or conviction of any crime for which imprisonment for one year or more may be imposed;
or

D. Any violation of this chapter or rules adopted by the board.

Effective September 19, 1985.

CHAPTER 289

S.P. 594 - L.D. 1559

AN ACT Relating to Collective Bargaining over
the Compensation System for State
Employees.

Be it enacted by the People of the State of Maine as follows:

26 MRSA §979-D, sub-§1, ¶¶C, D and E, as enacted by PL 1973, c. 774, are amended to read:

C. To execute in writing any agreements arrived at, the term of any such agreement to be subject to negotiation but shall not exceed 2 years; and

D. To participate in good faith in the mediation, fact finding and arbitration procedures required by this section; and

E. To confer and negotiate in good faith:

(1) To confer and negotiate in good faith with respect to wages, hours, working conditions and contract grievance arbitration, except that by such obligation neither party shall be compelled to agree to a proposal or be required to make a concession. All matters relating to the relationship between