

ENROLLED ACT NO. 87, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING  
2003 GENERAL SESSION

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

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

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

CHAPTER 42  
RESPIRATORY CARE PRACTITIONERS

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

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

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

(a) As used in this chapter:

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

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

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

(B) Hyperbaric therapy;

(C) Pharmacologic agents related to respiratory care procedures;

(D) Mechanical or physiological ventilatory support;

(E) Bronchopulmonary hygiene;

(F) Cardiopulmonary resuscitation;

(G) Maintenance of the natural airway;

(H) Insertion and maintenance of artificial airways;

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

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

(M) Respiratory care telecommunications;

(N) Cardiopulmonary disease management;

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(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:

(A) Direct and indirect respiratory care services, including 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 or other authorized health care professional;

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

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

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(D) Implementation, based on observed abnormalities, of appropriate reporting, referral, respiratory care protocols or changes in treatment, pursuant to a prescription by a person authorized to practice medicine under the laws of the state of Wyoming;

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

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

(v) "Respiratory care" means the allied health profession responsible for the treatment, management, diagnostic testing and control of patients with deficiencies and abnormalities associated with the cardiopulmonary systems under the supervision of a qualified medical director and includes the terms "inhalation therapy" and "respiratory therapy";

(vi) "Respiratory care practitioner" means:

(A) A person employed in the practice of respiratory care who has the knowledge and skill necessary

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to administer respiratory care as defined in paragraphs (ii) and (iii) of this subsection;

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

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

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

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

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

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

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(b) The governor shall appoint the members of the board. Of the initial members appointed to the board, the physician member and the public member shall be appointed for terms as specified in paragraphs (i) and (iii) of this subsection, and one (1) respiratory care practitioner shall be appointed for a term of three (3) years, one (1) respiratory care practitioner shall be appointed for a term of two (2) years and one (1) respiratory care practitioner shall be appointed for a term of one (1) year. Thereafter, the terms of office of the members appointed shall be for the following periods:

- (i) Physician member, three (3) years;
- (ii) Respiratory care practitioner members, three (3) years each;
- (iii) Public member, three (3) years.

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

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

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

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

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

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

(a) The board shall:

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

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

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

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

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

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

(a) The board may:

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(i) In accordance with the Wyoming Administrative Procedure Act, adopt rules and regulations not inconsistent with the law as may be necessary to enable it to carry into effect the provisions of this act;

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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(c) Applicants applying for licensure under subsection (b) of this section shall be required to certify under oath that their credentials have not been suspended or revoked.

(d) Pursuant to rule and regulation, the board may grant a license to an applicant under this section based upon written evidence, verified by oath, of previous practical experience in the capacity of a respiratory care practitioner submitted by the applicant under this section.

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

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

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

Upon payment of a fee set by the board in accordance with W.S. 33-1-201, the board may issue a temporary permit to practice respiratory care for a period of six (6) months to an applicant for licensing, pending compliance with the requirements for licensing, providing the applicant shows written evidence, verified by oath, that the applicant is currently practicing, or has within the last six (6) months practiced respiratory care in another state, territory or country and was licensed to practice respiratory care in that state or is a student in a committee on accreditation for respiratory care (CoARC) approved respiratory care education program who expects to graduate within the next

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

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

The board shall issue a license to perform respiratory care to an applicant, who, prior to July 1, 2003, has passed the entry level or advanced practitioner examinations administered by the national board for respiratory care or its equivalent. Other applicants who are not students in a respiratory care education program and have not passed either of the examinations under this section or their equivalents prior to July 1, 2003, and who through written evidence, verified by oath, demonstrate that they are presently functioning in the capacity of a respiratory care practitioner as defined by this act, shall be given a temporary license to practice respiratory care for a period up to five (5) years commencing July 1, 2003. The applicants shall pass the licensure examination administered by the board during the five (5) year period in order to be issued a license to practice respiratory care.

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

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

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

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

(a) A license shall be renewed annually except as hereafter provided. The board shall mail notices and applications for renewal at least sixty (60) calendar days prior to expiration for renewal of licenses to every person to whom a license was issued or renewed during the preceding renewal period. The licensee shall complete the application for renewal and return it to the board with the renewal fee set by the board in accordance with W.S. 33-1-201 before the date of expiration.

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

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

(d) A respiratory care practitioner who does not engage in the practice of respiratory care during the succeeding renewal period is not required to pay the

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renewal fee as long as he remains inactive. If he desires to resume the practice of respiratory care, he shall notify the board of his intent and shall satisfy the current requirements of the board in addition to remitting the renewal fee for the current renewal period and the reinstatement fee.

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

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

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

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

(a) The board may revoke, suspend or refuse to renew any license or permit or place on probation, or otherwise reprimand a licensee or permit holder or deny a license to an applicant if, after hearing, it finds that the person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) This act does not prohibit:

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

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

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

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

(v) The respiratory care practitioner from performing advances in the art and techniques of respiratory care learned through formalized or specialized training;

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

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

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

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



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

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

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

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

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

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

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

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

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

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

(ix) Otherwise violate any provision of this act.

(b) Any violation of this act is a misdemeanor and upon conviction shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), imprisonment for not more than six (6) months, or both fine and imprisonment for each offense.

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

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk