

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H

D

HOUSE DRH45086-Luf-77 (4/7)

Short Title: Amend Respiratory Care Practice Act/Fees. (Public)

Sponsors: Representatives Tolson and Nye (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

1 AN ACT AMENDING VARIOUS PROVISIONS UNDER THE RESPIRATORY
2 CARE PRACTICE ACT, AUTHORIZING THE NORTH CAROLINA
3 RESPIRATORY CARE BOARD TO ESTABLISH FEES FOR VERIFICATION
4 OF LICENSURE STATUS AND APPROVAL OF CONTINUING EDUCATION
5 PROGRAMS, AND AUTHORIZING THE BOARD TO ASSESS CIVIL
6 PENALTIES FOR VIOLATIONS OF THE ACT.
7

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 90-652(1) reads as rewritten:

10 "The Board shall have the power and duty to:

- 11 (1) Determine the qualifications and fitness of applicants for licensure,
12 renewal of licensure, and reciprocal licensure. The Board shall, in its
13 discretion, investigate the background of an applicant to determine the
14 applicant's qualifications with due regard given to the applicant's
15 competency, honesty, truthfulness, and integrity."

16 **SECTION 2.** G.S. 90-653(a) reads as rewritten:

17 "(a) Each applicant for licensure under this Article shall meet the following
18 requirements:

- 19 (1) Submit a completed application as required by the Board.
20 (2) Submit any fees required by the Board.
21 (3) Submit to the Board written evidence, verified by oath, that the
22 applicant has successfully completed the minimal requirements of a
23 respiratory care education program ~~as approved by the Commission for~~
24 ~~Accreditation of Allied Health Educational Programs~~ approved by the
25 Board.
26 (4) Submit to the Board written evidence, verified by oath, that the
27 applicant has successfully completed the minimal requirements for

1 Basic Cardiac Life Support as recognized by the American Heart
2 Association Board.

- 3 (5) Pass the entry-level examination given by the National Board for
4 Respiratory Care, Inc."

5 **SECTION 3.** G.S. 90-654 reads as rewritten:

6 "**§ 90-654. Exemption from certain requirements, Temporary license.**

7 (a) ~~The Board may issue a license to an applicant who, as of October 1, 2000, has~~
8 ~~passed the entry level examination given by the National Board for Respiratory Care,~~
9 ~~Inc. An applicant applying for licensure under this subsection shall submit his or her~~
10 ~~application to the Board before October 1, 2002.~~

11 (b) ~~The Board may grant a temporary license to an applicant who, as of October~~
12 ~~1, 2000, does not meet the qualifications of G.S. 90-653 but, through written evidence~~
13 ~~verified by oath, demonstrates that he or she is performing the duties of a respiratory~~
14 ~~care practitioner within the State. The temporary license is valid until October 1, 2002,~~
15 ~~within which time the applicant shall be required to complete the requirements of G.S.~~
16 ~~90-653(a)(5). A license granted under this subsection shall contain an endorsement~~
17 ~~indicating that the license is temporary and shall state the date the license was granted~~
18 ~~and the date it expires.~~

19 Upon application and payment of the required fees, the Board may grant a temporary
20 license to a person who, at the time of application, submits notarized copies of the items
21 required in G.S. 90-653(a)(3) through (a)(5) while awaiting official copies of the items
22 from the issuing agency. The temporary license shall be valid for a period not to exceed
23 90 days from the date of application."

24 **SECTION 4.** G.S. 90-656 reads as rewritten:

25 "**§ 90-656. Provisional license.**

26 The Board may grant a provisional license for a period not exceeding 12 months to
27 any applicant who has successfully completed the education requirements under G.S.
28 90-653(a)(3) and has made application to take the examination required under G.S.
29 90-653(a)(5). A provisional license allows the individual to practice respiratory care
30 under the direct supervision of a respiratory care practitioner and in accordance with
31 rules adopted pursuant to this Article. A license granted under this section shall contain
32 an endorsement indicating that the license is provisional and stating the terms and
33 conditions of its use by the licensee and shall state the date the license was granted and
34 the date it expires."

35 **SECTION 5.** G.S. 90-660(b) reads as rewritten:

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

- 40 (1) For an initial application, a fee not to exceed twenty-five dollars
41 (\$25.00).

- 42 (2) For examination or reexamination, a fee not to exceed two hundred
43 dollars (\$200.00).

- 1 (3) For issuance of any license, a fee not to exceed one hundred dollars
2 (\$100.00).
- 3 (4) For the renewal of any license, a fee not to exceed fifty dollars
4 (\$50.00).
- 5 (5) For the late renewal of any license, an additional late fee not to exceed
6 fifty dollars (\$50.00).
- 7 (6) For a license with a provisional or temporary endorsement, a fee not to
8 exceed thirty-five dollars (\$35.00).
- 9 (7) For official verification of licensure status, a fee not to exceed twenty
10 dollars (\$20.00).
- 11 (8) For approval of continuing education programs, a fee not to exceed
12 one hundred fifty dollars (\$150.00).
- 13 ~~(7)~~(9) For copies of rules adopted pursuant to this Article and licensure
14 standards, charges not exceeding the actual cost of printing and
15 mailing."

16 **SECTION 6.** Article 38 of Chapter 90 of the General Statutes is amended by
17 adding a new section to read:

18 "**§ 90-666. Civil penalties.**

19 (a) Authority To Assess Civil Penalties. – In addition to taking any of the actions
20 permitted under G.S. 90-659, the Board may assess a civil penalty not to exceed one
21 thousand dollars (\$1,000) for the violation of any section of this Article or any rules
22 adopted by the Board. All civil penalties collected by the Board shall be remitted to the
23 General Fund of the State of North Carolina.

24 (b) Consideration Factors. – Before imposing and assessing a civil penalty and
25 fixing the amount of the penalty, the Board shall, as a part of its deliberations, consider
26 the following factors:

- 27 (1) The nature, gravity, and persistence of the particular violation.
- 28 (2) The appropriateness of the imposition of a civil penalty when
29 considered alone or in combination with other punishment.
- 30 (3) Whether the violation was willful and malicious.
- 31 (4) Any other factors that would tend to mitigate or aggravate the
32 violations found to exist.

33 (c) Schedule of Civil Penalties. – The Board shall establish a schedule of civil
34 penalties for violations of this Article. The schedule shall indicate for each type of
35 violation whether the violation can be corrected. Penalties shall be assessed for the first,
36 second, and third violations of specified sections of this Article and for specified rules.

37 (d) Costs. – The Board may, in an action brought under this section or in any
38 other disciplinary proceeding, charge costs, including reasonable attorneys' fees, to the
39 licensee against whom the proceedings were brought."

40 **SECTION 7.** This act is effective when it becomes law.