

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**HOUSE BILL 1257  
Committee Substitute Favorable 6/16/03**

Short Title: Amend Respiratory Care Practice Act/Fees.

(Public)

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Sponsors:

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Referred to:

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April 24, 2003

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, AUTHORIZING THE BOARD TO ASSESS CIVIL PENALTIES  
6 FOR VIOLATIONS OF THE ACT, AND AUTHORIZING ADJUSTMENTS IN  
7 FEES FOR BOARDS TO REFLECT CHANGES IN THE CONSUMER PRICE  
8 INDEX.  
9

10 The General Assembly of North Carolina enacts:

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

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

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

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

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

- 21 (1) Submit a completed application as required by the Board.  
22 (2) Submit any fees required by the Board.  
23 (3) Submit to the Board written evidence, verified by oath, that the  
24 applicant has successfully completed the minimal requirements of a  
25 respiratory care education program ~~as approved by the Commission for~~  
26 ~~Accreditation of Allied Health Educational Programs.~~ approved by the  
27 Board.  
28 (4) Submit to the Board written evidence, verified by oath, that the  
29 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. The clear proceeds of any civil penalty assessed under this  
23 section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with  
24 G.S. 115C-457.2.

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

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

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

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

41 **SECTION 7.** Chapter 93B of the General Statutes is amended by adding a  
42 new section to read:

43 **"§ 93B-17. Fees to be consistent with Consumer Price Index; notice.**

1       (a) When the General Assembly establishes an occupational licensing board, the  
2 General Assembly shall set the fees that may be charged by the board to reflect the  
3 board's anticipated regulatory and operating costs. New occupational licensing boards  
4 and existing occupational licensing boards may increase license fees previously set by  
5 the General Assembly by an amount not to exceed the cumulative amount of the  
6 percentage increase in the Consumer Price Index (CPI) since the fees were last adjusted.  
7 The fee increase may be rounded to the nearest dollar. However, a board shall not set  
8 fees by an amount that exceeds its regulatory and operating costs.

9       (b) Occupational licensing boards shall publish notice of any fee increase in the  
10 North Carolina Register and in a newspaper of general circulation not less than 60 days  
11 before the fee increase becomes effective. Boards shall notify their current members of  
12 any fee increase, by mail, not less than 60 days before the fee increase becomes  
13 effective. Each board shall report annually to the Joint Legislative Commission on  
14 Governmental Operations and the Fiscal Research Division on all fees increased under  
15 this section.

16       (c) This section applies only to the North Carolina Respiratory Care Board."

17       **SECTION 8.** This act is effective when it becomes law.