

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE BILL 1257  
Committee Substitute Favorable 6/16/03  
Senate Health & Human Resources Committee Substitute Adopted 7/15/03  
Corrected Copy 7/16/03

Short Title: Amend Respiratory Care Practice Act/Fees.

(Public)

Sponsors:

Referred to:

April 24, 2003

A BILL TO BE ENTITLED

AN ACT AMENDING VARIOUS PROVISIONS OF THE RESPIRATORY CARE PRACTICE ACT.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 90-649(a)(3) reads as rewritten:

"(3) One member shall represent the ~~NCHA~~, North Carolina Hospital Association."

**SECTION 2.** G.S. 90-652(1) reads as rewritten:

"(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."

**SECTION 3.** G.S. 90-653(a) reads as rewritten:

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

(1) Submit a completed application as required by the Board.

(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 requirements of a respiratory care education program ~~as approved by the Commission for Accreditation of Allied Health Educational Programs~~. approved by 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~~. Board.

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

3 **SECTION 4.** G.S. 90-654 reads as rewritten:

4 "**§ 90-654. Exemption from certain requirements. Temporary license.**

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

9 (b) ~~The Board may grant a temporary license to an applicant who, as of October~~  
10 ~~1, 2000, does not meet the qualifications of G.S. 90-653 but, through written evidence~~  
11 ~~verified by oath, demonstrates that he or she is performing the duties of a respiratory~~  
12 ~~care practitioner within the State. The temporary license is valid until October 1, 2002,~~  
13 ~~within which time the applicant shall be required to complete the requirements of G.S.~~  
14 ~~90-653(a)(5). A license granted under this subsection shall contain an endorsement~~  
15 ~~indicating that the license is temporary and shall state the date the license was granted~~  
16 ~~and the date it expires.~~

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

22 **SECTION 5.** G.S. 90-656 reads as rewritten:

23 "**§ 90-656. Provisional license.**

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

33 **SECTION 6.** G.S. 90-660(b) reads as rewritten:

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

38 (1) For an initial application, a fee not to exceed twenty-five dollars  
39 (\$25.00).

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

42 (3) For issuance of any license, a fee not to exceed one hundred dollars  
43 (\$100.00).

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

14 **SECTION 7.** G.S. 90-661 reads as rewritten:

15 **"§ 90-661. Requirement of license.**

16 ~~After October 1, 2002, it~~ It shall be unlawful for any person who is not currently  
17 licensed under this Article to:

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

26 **SECTION 8.** Article 38 of Chapter 90 of the General Statutes is amended by  
27 adding a new section to read:

28 **"§ 90-666. Civil penalties.**

29 (a) Authority to Assess Civil Penalties. – In addition to taking any of the actions  
30 permitted under G.S. 90-659, the Board may assess a civil penalty not to exceed one  
31 thousand dollars (\$1,000) for the violation of any section of this Article or any rules  
32 adopted by the Board. The clear proceeds of any civil penalty assessed under this  
33 section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with  
34 G.S. 115C-457.2.

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

- 38 (1) The nature, gravity, and persistence of the particular violation.  
39 (2) The appropriateness of the imposition of a civil penalty when  
40 considered alone or in combination with other punishment.  
41 (3) Whether the violation was willful and malicious.  
42 (4) Any other factors that would tend to mitigate or aggravate the  
43 violations found to exist.

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

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

8               **SECTION 9.** This act becomes effective December 1, 2003, and applies to  
9 civil penalties assessed on or after that date.