

**CHAPTER 295 (SB 351)**

AN ACT relating to respiratory care practitioners.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 314A.010 is amended to read as follows:

As used in this chapter:

- (1) "Respiratory care" includes "respiratory therapy," "inhalation therapy," or other "cardiopulmonary" terms.
- (2) "Practice of respiratory care" means the procedures employed in the therapy, management, rehabilitation, gathering of assessment information, or other procedures administered to patients with deficiencies or abnormalities which affect their cardiopulmonary system and associated aspects of cardiopulmonary and other system functions. This includes, but is not limited to:
  - (a) Provision of respiratory care procedures to ensure the safety, comfort, personal hygiene, protection of patients, and the performance of disease prevention and restorative measures;
  - (b) The administration of pharmacologic and therapeutic agents related to the cardiopulmonary care necessary for treatment, disease prevention, or rehabilitation regimes prescribed by a physician; and
  - (c) Observation of signs and symptoms of cardiopulmonary illness, reactions to treatment, general physical condition; determination of whether such signs, symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics; and performance of standard procedures according to observed abnormalities, or reporting them to the physician in charge or other caretakers; initiating standard or emergency procedures.
- (3) "Respiratory care practitioner" means a person who holds a mandatory certificate approved by the board. The term "respiratory care practitioner" includes the following:
  - (a) A "**registered** respiratory therapist" means an individual who has successfully completed a training program accredited by the American Medical Association's **Commission**~~{Committee}~~ on **Accreditation of Allied Health Education or its equivalent**~~{and Accreditation}~~ in collaboration with the **Committee on Accreditation**~~{Joint Review Committee}~~ for Respiratory **Care or its equivalent**~~{Therapy Education}~~, and who has successfully completed the registry examination for **advanced** respiratory therapists administered by the National Board of Respiratory Care, Incorporated **or its equivalent**;
  - (b) An "**entry level therapist**"~~{A "respiratory care technician"}~~ means an individual who has successfully completed a training program accredited by the American Medical Association's **Commission**~~{Committee}~~ on **Accreditation of Allied Health Education or its equivalent**~~{and Accreditation}~~ in collaboration with the **Committee on Accreditation**~~{Joint Review Committee}~~ for Respiratory **Care or its equivalent**~~{Therapy Education}~~, and who has successfully completed the entry level certification examination for respiratory care technicians administered by the National Board for Respiratory Care, Incorporated **or its equivalent**;

- (c) A "graduate respiratory care practitioner" means an individual who has graduated from an approved educational program and *eligible*~~[is waiting]~~ to sit for the~~[next available]~~ entry level certification examination that will be administered by the National Board for Respiratory Care, Incorporated *or its equivalent*; (d) A "student respiratory care practitioner" means:
1. An individual enrolled in an education and training program, accredited by the American Medical Association's *Commission*~~[Committee]~~ on *Accreditation of Allied Health Education or its equivalent*~~[and Accreditation]~~ and the *Committee on Accreditation for Respiratory Care or its equivalent*~~[Joint Review Committee for Respiratory Therapy Education]~~, for respiratory care practitioners and whose sponsoring educational institution assumes responsibility for the supervision of and the services rendered by the student respiratory care practitioner while *the student*~~[he]~~ is functioning in a clinical training capacity; or
  2. An individual enrolled in an education and training program, accredited by the American Medical Association's *Commission*~~[Committee]~~ on *Accreditation of Allied Health Education or its equivalent*~~[and Accreditation]~~ and the *Committee on Accreditation for Respiratory Care or its equivalent*~~[Joint Review Committee for Respiratory Therapy Education]~~, and who is also employed for compensation to provide respiratory care services as outlined in *Section 4 of this Act*~~[KRS 314A.110(1)(d)]~~.
- (4) "Board" means the Kentucky Board of Respiratory Care.
- (5) "Accredited program" means a training program accredited by the American Medical Association's *Commission*~~[Committee]~~ on *Accreditation of Allied Health or its equivalent*~~[Education]~~ in collaboration with the *Committee on Accreditation for Respiratory Care or its equivalent*~~[Joint Review Committee for Respiratory Therapy Education]~~ which qualifies the graduate to sit for the registry examination ~~[for respiratory therapists]~~ or the entry level~~[certification]~~ examination~~[for respiratory care technicians]~~ administered by the National Board for Respiratory Care *or its equivalent*.
- (6) "Mandatory certification" means the board's official authorization to practice respiratory care for the time specified by the mandatory certification.~~[; and]~~
- (7) "Continuing education" means educational activities primarily designed to keep respiratory care practitioners informed of developments in the respiratory care field or any special areas of practice engaged in by such persons.
- (8) *"Documented competency" means adherence to guidelines established by health facilities, medical staff, or accreditation agencies. These guidelines shall be in accordance with national standards of practice deemed appropriate by the National Board for Respiratory Care or its equivalent.*
- (9) "Medical director" means a licensed physician who is knowledgeable in the diagnosis, treatment, and assessment of respiratory problems and whose responsibilities are established by statutes and regulations governing the operation of facilities licensed under KRS Chapter 216B, as well as statutes and regulations dealing with hospice, home health, and other settings where respiratory care services may be delivered.

- (10) ***"Direct supervision" means supervision by a holder of a mandatory certificate who shall be on the premises where respiratory care services are provided and who shall be available for immediate consultation.***
- (11) ***"Indirect supervision" means supervision by a holder of a mandatory certificate who shall be available by telephone and who shall have a response time, if needed, of thirty (30) minutes or less.***

Section 2. KRS 314A.100 is amended to read as follows:

- (1) A respiratory care practitioner may perform respiratory care procedures under medical direction ***with documented competency***, in accordance with agency or facility guidelines and only in accordance with the prescription of a physician. The procedures shall include, but not be limited to, the assessment and therapeutic use of the following: medical gases, exclusive of general anesthesia; aerosols, humidification, environmental control systems; pharmacologic agents related to ***cardiopulmonary procedures, unless prohibited by the medical staff of the licensed health-care facility***~~respiratory care procedures, excluding intravenous or intramuscular medications~~; mechanical or physiological ventilatory support; bronchopulmonary hygiene, maintenance of the natural airways; insertion without cutting tissues and maintenance of artificial airways; specific assessment and testing procedures such as drawing and analyzing of arterial blood gases employed in the medical measurement and monitoring of cardiac function as it relates to pulmonary pathophysiology.
- (2) The practice of respiratory care may be performed in hospitals or in other settings where respiratory care is to be provided in accordance with a prescription of a physician. In addition, respiratory care may be provided during the transportation of a patient, or under any circumstances where an emergency necessitates respiratory care.
- (3) The respiratory care practitioner may transcribe and implement a physician's written or verbal orders pertaining to the practice of respiratory care procedures as defined in this section.
- (4) ***The respiratory care practitioner's scope of practice shall include practice standards and guidelines as developed by the American Association for Respiratory Care, or its equivalent, and as incorporated by the board through promulgation of administrative regulations in accordance with KRS Chapter 13A.*** Section 3. KRS 314A.110 is amended to read as follows:

- (1) To be eligible for mandatory certification as a respiratory care practitioner the applicant shall ***hold a currently valid registered respiratory therapist (RRT) or certified respiratory therapist (CRT) credential issued by the National Board for Respiratory Care or its equivalent***~~:~~
- (a) ~~Initially submit a completed application within twelve (12) months after July 13, 1990, with the required fee, and meet the requirements of paragraphs (b), (c), or (d) of this subsection; thereafter, only persons qualified under paragraph (b) or (d) of this subsection or under subsection (2) of this section may apply for a mandatory certificate;~~
- (b) ~~Hold a currently valid certificate of registry or certification issued by the National Board for Respiratory Care or its successor.~~
- (2) A temporary mandatory certificate may be issued to the graduate respiratory care practitioner ***for a period not to exceed six (6) months from graduation***~~which shall be effective until receipt of a passing score from the first available National Board for Respiratory Care entry~~

level certification examination for which the graduate respiratory care practitioner is eligible]. The holder of a *temporary* mandatory certificate who does not successfully pass the ~~first available~~ National Board for Respiratory Care *or its equivalent* entry-level certification examination *within a six (6) month period* ~~for which he is eligible~~ shall cease and desist performing any services as a respiratory care practitioner. Failure to comply in this instance shall subject *the individual* ~~him~~ to prosecution for practicing as a respiratory care practitioner without a mandatory certificate. ~~However, a failing score on the entry-level certification examination shall not prevent an applicant from applying for and taking subsequent entry-level certification examinations according to National Board for Respiratory Care guidelines;~~

- ~~(e)~~ Individuals that do not hold a valid certificate of registry or certification, but who have practiced respiratory care in the Commonwealth of Kentucky for a minimum of twenty-four (24) months under medical supervision, and who provide satisfactory documentation of such experience, may apply to the board for a mandatory certificate, provided such documentation is presented within twelve (12) months of July 13, 1990;]
- ~~(3)~~~~(d)~~ In order for student respiratory care practitioners to be employed for compensation to provide respiratory care services, they must apply to the board for a limited mandatory certificate which will permit them to perform respiratory care procedures (for which they have received training) under the *direct* supervision of a respiratory therapist *who holds a mandatory certificate* ~~or a respiratory care technician~~. This limited mandatory certificate excludes the performance of continuous mechanical or physiological ventilatory support, arterial puncture, and blood gas analysis. The limited mandatory certificate may be granted only to individuals actively enrolled in an accredited program and for a period not to exceed three (3) years. This limited mandatory certificate is in no manner required for individuals actively enrolled in an accredited program while performing uncompensated clinical activities required by the program.
- ~~(4)~~~~(2)~~ Respiratory care practitioners duly authorized to practice in other states and in good standing *and who hold the CRT credential or its equivalent* may be conferred a mandatory certificate by the board if the requirements for licensure or certification in that state are substantially equal to the requirements of this section.
- ~~(5)~~~~(3)~~ Respiratory *therapists* ~~care technicians~~ applying for mandatory certification shall retain their National Board for Respiratory Care (NBRC) *designations* ~~designation~~ as certified respiratory *therapists (CRT) or registered respiratory therapists (RRT)* ~~therapy technicians in addition to that of respiratory care practitioner, and respiratory therapists shall retain their NBRC designation as registered respiratory therapists in addition to respiratory care practitioner subject to the requirements of mandatory certification herein described~~. Persons *holding a* ~~applying for~~ mandatory certification through the limited mechanism of grandfather status shall solely be designated as respiratory care practitioner.
- ~~(6)~~~~(4)~~ Mandatory certification of respiratory care practitioners shall be on a biennial basis according to established criteria under KRS 314A.115. Mandatory certificates issued by the board shall expire and shall not be renewed unless the certificate holder submits proof to the board of compliance with KRS 314A.115. On and after the date on which a person's mandatory certificate has expired, *the practitioner* ~~he~~ may apply for reinstatement within five (5) years of the expiration of the mandatory certificate. The applicant shall show

compliance with the current continuing education requirement in force at the time of mandatory certificate renewal application. After expiration of a five (5) year period, current standards for mandatory certification shall be met. The board may require individualized conditions for reinstatement.

SECTION 4. A NEW SECTION OF KRS CHAPTER 314A IS CREATED TO READ AS FOLLOWS:

***To be eligible for limited mandatory certification as a respiratory care practitioner, the applicant shall meet the criteria established under this chapter and any administrative regulation promulgated to carry out the provisions of this chapter.***

Section 5. KRS 314A.200 is amended to read as follows:

- (1) There is hereby created a Board of Respiratory Care which shall consist of seven (7) ***voting*** members appointed by the Governor.
  - (a) Four (4) members shall be respiratory care practitioners ***holding a valid mandatory certificate and practicing in Kentucky;***~~chosen from a list of seven (7) submitted by the Kentucky Society for Respiratory Care.~~
  - (b) Two (2) ***members*** shall be pulmonologists ***who are licensed and practicing physicians in Kentucky;***~~;~~ and
  - (c) One (1) ***member*** shall be a citizen at large who is not associated with or financially interested in respiratory care.
- (2) ***Members shall be appointed to the board for terms of three (3) years, expiring on October 30 of the third year.***~~The executive director of the Division of Occupations and Professions shall serve on the board in an ex officio capacity. The respiratory care practitioner members shall hold valid mandatory certificates in Kentucky and shall also practice in the Commonwealth. The pulmonologists shall be licensed physicians practicing in Kentucky. The members of the board shall serve until the expiration of the term for which they have been appointed. All appointments made shall be for a term of three (3) years, except for appointments to fill vacancies caused by a reason other than the expiration of a member's term which shall be filled for the remaining portion of the member's term.~~ No person shall be appointed to serve more than two (2) consecutive terms.
- (3) ***By May 30 of years in which respiratory care practitioner terms expire, the Kentucky Society for Respiratory Care shall submit to the Governor a list of names of candidates qualified for the appointment of respiratory care practitioner, in numbers not less than twice the numbers of appointments to be made, from which the Governor shall make each appointment or appointments by October 31 of that year. The Governor shall also appoint the pulmonologist and citizen at-large members by October 31 of any year in which a term expires.***
- (4) ***A vacancy on the board shall be filled by the Governor as provided under subsection (1) of this section. The appointment shall be for the remaining portion of the member's term.***
- (5) ***The Governor or board may remove a member from the board for cause or as provided under administrative regulations promulgated by the board in accordance with KRS Chapter 13A.***

- (6) The board shall reorganize annually and select a chairperson. Four (4) **voting** members of the board shall constitute a quorum to do business. The board shall hold at least one (1) regular meeting each year. Additional meetings may be held upon the call of the chairperson or at the written request of any two (2) members of the board. All meetings of the board shall be open and public *to the extent permitted by law*. Section 6. KRS 314A.220 is amended to read as follows:
- (1) The board shall issue a mandatory certificate to all applicants who meet the requirements of this chapter and who pay to the board the initial mandatory certificate fee.
  - (2) The amount of fees prescribed in connection with a mandatory certificate as a respiratory care practitioner shall be *prescribed by administrative regulation promulgated by the board in accordance with KRS Chapter 13A*~~as follows:~~
    - ~~(a) The initial mandatory certificate fee shall not exceed fifty dollars (\$50);~~
    - ~~(b) The delinquency fee shall not exceed twenty dollars (\$20);~~
    - ~~(c) The application fee shall not exceed fifty dollars (\$50);~~
    - ~~(d) The inactive mandatory certificate fee shall not exceed ten dollars (\$10) every two (2) years; and~~
    - ~~(e) The temporary mandatory certificate fee shall not exceed ten dollars (\$10).~~
  - (3) Each respiratory care mandatory certificate shall expire on January 30 every two (2) years. A thirty (30) day grace period shall be allowed after January 30, during which time mandatory certificates may be renewed on payment of a renewal fee of not more than seventy dollars (\$70) plus a grace period fee, when applicable, which combined will not exceed ninety dollars (\$90). No person who applies for renewal, whose mandatory certificate has expired, shall be required to submit to any examination as a condition to renewal, provided such renewal application is made within five (5) years from the date of such expiration. No person shall practice respiratory care in this state unless *the individual*~~he~~ holds a valid certificate. All mandatory certificates not renewed by March 2 following the date of issuance shall be deemed expired.
  - (4) A suspended mandatory certificate is subject to expiration and shall be renewed as provided in this chapter, but such renewal shall not entitle the respiratory care practitioner, while the mandatory certificate remains suspended, and until it is reinstated, to engage in mandatory certification activities, or in any other activity or conduct in violation of the order of judgment by which the mandatory certificate was suspended. A mandatory certificate revoked on disciplinary grounds is subject to expiration as provided in this chapter, but it may not be renewed. If it is reinstated after its expiration, the mandatory certificate holder, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.
  - (5) A person who fails to renew his or her mandatory certificate within the five (5) years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but such persons may apply for and obtain a new mandatory certificate if he meets the requirements of this chapter.

Section 7. KRS 314A.225 is amended to read as follows:

- (1) The board may refuse to issue a mandatory certificate, or may suspend or revoke the mandatory certificate of any certificate holder if he has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct may include:
  - (a) Obtaining a mandatory certificate by means of fraud, misrepresentation, or concealment of material facts;
  - (b) Having been guilty of unprofessional conduct as defined by the administrative regulations promulgated by the board, or having violated the code of ethics promulgated by the board;
  - (c) Having violated any lawful order or administrative regulation rendered or promulgated by the board; or
  - (d) Having violated any provisions of this chapter.
- (2) The board shall deny an application for, or suspend or revoke, or impose probationary conditions upon, a mandatory certificate as ordered by the board in any decision made after a hearing conducted in accordance with KRS Chapter 13B. One (1) year from the date of revocation of a mandatory certificate under this chapter, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement.
- (3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of felony or of any offense involving moral turpitude is deemed to be a conviction within the meaning of this chapter. At the direction of the board and after a hearing conducted in accordance with KRS Chapter 13B, the mandatory certificate shall be suspended or revoked, or issuance of a mandatory certificate shall be declined when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order under the provisions of the penal code allowing a person to withdraw his plea of guilty, and to enter a plea of not guilty or setting aside the verdict of guilty, or dismissing the acquisition, information, or indictment.
- (4)
  - (a) ***The chair of the board or the chair's designee may determine that immediate temporary suspension of a certificate, against which disciplinary action or an investigation is pending, is necessary to protect the public. If it appears that this action may be necessary, the chair or the designee shall issue an emergency order suspending the certificate. Upon appeal of an emergency order, an emergency hearing shall be conducted under KRS Chapter 13B.***
  - (b) ***No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that the member has previously served on a hearing panel considering temporary suspension of the same certificate.***
  - (c) ***The board shall expedite the disciplinary process in any action that involves a certificate that has been temporarily suspended.***
  - (d) ***The order of immediate temporary suspension shall remain in effect until either retracted or superseded by final disciplinary action by the board. If disciplinary action is imposed, the board may order that the temporary suspension continue until the later of the expiration of the time permitted for appeal or the termination of the appellate process.***

Section 8. The terms of the members of the Board of Respiratory Care who hold membership as of the effective date of this Act shall expire on October 31, 2000. By August 15, 2000, the Kentucky Society for Respiratory Care shall submit to the Governor a list of eight (8) names of candidates who are qualified for appointment as respiratory care practitioners. The Governor shall make the appointments of the respiratory care practitioners from this list by October 31, 2000, and the Governor shall also make the appointments of qualified pulmonologists and the citizen at-large member by October 31, 2000. The terms of the initial appointments shall be staggered to assure continuity of experience, as follows: two (2) respiratory care practitioners and one (1) pulmonologist shall serve for one (1) year; two (2) respiratory care practitioners and one (1) pulmonologist shall serve for two (2) years; and the citizen at-large-member shall serve for three (3) years. Subsequent appointments shall be for three (3) years and as provided under Section 5 of this Act.

**Approved April 3, 2000**