

CHAPTER 237**(HB 302)**

AN ACT relating to the Kentucky Board of Respiratory Care.

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 on Accreditation of Allied Health Education or its equivalent in collaboration with the Committee on Accreditation for Respiratory Care or its equivalent, and who has successfully completed the registry examination for advanced respiratory therapists administered by the National Board ~~for~~^{of} Respiratory Care, Incorporated or its equivalent;
 - (b) A **"certified respiratory"**~~An "entry-level"~~ therapist means an individual who has successfully completed a training program accredited by the American Medical Association's Commission on Accreditation of Allied Health Education or its equivalent in collaboration with the Committee on Accreditation for Respiratory Care or its equivalent, and who has successfully completed the entry level certification examination for respiratory **therapists**~~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 *is* eligible to sit for the 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 on Accreditation of Allied Health Education or its equivalent and the Committee on Accreditation for Respiratory Care or its equivalent, 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 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 on Accreditation of Allied Health Education or its equivalent and the Committee on Accreditation for Respiratory Care or its equivalent, and who is also employed for compensation to provide respiratory care services as outlined in KRS 314A.112.
- (4) "Board" means the Kentucky Board of Respiratory Care.
- (5) "Accredited program" means a training program accredited by the American Medical Association's Commission on Accreditation of Allied Health or its equivalent in collaboration with the Committee on Accreditation for Respiratory Care or its equivalent which qualifies the graduate to sit for the registry examination or the entry level examination 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.
- (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 *American Association*~~[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.110 is amended to read as follows:

- (1) To be eligible for mandatory certification as a respiratory care practitioner the applicant shall **have held**~~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.
- (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. The holder of a temporary mandatory certificate who does not successfully pass the National Board for Respiratory Care or its equivalent entry-level certification examination within a six (6) month period shall cease and desist performing any services as a respiratory care practitioner. Failure to comply in this instance shall subject the individual to prosecution for practicing as a respiratory care practitioner without a mandatory certificate.
- (3) 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. 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) Respiratory care practitioners duly authorized to practice in other states and in good standing and who **have held a RRT or** 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) Respiratory therapists applying for mandatory certification, ***who received their National Board for Respiratory Care certified respiratory therapist (CRT) or registered respiratory therapist (RRT) credential prior to July 1, 2002***, shall retain their National Board for Respiratory Care (NBRC) designations as certified respiratory therapists (CRT) or registered respiratory therapists (RRT). ***Those respiratory therapists applying for mandatory certification, who receive their CRT or RRT credential from the NBRC after July 1, 2002, shall retain their CRT or RRT credential as long as they have fulfilled the National Board for Respiratory Care's continuing competency program requirements.*** Persons holding a mandatory certification through the limited mechanism of grandfather status ***and those respiratory therapists, receiving their CRT or RRT credential after July 1, 2002, who do not fulfill the National Board for Respiratory Care's continuing competency requirements***, shall solely be designated as respiratory care ~~practitioners~~**practitioner**.
- (6) 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 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 3. 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.
- (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 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 4. KRS 314A.225 is amended to read as follows:

- (1) The board may refuse to issue a ~~mandatory~~ certificate, or may suspend, ***revoke, impose probationary conditions upon, impose an administrative fine, issue a written reprimand or admonishment, or any combination thereof regarding any certificate holder upon proof that the certificate holder has:***
 - (a) ***Committed any crime, act of dishonesty, or corruption. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the certificate holder or applicant. Conviction includes all instances in which a plea of no contest is the basis of conviction;***

- (b) *Misrepresented or concealed a material fact in obtaining, renewing or reinstating a certificate;*
 - (c) *Committed any unfair, false, misleading, or deceptive act or practice;*
 - (d) *Been incompetent or negligent in the practice of respiratory care;*
 - (e) *Violated any state statute or administrative regulation governing the practice of respiratory care or any activities undertaken by a respiratory care practitioner;*
 - (f) *Failed to comply with an order issued by the board or an assurance of voluntary compliance;*
 - (g) *Violated the code of ethics as set forth in administrative regulations promulgated by the board; or*
 - (h) *Violated any applicable provision of any federal or state law.*
- (2) *One (1) year from the date of revocation, any person whose certificate has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the certificate upon a finding that the individual has complied with any terms prescribed by that board and is again able to competently engage in the practice of respiratory care.*
- (3) *The board may reconsider, modify, or reverse its probation, suspensions, or other disciplinary actions.*
- (4) *The surrender of a certificate shall not serve to deprive the board of jurisdiction to proceed with disciplinary action under this chapter.*~~[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.]~~

Approved April 8, 2002