

By Mr. Ciccarelli of Watertown, petition of Salvatore Ciccarelli for legislation to provide for the licensing of practitioners of respiratory therapy. Health Care.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Six.

AN ACT PROVIDING FOR THE LICENSING OF PRACTITIONERS OF RESPIRATORY THERAPY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 13 of the General Laws is hereby amended
2 by adding Section 11B:

3 *Section 11B.* There shall be a board of respiratory therapy
4 hereinafter called the board, which shall consist of five members to
5 be appointed by the Governor and such appointments may be
6 made from among a list of nominations submitted by the Massa-
7 chusetts Society for Respiratory Therapy. Members of the Board
8 shall be residents of the Commonwealth and citizens of the United
9 States. Two of such members shall be respiratory therapists
10 licensed in accordance with the provisions of section 23S of Chap-
11 ter 112 except that such members constituting the first board shall
12 be persons who are eligible for licensing as practitioners of respira-
13 tory therapy; two of such members shall be physicians with pulmo-
14 nary related specialties licensed in accordance with the provisions
15 of Section 2 of Chapter 112 and one of such members shall be a
16 consumer of respiratory therapy services selected from and repre-
17 senting the general public.

18 Each member of the board shall serve for a term of three years
19 except that immediately following the enactment of this section,
20 the initial terms of two of the members shall be for three years, two
21 of the members shall be for a term of two years and one member
22 shall be for a term of one year. No member shall be appointed to
23 more than two consecutive full terms, provided, however, that a
24 member appointed for less than a full term may serve two full terms

25 in addition to such part of a full term and a former member shall
26 again be eligible for appointment after a lapse of one or more years.

1 SECTION 2. Chapter 112 of the General Laws is hereby
2 amended by adding after Section 23Q the following sections: —

3 *Section 23R.* The following words as used in Sections 23R to
4 23AA inclusive, unless the context otherwise requires, shall have
5 the following meanings:

6 “Respiratory Therapy”, is a health profession that, under the
7 direction of a licensed physician, who is a pulmonary related
8 specialist, utilizes the application of scientific principles for the
9 identification, prevention, remediation, research, and rehabilita-
10 tion of acute or chronic cardiopulmonary dysfunction thereby
11 promoting optimum health and function. Respiratory therapy
12 practice includes, but is not limited to, the therapeutic and diagnos-
13 tic use of the following as ordered by a physician: medical gases,
14 gas administering devices, humidification and aerosols, adminis-
15 tration of aerosol medications, support services for mechanically
16 ventilated patients, postural drainage, brochopulmonary hygiene,
17 breathing exercises, respiratory rehabilitation, cardiopulmonary
18 resuscitation, maintaining natural and artificial airways, the
19 understanding and reporting of tests as aids to diagnosis or the
20 planning of treatment programs. Respiratory therapy shall also
21 include measuring ventilatory volumes, pressures and flows,
22 collecting specimens of blood and other materials, pulmonary
23 function testing, hemodynamic and other related physiologic mon-
24 itoring of the cardiopulmonary system. Respiratory therapy shall
25 also include teaching both patient and family respiratory proce-
26 dures as part of a patient’s ongoing program; consultation services
27 for the health educational and community agencies. Respiratory
28 therapy shall also include teaching of the knowledge, skills, and
29 attitudes necessary to perform the above mentioned activities.

30 “Respiratory Therapist”, a person who is duly licensed to prac-
31 tice respiratory therapy in the Commonwealth in accordance with
32 Section 23S.

33 “Board”, the board of respiratory therapy established under
34 Section 11B of Chapter 13.

35 *Section 23S.* The board shall examine candidates and renew
36 licenses as follows:

37 (1) The board shall examine applicants for licensure at such
38 times and places as it may determine and shall conduct at least two
39 such examinations in each calendar year. The board shall establish
40 examination and testing procedures to enable the board to ascer-
41 tain the competency of persons wishing to be licensed as qualified
42 respiratory therapists and may utilize any existing national exami-
43 nation that meets these requirements. Applications for such
44 licenses, signed and sworn by the applicants shall be made on forms
45 furnished by the board. An applicant who furnished satisfactory
46 proof that he is of good moral character and that he has met the
47 educational and clinical requirements set forth in Section twenty-
48 three T, twenty-three U, twenty-three V, twenty-three W, and
49 twenty-three X, shall upon payment of a fee determined by the
50 Secretary of Administration and Finance, be examined by the
51 board, and if found qualified, and if he passes the examination,
52 shall be licensed to practice.

53 (2) Every person licensed shall, at such times as determined by
54 the board, apply to the board for renewal of his license and pay a
55 fee determined by the Secretary of Administration and Finance to
56 the board and thereupon the board shall issue a license showing the
57 holder is entitled to practice for the period covered by said pay-
58 ment. The board may provide for the late renewal of a license
59 which has lapsed and may require the payment of a late fee, an
60 examination, continuing education, and supervised experience
61 prior to issuing said renewal license.

62 *Section 23T.* A person who meet the requirements and pos-
63 sesses the qualifications as set forth hereunder to be admitted to the
64 examination for licensure as a respiratory therapist may practice
65 respiratory therapy between the date of filing an application for
66 licensure and the announcement of the results of the next succeed-
67 ing examination for licensure, provided however that such practice
68 is under the supervision of a respiratory therapist licensed pursuant
69 to this chapter. If any person practicing fails to pass the first
70 announced examination after filing for licensure, the privilege as
71 granted under this section shall automatically cease upon due
72 notice to the applicant of such failure.

73 *Section 23U.* The board may without examination, license as a
74 respiratory therapist, any applicant who is duly licensed or regis-
75 tered under the laws of another state or territory of the United

76 States, the District of Columbia, or the Commonwealth of Puerto
77 Rico, or any such therapist who satisfies the board that he has met
78 or exceeded the requirements for licensure in the Commonwealth
79 of Massachusetts. At the time of making such application, the
80 applicant shall pay a fee determined by the Secretary of Adminis-
81 tration and Finance to the board.

82 *Section 23V.* Nothing in this section shall be construed as pre-
83 venting or restricting the practice, services, or activities of:

84 (a) any person licensed in this Commonwealth by any other
85 statute from engaging in the profession or occupation for which he
86 is licensed, or

87 (b) any person employed as a respiratory therapist by the
88 Government of the United States or any agency of it, if such person
89 provides respiratory therapy solely under the direction or control
90 of the organization by which he is employed, or

91 (c) any person pursuing a supervised course of study leading to a
92 degree or certificate in respiratory therapy as part of an accredited
93 and approved educational program, if the person is designated by a
94 title which clearly indicates his status as a student or trainee, or
95 otherwise as a student functioning under the supervision of a
96 licensed respiratory therapist, provided however, that such activity
97 does not exceed the student's education and training.

98 (d) any person performing respiratory services in the Com-
99 monwealth if these services are performed for no more than two
100 days in a calendar year in association with a respiratory therapist
101 licensed under this section.

102 *Section 23W.* An applicant for licensure as a respiratory thera-
103 pist shall have:

104 (a) successfully completed a respiratory therapy program that is
105 accredited by an agency recognized by the United States Depart-
106 ment of Education and/or a member of the Council on Postsec-
107 ondary Accreditation, and that is approved by the board.

108 (b) successfully passed an examination approved by the board
109 for licensure as a respiratory therapist. Such examination shall be
110 written and shall test the applicant's knowledge of the basic and
111 clinical sciences related to the respiratory therapy theory and prac-
112 tice, including the applicant's professional skills and judgments in
113 the utilization of respiratory therapy techniques and methods, and
114 such other subjects as the board may deem useful to determine the

115 applicant's fitness to act as a respiratory therapist pursuant to
116 Section 23R. The examination shall be conducted by the board at
117 least twice each year and at times and places to be determined by
118 the board; provided, however, that the board may utilize any
119 existing national examination that meets the requirements of this
120 section.

121 *Section 23X.* The board may, after a hearing pursuant to Chap-
122 ter thirty, revoke, suspend, cancel the license of or place on proba-
123 tion, reprimand, censure, or otherwise discipline a licensee upon
124 proof satisfactory to a majority of the board that said person:

125 (a) has obtained or attempted to obtain a license by fraud or
126 deception,

127 (b) has been convicted of a felony or of a crime involving moral
128 turpitude,

129 (c) has been grossly negligent in his practice of respiratory
130 therapy,

131 (d) has been adjudged mentally ill or incompetent by the court
132 of competent jurisdiction,

133 (e) has used drugs or intoxicating liquors to the extent which
134 adversely affects his practice,

135 (f) has acted in manner which professionally unethical accord-
136 ing to ethical standards of the profession of respiratory therapy.

137 *Section 23Y.* Nothing in this section shall be construed as
138 authorizing a respiratory therapist, to practice medicine or any
139 other form or methods of healing not specified in said section.

140 *Section 23Z.* The board shall adopt reasonable rules and regu-
141 lations to carry into effect Sections twenty-three R to twenty-three
142 AA inclusive and may amend and revoke such rules and regula-
143 tions at its discretion. The board shall keep a record of its proceed-
144 ings and a roster of all persons licensed by it under this section. The
145 roster shall include the licensee's name, last known business and
146 residential address; date of licensing, and license number.

147 *Section 23AA.* No person shall hold himself out as a respira-
148 tory therapist or as being able to practice respiratory therapy or to
149 render respiratory therapy services in this Commonwealth unless
150 he is licensed in accordance with Section twenty-three S. Such a
151 person shall be known as a "respiratory therapist".

1 SECTION 3. For one year from the effective date of this act, a

2 license as a respiratory therapist shall be issued without examina-
3 tion to an applicant who satisfies the board established by Section 1
4 of this act that he has obtained a credential issued by the National
5 Board for Respiratory Care, Inc. or who satisfies the board that he
6 actually has been actively engaged for at least two years within five
7 years prior to the effective date of this act in the practice of
8 respiratory therapy or the rendering of respiratory services as
9 defined by Section 23R of Chapter 112 of the General Laws.
10 Persons licensed hereunder shall renew their licenses in accordance
11 with Section 23S(2).

1 SECTION 4. No respiratory therapist duly licensed under the
2 provisions of Sections 23S, 23T and 23U of chapter 112, as appear-
3 ing in section 1 of this act, or as provided by section 3 of this act, or
4 if a resident in another state, in the District of Columbia, or the
5 Commonwealth of Puerto Rico and duly licensed therein, who, in
6 good faith as a volunteer and without fee renders emergency care
7 or treatment other than in the ordinary course of his practice, shall
8 be liable in a suit for damages as a result of his acts or omissions nor
9 shall he be liable to a hospital for its expenses if, under such
10 emergency conditions, he orders a person hospitalized or causes his
11 admission.

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