February 19, 1999

HOUSE BILL No. 1820

DIGEST OF HB1820 (Updated February 17, 1999 5:29 pm - DI 77)

Citations Affected: IC 25-34.5; IC 34-6; noncode.

Synopsis: Licensure of respiratory care professionals. Requires a respiratory care practitioner to be licensed. (Current law requires certification.) Permits an individual who is not a licensed, registered, or certified health care professional to perform respiratory care procedures after passage of an examination. Permits an individual who is not a licensed or certified health care professional to deliver, set up, calibrate, and demonstrate the operation of respiratory care equipment if certain conditions are met.

Effective: July 1, 1999.

Klinker, Welch, Scholer, Behning

January 26, 1999, read first time and referred to Committee on Public Health.
February 18, 1999, reported — Do Pass.

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February 19, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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HOUSE BILL No. 1820

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 25-34.5-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. "Applicant" means a person who applies for ~~certification~~ **licensure** as a respiratory care practitioner under this article. The term does not include a practitioner who applies for renewal of the practitioner's ~~certificate~~ **license.**

SECTION 2. IC 25-34.5-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. "Practice of respiratory care" means the allied health specialty designed to aid the supervising physician or osteopath in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. The term ~~is limited to~~ **includes** the following:

(1) Administration of pharmacological, diagnostic, and therapeutic aids related to the implementation of a treatment, disease prevention, pulmonary rehabilitation, or diagnostic regimen prescribed by and under the direct supervision of a physician licensed under IC 25-22.5 as follows:

(A) Administration of medical gases (except for the purpose of anesthesia), aerosols, and humidification.

(B) Environmental control mechanisms and hyperbaric therapy.

(C) Mechanical or physiological ventilatory support.

(D) Bronchopulmonary hygiene.

(E) Cardiopulmonary resuscitation.

(F) Maintenance of the natural airway.

(G) Insertion and maintenance of artificial airways.

(H) Specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures, and flows, collection of specimens of blood and blood gases, expired and inspired gas samples, respiratory secretions, and pulmonary function testing.

(I) Utilization of hemodynamic and other related physiologic measurements to assess the status of the cardiopulmonary system.

(2) Transcription and implementation of the written or verbal orders of a physician.

(3) Observing and monitoring signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether the signs, symptoms, reactions, behavior, or general response exhibit abnormal characteristics.

(4) Observing and referring based on abnormalities, protocols, or changes in treatment.

(5) Repairing equipment used in the practice of respiratory care.

SECTION 3. IC 25-34.5-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. "Practitioner" means a person ~~certified~~ **licensed** under this article to engage in the practice of respiratory care.

SECTION 4. IC 25-34.5-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. The committee shall:

(1) pass upon the qualifications of persons who apply for ~~certification~~ **licensure** as respiratory care practitioners;

(2) provide all examinations;

(3) ~~certify~~ **license** qualified applicants; and

(4) propose rules concerning the competent practice of respiratory care to the board.

SECTION 5. IC 25-34.5-2-8 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) Each applicant for ~~certification~~ **licensure** as a respiratory care practitioner must present satisfactory evidence that the applicant:

(1) does not have a conviction for:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-9; or

(B) a crime that has a direct bearing on the practitioner's ability to practice competently;

(2) has not been the subject of a disciplinary action initiated by the licensing or certification agency of another state or jurisdiction on the grounds that the applicant was unable to practice as a respiratory care practitioner without endangering the public; and

(3) has passed a respiratory care practitioner licensing or certification examination approved by the board.

(b) Each applicant for ~~certification~~ **licensure** as a respiratory care practitioner must submit proof to the committee of the applicant's:

(1) graduation from a school or program of respiratory care that meets standards set by the board;

(2) completion of a United States military training program in respiratory care; or

(3) completion of sufficient postsecondary education to be ~~certified~~ **credentialed** by a national respiratory care practitioner organization approved by the committee.

(c) At the time of making application, each applicant must pay a fee determined by the board after consideration of a recommendation of the committee.

SECTION 6. IC 25-34.5-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) Except as provided in section 11 of this chapter, the committee shall issue a ~~certificate~~ **license** to each applicant who:

(1) successfully passes the examination provided in section 12 of this chapter; and

(2) meets the requirements of section 8 of this chapter.

(b) A ~~certificate~~ **license** issued under this section expires on the last day of the regular renewal cycle established under IC 25-1-5-4.

SECTION 7. IC 25-34.5-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) The committee shall, under IC 25-1-2, renew every two (2) years the ~~certificate~~ **license** of a practitioner who:

(1) meets the continuing education requirements established by rule by the board; and

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(2) pays the fee set by the board.

(b) If a practitioner does not renew the practitioner's ~~certificate~~ **license** before its expiration, the practitioner's ~~certificate~~ **license** becomes invalid without action taken by the committee. A ~~certificate~~ **license** that becomes invalid under this subsection may be reinstated by the committee up to three (3) years after its invalidation if the practitioner who holds an invalid ~~certificate~~ **license** pays the following:

(1) A penalty set by the board.

(2) The renewal fee for the biennium.

(c) If a ~~certificate~~ **license** that becomes invalid under subsection (b) is not reinstated by the committee within three (3) years of its invalidation, the holder of the invalid ~~certificate~~ **license** may be required by the committee to take an examination for competence before the committee will reinstate the ~~certificate~~ **license**.

(d) The board may adopt rules under IC 4-22-2 establishing requirements for reinstatement of an invalid ~~certificate~~ **license** after consideration of a recommendation of the committee.

(e) The board shall accept continuing education courses in the following areas toward the requirements of subsection (a):

(1) Management of the practice of respiratory care.

(2) Courses concerning the practice of respiratory care that enable individuals to teach continuing education courses for respiratory care practitioners.

SECTION 8. IC 25-34.5-2-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10.1. (a) The committee may issue a temporary permit to a person to **practice respiratory care or to** profess to be a respiratory care practitioner if the person pays a fee and:

(1) has:

(A) a valid license or certificate to practice from another state; and

(B) applied for a ~~certificate~~ **license** from the committee;

(2) is practicing in a state that does not license or certify respiratory care practitioners but is ~~certified~~ **credentialed** by a national respiratory care practitioner association approved by the committee, and the person has applied for a ~~certificate~~ **license** from the committee; or

(3) has:

(A) been approved by the committee to take the next examination; and

(B) graduated from a school or program approved by the committee.

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(b) A temporary permit expires the earlier of:

(1) the date the person holding the permit is issued a ~~certificate~~ **license** under this article; or

(2) the date the committee disapproves the person's ~~certificate~~ **license** application.

(c) The committee may renew a temporary permit if the person holding the permit was scheduled to take the next examination and:

(1) did not take the examination; and

(2) shows good cause for not taking the examination.

(d) A permit renewed under subsection (c) expires on the date the person holding the permit receives the results from the next examination given after the permit was issued.

SECTION 9. IC 25-34.5-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) The committee may issue a ~~certificate~~ **license** by endorsement to a person who:

(1) presents satisfactory evidence to the committee that the person holds:

(A) a license or certification to practice respiratory care in:

(i) another state; or

(ii) a jurisdiction of Canada; or

(B) a ~~certification~~ **credential** by a national respiratory care practitioner organization approved by the committee;

(2) meets the requirements of section 8 of this chapter; and

(3) pays a fee determined by the board after consideration of a recommendation of the committee.

(b) If the applicant presents satisfactory evidence that the applicant has actively engaged in the practice of respiratory care that included actual patient care:

(1) in another jurisdiction;

(2) under the supervision of a physician licensed in that jurisdiction; and

(3) for at least ten (10) of the previous fifteen (15) years preceding the date of application;

the committee may waive the education requirements under subsection (a)(2) and section 8(b) of this chapter if the committee determines that the applicant has sufficient knowledge and experience.

SECTION 10. IC 25-34.5-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. (a) Examinations of applicants for ~~certification~~ **licensure** under this article shall be held at least semiannually on dates set by the board.

(b) An examination under this section must include a written examination that tests the following:

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(1) The applicant's knowledge of the basic and clinical sciences as they relate to the practice of respiratory care.

(2) Other subjects that the committee considers useful to test an applicant's fitness to practice respiratory care.

(c) An otherwise qualified applicant who fails an examination and is refused ~~certification~~ **licensure** may take another scheduled examination upon payment of an additional fee set by the board under rules adopted under section 7 of this chapter.

SECTION 11. IC 25-34.5-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. A person may not:

(1) **practice respiratory care;**

(2) profess to be a respiratory care practitioner;

~~(2)~~ **(3)** use the title "respiratory care practitioner"; or

~~(3)~~ **(4)** use any initials, words, letters, abbreviations, or insignia indicating or implying that the person is a respiratory care practitioner ~~certified~~ **licensed** under this article;

unless the person is ~~certified~~ **licensed** under this article.

SECTION 12. IC 25-34.5-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. A person who violates this chapter commits a Class B misdemeanor. **In addition, the board may, in the name of the state of Indiana through the attorney general, apply in a circuit or superior court to enjoin any person from practicing respiratory care in violation of this chapter.**

SECTION 13. IC 25-34.5-3-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 3. This article does not prevent a licensed, registered, or certified health care professional from practicing within the scope of the health care professional's license, registration, or certification.**

SECTION 14. IC 25-34.5-3-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 4. An individual who is not licensed, registered, or certified as a health care professional may perform a procedure that is included in the practice of respiratory care if the individual passes an examination covering the procedure that is offered by a testing body approved by the committee.**

SECTION 15. IC 25-34.5-3-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 5. An individual who is not licensed, registered, or certified as a health care professional may deliver, set up, calibrate, and demonstrate the mechanical**

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operation of respiratory care equipment in a residential setting if the following conditions are met:

(1) The individual's employer documents that the individual has obtained adequate training and demonstrated competence under the supervision of a licensed respiratory care practitioner or another licensed health care practitioner.

(2) The individual does not teach, administer, or perform respiratory care procedures.

(3) The individual does not attach the respiratory care equipment to the patient or instruct the patient, the patient's family, or the patient's caregiver on the equipment's clinical use as a treatment device.

(4) All instructions to the patient, family, or caregiver regarding the clinical use of the equipment, patient monitoring, patient assessment, or other procedures designed to evaluate the effectiveness of the treatment must be performed by a licensed respiratory care practitioner or another licensed, registered, or certified health care professional.

SECTION 16. IC 25-34.5-3-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 6. This article does not prevent an individual who is not licensed as a respiratory care practitioner from doing any of the following:**

(1) Performing cardiopulminary resuscitation.

(2) Repairing equipment used in the practice of respiratory care.

SECTION 17. IC 34-6-2-117 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 117. "Professional health care provider", for purposes of IC 34-30-15, means:

(1) a physician licensed under IC 25-22.5;

(2) a dentist licensed under IC 25-14;

(3) a hospital licensed under IC 16-21;

(4) a podiatrist licensed under IC 25-29;

(5) a chiropractor licensed under IC 25-10;

(6) an optometrist licensed under IC 25-24;

(7) a psychologist licensed under IC 25-33;

(8) a pharmacist licensed under IC 25-26;

(9) a health facility licensed under IC 16-28-2;

(10) a registered or licensed practical nurse licensed under IC 25-23;

(11) a physical therapist licensed under IC 25-27;

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(12) a home health agency licensed under IC 16-27-1;
(13) a community mental health center (as defined in IC 12-7-2-38);
(14) a health care organization whose members, shareholders, or partners are:
(A) professional health care providers described in subdivisions (1) through (13);
(B) professional corporations comprised of health care professionals (as defined in IC 23-1.5-1-8); or
(C) professional health care providers described in subdivisions (1) through (13) and professional corporations comprised of persons described in subdivisions (1) through (13);
(15) a private psychiatric hospital licensed under IC 12-25;
(16) a preferred provider organization (including a preferred provider arrangement or reimbursement agreement under IC 27-8-11);
(17) a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-34-4);
(18) a respiratory care practitioner ~~certified~~ **licensed** under IC 25-34.5;
(19) an occupational therapist certified under IC 25-23.5;
(20) a state institution (as defined in IC 12-7-2-184);
(21) a clinical social worker who is licensed under IC 25-23.6-5-2;
(22) a managed care provider (as defined in IC 12-7-2-127(b)); or
(23) a nonprofit health care organization affiliated with a hospital that is owned or operated by a religious order, whose members are members of that religious order.

SECTION 18. [EFFECTIVE JULY 1, 1999] **(a) Notwithstanding IC 25-34.5, as amended by this act, an individual who holds a valid respiratory care certificate on June 30, 1999, is considered to hold a valid respiratory care license under IC 25-34.5, as amended by this act, after June 30, 1999. The individual need not apply for a replacement license under IC 25-34.5, as amended by this act, until the certificate's expiration date, and the certificate shall be treated as a valid license under IC 25-34.5, as amended by this act, until the certificate's expiration date.**

(b) A respiratory care practitioner's license described in subsection (a) expires on the date the respiratory care practitioner's license would have expired if the amendments to

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IC 25-34.5 by this act had not been enacted.

(c) This SECTION expires July 1, 2001.

SECTION 19. [EFFECTIVE JULY 1, 1999] **844 IAC 11-5-3(c) is void. The publisher of the Indiana Administrative Code and the Indiana Register shall remove this rule from the Indiana Administrative Code.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1820, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BROWN C, Chair

Committee Vote: yeas 12, nays 1.

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