LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

Assessment Report
for

Respiratory Care

House Bill 421

LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

May 19, 1997

The Legislative Committee on New Licensing Boards is pleased to release this assessment report on the licensing of respiratory care practitioners. This report constitutes both the preliminary and final assessment report.

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Representative Frank Mitchell, Chairman

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LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

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PREFACE

The Legislative Committee on New Licensing Boards is a 9-member joint committee of the House and Senate created and governed by statute (Article 18A of Chapter 120 of the General Statutes). The primary purpose of the Committee is to evaluate the need for a new licensing board or the proposed licensing of previously unregulated practitioners by an existing board. The Committee has been in existence since 1985.

The Committee solicits written and oral testimony on each licensing proposal in carrying out its duty to determine whether the proposal meets the following criteria:

(1) Whether the unregulated practice of the profession can substantially endanger the public health, safety, or welfare, and whether the potential for such harm is recognizable and not remote or dependent upon tenuous argument.

(2) Whether the profession possesses qualities that distinguish it from ordinary labor.

(3) Whether practice of the profession requires specialized skill or training.

(4) Whether a substantial majority of the public has the knowledge or experience to evaluate the practitioner's competence.

(5) Whether the public can effectively be protected by other means.

(6) Whether licensure would have a substantial adverse economic impact upon consumers of the practitioner's good or services.

The Committee issues an assessment report on its findings and recommendations. The recommendation in the report is not binding on other committees considering the proposal.

RESPIRATORY CARE THERAPY

Respiratory Care practice involves the treatment, management, diagnostic testing, and care of patients with deficiencies and abnormalities associated with the cardiovascular system, including the observing and monitoring of signs and symptoms and the therapeutic application of medical gases, humidity, and aerosols, pharmacological agents related to respiratory care procedures, mechanical or physiological ventilatory support, CPR and maintenance of natural airways, hyperbaric oxygen therapy, and extracorporeal membrane oxygenation in appropriately identified environments. Respiratory care functions are carried out under the orders of a physician.

Under House Bill 421, respiratory care practitioners would be licensed by a North Carolina Respiratory Care Advisory Council. The Council, comprised of eight members (two of whom would be respiratory care practitioners and three of whom would be physicians), would be created under the North Carolina Medical Board. The North Carolina Medical Board is the licensing board for physicians.

The requirements for licensure would be completion of an approved respiratory care program, completion of the minimal requirements for Basic Cardiac Life Support (AHA), and successful completion of the national board exam. Persons who have already taken and passed the national exam would be grandfathered in under this bill. Others practicing as of October 1, 1997, and who do not meet the licensure requirements could continue to practice for one year while seeking to meet the educational and examination requirements of the bill. At the end of the one-year period, they must either have completed the

requirements or stop practicing. There is also an exemption for persons performing "support" activities in respiratory care, as long as they are performed under the supervision of a practitioner or physician licensed by the Medical Board. The Council can adopt rules governing their activities.

There are an estimated 2,800 respiratory care practitioners in North Carolina. Over two-thirds of these practitioners work in hospitals. It is also estimated that approximately one-third of all patients admitted to a hospital use respiratory care services. Most other states already regulate respiratory care practitioners.

Respiratory care practitioners are trained to care for patients under the supervision of a qualified physician in several clinical settings. These patients are disproportionately sicker than the general patient population. The respiratory care therapists' involvement and role with respect to life support procedures for these patients requires that they be competent to perform their duties, thus ensuring that the public's health and safety is adequately protected.

The Legislative Committee on New Licensing Boards finds that the sponsors have met the six statutory criteria by which the Committee judges licensure proposals, as follows:

(1) The unregulated practice of the profession can substantially harm or endanger the public health, safety, or welfare, and the potential for such harm is recognizable and not remote nor dependent upon tenuous argument.

(2) The practice of the profession possesses qualities that distinguish it from ordinary labor.

(3) The practice of the profession requires specialized skill and training.

(4) A substantial majority of the public does not have the knowledge or experience to evaluate the practitioner's competence.

(5) The public cannot be effectively protected by other means.

(6) Licensure would not have a substantial adverse economic impact upon consumers.

The Legislative Committee on New Licensing Boards recommends licensure of respiratory care therapists. This assessment report constitutes both the preliminary and the final assessment report for the licensing of respiratory care therapists. The report is based on the proposed licensing of respiratory care therapy, as set out in House Bill 421, the response to the Committee's questionnaire (attached), and testimony before the Committee on May 12, 1997.

RESPIRATORY CARE

QUESTIONNAIRE FOR LEGISLATIVE COMMITTEE ON NEW LICENSING BOARDS

1. In what ways has the marketplace failed to regulated adequately the profession or occupation?

North Carolina is but one of four states who fail to regulate respiratory care practitioners. All states bordering North Carolina currently regulate the practice of respiratory care. In the last three years, the states of Florida, Georgia, Tennessee, and Virginia have reported a number of respiratory care practitioners who have lost licenses in these states as residing in North Carolina. The potential for unlicensed and incompetent persons in regulated states to migrate to North Carolina seeking employment is significant. Additionally, the North Carolina Society for Respiratory Care (NCSRC) has reported to its Judicial Committee, three individuals falsely representing themselves as respiratory care practitioners. In each case, falsification of educational experience, and/or a national voluntary credential occurred. Since all three were non-members of its Society, the NCSRC was unable to discipline these individuals.

2. Have there been any complaints about the unregulated profession or occupation? Please give specific examples.

As indicated in the previous question, there have been three formal complaints to the NCSRC. Additional concerns arise regarding an inability to seek disciplinary action such similar incidents be encountered.

3. In what ways has the public health, safety, or welfare sustained harm or is in imminent danger of harm because of the lack of state regulation? Please give specific examples.

Respiratory care is a highly specialized allied heath profession. Respiratory Care Practitioners are trained to care for patients under the supervision of a qualified physician in multiple clinical settings including home care, sub-acute care, and hospitals. The patients receiving their care frequently include a disportionately sicker population than is the case for most other allied health practitioners and the respiratory care practitioners have responsibility for the control of life support procedures and equipment in critically ill patients. Respiratory care practitioners also play an indispensable role in the coordination, assessment, and utilization of respiratory care services in theses multiple environments. Such assessments and interventions are emergent, and although under the guidance and supervision of a qualified physician, these assessments and interactions may be performed without a physician physically present. These situations require respiratory care practitioners with the minimal training, experience, and competencies required for the public health, safety, and welfare for those patients receiving respiratory care.

4. Is there potential for substantial harm or danger by the profession or occupation to the public health, safety, or welfare? How can this potential for substantial harm or danger be recognized?

As defined in question number three, respiratory care practitioners make assessments and interventions to critically ill patients and those patients in emergency situations. Inappropriate or inadequate responses will result in adverse patient conditions which may be potentially life threatening or significantly alter the quality of life for the patient. Without regulation and definition of minimal competencies, a respiratory care practitioner without appropriate education, training, and competencies may be providing these services in North Carolina.

Additionally, respiratory care practitioners denied license or with suspension of licensed in another state, may practice respiratory care in North Carolina. There is no system to protect the public from practitioners considered unsafe in other states.

5. Has this potential harm or danger to the public been recognized by other states or the federal government through the licensing or certification process?

North Carolina is one of but four states without a licensing or certification process for respiratory care practitioners. In each state regulating the practice of respiratory care, public safety, and welfare is the basis for regulation.

6. What will be the economic advantage of licensing to the public?

The economic advantage of licensing to the public will be respiratory care services provided by a minimally educated, trained, and competent respiratory care practitioner. Currently, such services may be provided by individuals without these minimal competencies. The health care consumer will more than likely pay equivalent cost for these services as for those services provided by a regulated practitioner.

Respiratory care practitioners assess respiratory care efforts and assist the physician, in the utilization control of these services. Minimally educated, trained, competent respiratory care practitioners have been documented to actually decrease health care cost through such utilization control. Examples of respiratory care practitioners reducing health care cost are provided in the attached, "Respiratory Care Licensure and Costs."

7. What will be the economic disadvantages of licensing to the public?

None

8. What will be the economics advantages of licensing to the practitioners?

Economic advantages of licensing respiratory care practitioners are based on supply and demand economics. North Carolina human resources for Respiratory Care Practitioners is as follows:

a.	Total number of RCP's in hospitals	2000
b.	Estimated number of RCP's in home care	200
c.	Estimated number of RCP's in sub-acute	200
d.	Others performing Respiratory Care (eg. EMT, LPN, OJT)	400
e.	Estimated Total, Respiratory Care	2800

North Carolina currently has fourteen respiratory care educational programs in the community college system. Approximately 150 new respiratory care practitioners are graduated from these programs annually. This supply of new graduates exceeds the demand for respiratory care practitioners and will continue to do so as hospitals downsize and implement health care reform strategies.

9. What will be the economic disadvantages of licensing practitioners?

Respiratory care practitioners who are unable to meet the minimal licensing requirements may receive significant income reduction or have their jobs, as currently practiced, eliminated.

10. Please give other potential benefits to the public of licensing that outweigh the potential harmful effects of licensure such as a decrease in the availability of practitioners and higher cost to the public.

As indicated in item number 8, a steady increase in the supply of practitioners over demand is expected. Increased additional cost to the public will be minimal for the services provided by a licensed respiratory care practitioner. Additionally, supportive information, attached, identifies respiratory care control and utilization of services by a competent practitioner is an active means of reducing health care costs.

Health care is experiencing alternative sites for the delivery of health care. As the shift in care from the hospital, to the sub-acute care setting, and home environment occurs, less physician contact with the patient and greater dependency upon alternate care givers will occur. Respiratory care is an integral component of such care and focuses on the ability of the respiratory care practitioner to assess and effectively communicate observations and outcomes of care to the physician. Such a system promotes effective and efficient use of health care personnel in a changing health care system. Success of these changing systems will be dependent upon practitioner competency to perform these services.

I. Please detail the specific specialized skills or training that distinguish the occupation or profession from ordinary labor

A. Respiratory Care Practitioners must successfully complete a Respiratory Care Education Program which is recognized by the American Medical Association and includes the following courses of instruction:

Basic Sciences
Biology
Chemistry
Cardiopulmonary Anatomy and Physiology
Computer Science
Human Anatomy and Physiology
Mathematics
Microbiology
Pharmacology
Physics
Psychology
Cardiopulmonary Diseases
Pathology
Pediatrics and Perinatology
Respiratory Care Content Areas
- Emergency Airway Management
- Cardiopulmonary Resuscitation
- Cardiopulmonary Diagnostics and Interpretation
- Patient Assessment
- Cardiopulmonary Monitoring and Diagnostics
- Management of Mechanical Ventilation
- Ethics of Respiratory Care and Medical Care

B. Specific Skills of Respiratory Care Practitioner include:

- Insertion of Artificial Airways
- Insertion of Indwelling Arterial Lines
- Management of Life Support Devices
- Provision of Cardiopulmonary Resuscitation
- Patient Monitoring and Assessment of Respirator Care Outcome
- Administration of Specific Cardiopulmonary Medications as Prescribed by a Licensed Physician

12. What are other qualities of the profession or occupation that distinguish it from ordinary labor?

Although respiratory care practitioners perform services under the leadership and supervision of a physician, there is a relatively high degree of independent judgement required from the respiratory care practitioner. The practitioner deals with patients on a one-to-one basis and must quickly make decisions if a complication arises. Occasionally, these decisions are life saving or life threatening. This is quite evident in the home care setting or the intensive care setting during the middle of the night, where a respiratory care practitioner may be totally alone with a patient, needing to take quick, decisive action without time for consultation with a physician. Failure to appropriately assess and respond to these identified situations may result in a life threatening complications. Such specialized skills, training, and somewhat independent decisions distinguish the respiratory care practitioner from ordinary labor.

13. Will licensing requirements cover all practicing members of the occupation or profession? If any practitioners are exempt, what is the rationale for the exemption?

Licensing will cover all practicing members of the respiratory care profession excepting 1) those rendering care in the course of assigned duties of persons in the military services or working in federal facilities, 2) a student in a respiratory care educational program, working under direct supervision of a practitioner while fulfilling requirements of the course of study, 3) a health care practitioner duly licensed in accordance with Chapter 90 General Statues and performing services authorized by his or her scope of practice, and 4) persons aiding in the practice of respiratory care who perform support activities which do not require formal academic training, if these persons worked under the supervision of a practitioner or physician licensed under Article of Chapter 90 of the General Statues.

Rationale for these exemptions are 1) to allow cost effective support duties to be performed, such as equipment delivery, 2) facilitate training and experience for students of respiratory care, and 3) to be non-restrictive to licensed personnel currently exhibiting competencies in certain respiratory care services.

14. What is the approximate number of persons who will be regulated and the number of persons who are likely to utilize the services of the occupation or profession?

There are approximately 2800 respiratory care practitioners providing services in North Carolina. Such services are routinely provided to 35% all patients admitted to a hospital, therefore each North Carolina resident is a potential user of respiratory care services. 35% of all patients admitted to a hospital, 60% of all emergency room patients eventually requiring hospital admission. A growing percentage of patients in the subacute care environment, and a major portion of patients in defined home care programs for chronic cardiopulmonary disorders.

15. What kind of knowledge or experience does the public need to evaluate the services offered by the practitioner?

The public will require the equivalent knowledge and experience of a respiratory care practitioner, physician, or other duly licensed and knowledgeable health care provider to effectively evaluate the services offered by a respiratory care practitioner.

16. Does the occupational group have an established code of ethics, a voluntary certification program, or other measures to ensure a minimal quality of service?

The North Carolina Society for Respiratory Care attempts to provide minimal quality of services through an internal communication network and use of an established code of ethics adopted from its national affiliation with the American Association for Respiratory. The NCSRC promotes voluntary Certification and/or Registration of Respiratory Care Practitioners by the National Board for Respiratory Care. Approximately 1300 of the 2800 respiratory care practitioners in North Carolina are recognized by the National Board for Respiratory Care. The NCSRC has approximately 800 members participating in continuing educational programs for respiratory care.

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