

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 243 Respiratory Therapy
SPONSOR(S): Wishner
TIED BILLS: None. **IDEN./SIM. BILLS:** CS/SB 476 (s)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Standards (Sub)	10 Y, 0 N	Mitchell	Collins
2) Health Care	21 Y, 0 N	Mitchell	Collins
3) Health Appropriations		Massengale	Massengale
4) Appropriations			
5)			

SUMMARY ANALYSIS

House Bill 243 revises and substantially rewords the regulation of respiratory care or respiratory therapy to strengthen and streamline the licensure process by requiring national certification and eliminating temporary licenses and exemptions.

The bill's provisions conform Florida licensure requirements to standards set by the National Board for Respiratory Care. It requires applicants for a license in Florida to be registered as an entry level Registered Respiratory Therapist or certified at a more advanced level as a Certified Respiratory Therapist by the National Board for Respiratory Care. National certification replaces licensure by examination administered by the Department of Health and approval of educational programs by the Florida Board of Respiratory Care.

The bill also expands the definition of the practice of respiratory care to reflect current practice that includes evaluation and disease management, education, administration of drugs, cardiopulmonary resuscitation and cardiac life support, neonatal and pediatric care, and hyperbaric oxygen.

Provisions of the bill eliminate the board's authority to issue temporary licenses to persons licensed in another state and to eligible graduates of respiratory care programs. It substantially revises and restricts exemptions to the respiratory care practice act.

The bill repeals sections 468.356 and 468.357, F.S., related to approval of educational programs and licensure by examination, effective January 1, 2005. The effective date of the bill is upon becoming law.

The provisions of this bill will have minimal fiscal impact on state government, but will have an impact on persons licensed in other states who will no longer be able to obtain a temporary license in Florida.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0243c.ap.doc
DATE: March 8, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

The bill revises and substantially rewords the regulation of the practice of respiratory care or respiratory therapy. Definitions and exemptions are revised and requirements amended related to testing and licensure.

Part V, ch. 468, F.S., governs the practice of respiratory therapy. It provides definitions and licensure requirements for respiratory care practitioners.

Currently, in Florida, there are 3,794 actively licensed Registered Respiratory Therapists and 3,325 Certified Respiratory Therapists. Respiratory therapists evaluate, treat and care for patients with breathing disorders. To treat patients, respiratory therapists use oxygen or oxygen mixtures, chest physiotherapy, and aerosol medications. To evaluate patients, respiratory therapists test the capacity of the lungs and analyze oxygen and carbon dioxide concentration.

Respiratory therapists treat all types of patients, ranging from premature infants whose lungs are not fully developed to elderly people whose lungs are diseased. They provide temporary relief to patients with chronic asthma or emphysema, as well as emergency care to patients who are victims of a heart attack, stroke, drowning or shock. Therapists regularly check on patients and equipment. If the patient appears to be having difficulty or if the oxygen, carbon dioxide, or pH level of the blood is abnormal, they change the ventilator setting according to the doctor's order or check equipment for mechanical problems.

In homecare, therapists teach patients and their families to use ventilators and other life support systems. Additionally, they visit several times a month to inspect and clean equipment and ensure its proper use and make emergency visits, if equipment problems arise.

Scope of Practice

Under Florida law, a Florida-licensed respiratory therapist delivers respiratory care services under the order of a Florida-licensed allopathic or osteopathic physician, in accordance with protocols established by a hospital or other health care provider, and the Board of Respiratory Care.

The bill expands scope of practice to include additional modalities. Definitions relating to respiratory care are revised to expand the scope of practice of respiratory care therapists to include additional modalities, including evaluation and disease management, education, administration of drugs, cardiopulmonary resuscitation and cardiac life support, neonatal and pediatric care, and hyperbaric

oxygen. Drugs must be prescribed by a Florida allopathic or osteopathic physician and administered in accordance with protocols and procedures established by a hospital, another health care provider, and the Florida Board of Respiratory Care.

Licensure Requirements

Section 468.355, F.S., specifies licensure requirements for a person to become a certified respiratory therapist. To do so, a person must be at least 18 years old and possess a high school diploma or a graduate equivalency diploma. In addition, the applicant must meet at least one of the following criteria:

- (1) Successful completion of a training program for respiratory therapy technicians or respiratory therapists approved by the Commission on Accreditation of Allied Health Education Programs, or the equivalent, as accepted by the Florida Board of Respiratory Care;
- (2) The applicant is currently a "Certified Respiratory Therapist" certified by the National Board for Respiratory Care, or its equivalent, as accepted by the board; or
- (3) The applicant is currently a "Registered Respiratory Therapist" registered by the National Board for Respiratory Care, or its equivalent, as accepted by the board.

Voluntary National Certification

A Florida-licensed respiratory therapist may voluntarily be certified as a Certified Respiratory Therapist or registered as a Registered Respiratory Therapist pursuant to the requirements of the National Board for Respiratory Care. The board currently offers five credentialing programs. These examinations include the certification examination for entry level respiratory therapists for the designation of (CRT) and the registry examination for advanced respiratory therapy practitioners (RRT).

Approval of Educational Programs by the Florida Board of Respiratory Care

Section 468.356, F.S., provides that the Florida Board of Respiratory Care's approval of educational programs must be in accordance with the Joint Review Committee for Respiratory Therapy Education through the Commission on Accreditation of Allied Health Education Programs, or other accrediting agency recognized by the United States Department of Education. In fact, the Joint Review Committee for Respiratory Therapy Education has been replaced by the Committee on Accreditation for Respiratory Care (CoARC). The Florida Board of Respiratory Care may require additional documentation of intent to achieve full accreditation from any educational program that has not yet received full American Medical Association approval. The board may grant temporary approval for graduates of any program that has not yet achieved full accreditation so that such graduates may sit for the licensure examination.

National Accreditation

Respiratory care education programs are accredited through the Committee on Accreditation for Respiratory Care (CoARC). CoARC is responsible for assuring that respiratory therapy education programs comply with the standards adopted by the Commission on Accreditation of Allied Health Education Programs (CAAHEP).

CoARC has established new education standards that require all accredited education programs to award a minimum of an associate degree to all students who enroll beginning January 1, 2002. Persons seeking to qualify for the National Board for Respiratory Care's certification examination for the designation Certified Respiratory Therapist who enrolled on or after January 1, 2002, must graduate from an entry or advanced level respiratory care program with a minimum of an associate degree. Any National Board for Respiratory Care certification applicants who have started or graduated from any respiratory care educational program or entered the credentialing system before January 1, 2002, will have until December 31, 2005, to complete the requirements for credentialing without having an associate degree.

Licensure by Examination

Section 468.357, F.S., specifies procedures for licensure by examination of persons wishing to practice as certified respiratory therapists. To sit for the examination, the applicant must complete the required forms and pay the required licensure fee set by the Florida Board of Respiratory Care, submit required documentation, and remit an examination fee set by the examination provider. Examinations for licensure of certified respiratory therapists administered by the Department of Health must be conducted no less than two times a year in a geographical location or method deemed advantageous to the majority of applicants. The licensure examination for certified respiratory therapists must be the same as that given by the National Board for Respiratory Care for entry-level certification of respiratory therapists. The Department of Health must issue a license to any applicant who successfully completes the examination who otherwise qualifies for licensure as a certified respiratory therapist.

The bill replaces Florida licensure by examination with national certification. The bill requires applicants for respiratory care licensure in Florida to be nationally certified by the National Board for Respiratory Care, either as a Registered Respiratory Therapist or as a Certified Respiratory Therapist. This replaces licensure by examination administered by the Florida Department of Health. The bill conforms Florida licensure requirements for respiratory care therapists to standards set by the National Board for Respiratory Care. The Florida Board of Respiratory Care will no longer approve educational programs for respiratory care. (The bill repeals sections 468.356 and 468.357, F.S., related to approval of educational programs and licensure by examination, effective January 1, 2005).

According to the Department of Health, this will provide efficiencies by enabling an applicant to bypass the initial exam application to the department and apply directly to the national respiratory entity for examination.

Temporary Licenses

Currently, under s. 468.355, F.S., an applicant may apply to the state for a temporary permit to practice respiratory therapy. They may practice on a temporary permit no longer than one year or until they take the national exam, whichever occurs first. A student graduate of a respiratory care program may apply for a student exemption to practice for 90 days from the date of graduation. According to the Department of Health, complaints have been filed as a result of students practicing respiratory care on a 90 day student exemption, thereby creating a public protection issue.

The bill eliminates the board's authority to issue temporary licenses to persons licensed in another state or eligible graduates of respiratory care programs. Students will no longer be allowed to practice respiratory care after graduation. Students will be allowed to practice while performing respiratory care as long as they are enrolled in an accredited program as part of a required course.

Exemptions

Section 468.368, F.S., specifies exemptions to respiratory care licensure requirements for certain persons including:

- Medical personnel who have been formally trained in modalities used for the delivery of respiratory care services and who are duly licensed or have credentials pertaining to their respective professions.
- Cardiopulmonary testing by individuals who have credentials by the National Board for Respiratory Care as Certified Pulmonary Function Technologists, or individuals who are employed by health care facilities and who are eligible and have applied for that credential.
- Students enrolled in the educational program of any health care profession.
- Legally qualified persons providing respiratory care services employed by the United States Government, while such persons are discharging their official duties.
- Gratuitous care of an ill person by a friend or family member who does not hold himself or herself out as a respiratory care practitioner or respiratory therapist.

- An individual providing respiratory care in an emergency who does not hold himself or herself out as a respiratory care practitioner or respiratory therapist.
- A person employed in the office of, and who is working under the direct supervision and control of a Florida-licensed allopathic or osteopathic physician.
- A student who has demonstrated enrollment in the clinical portion of an approved respiratory care educational program to the board and who is employed by a health care facility and who is delivering limited respiratory care support services under the supervision of a licensed respiratory care practitioner or a respiratory care therapist.
- A graduate of an approved respiratory care educational program who has applied to the board for temporary licensure under s. 468.355, F.S.
- A person involved in the delivery, assembly, setup, testing, and demonstration of oxygen, aerosol, and intermittent positive pressure breathing equipment for use in the home upon order of a Florida-licensed allopathic or osteopathic physician.
- A surrogate family member who delivers incidental respiratory care of sick or disabled noninstitutionalized persons as long as such person does not hold himself or herself out as a respiratory care practitioner or respiratory therapist.

Section 468.366, F.S., provides criminal offenses under part V, ch. 468, F.S. (the respiratory care practice act). It is a violation of law for any person, including any firm, association, or corporation to deliver respiratory care services, as defined by part V, ch. 468, F.S., or by rule of the board, unless such person is duly licensed to do so under the part or unless such person is exempted under s. 468.368, F.S.; and to knowingly employ unlicensed persons in the delivery of respiratory care services, unless exempted by part V, ch. 468, F.S. Such violations constitute a third degree felony punishable by imprisonment up to 5 years and imposition of a fine up to \$5,000.

The bill substantially revises the exemptions to the respiratory care practice act. It eliminates an exemption for graduates of respiratory care education programs who hold temporary licenses. It restricts an exemption for the delivery and setup of oxygen aerosol, and pressure breathing equipment to an individual employed to deliver and set up equipment for home use. The bill creates an exemption for individuals credentialed in hyperbaric medicine by the Underseas Hyperbaric Society.

C. SECTION DIRECTORY:

Section 1. Substantially amends s. 468.352, F.S., relating to definitions for the regulation of respiratory care, to revise the definitions, including certified respiratory therapist, critical care, direct supervision, practice of respiratory care or therapy, and respiratory care services.

Section 2. Substantially amends s. 468.355, F.S., relating to eligibility for respiratory care licensure to require national certification.

Section 3. Substantially amends s. 468.368, F.S., relating to exemptions to respiratory care regulation for certain persons.

Section 4. Effective, January 1, 2005, repeals s. 468.356, F.S., which provides requirements for the approval of respiratory care therapy educational programs, and repeals s. 468.357, F.S., which specifies procedures for the licensure by examination of persons wishing to practice as certified respiratory therapists.

Section 5. Provides that, except as otherwise expressly provided, this act takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Department of Health will incur minimal costs to revise existing administrative rules for the Board of Respiratory Care.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who are already licensed in another state or eligible graduates of respiratory care programs will no longer be able to obtain temporary licenses to practice in Florida, and will incur costs to meet requirements for Florida licensure.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Health's current rulemaking authority is sufficient to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES