

RESPIRATORY CARE PRACTITIONERS
BOARD LAWS
AS OF THE 2019 LEGISLATIVE SESSION

TITLE 37, CHAPTER 28
RESPIRATORY CARE PRACTITIONERS

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CHAPTER 28

RESPIRATORY CARE PRACTITIONERS

Chapter Administrative Rules

Title 24, chapter 213, ARM Board of Respiratory Care Practitioners.

Part 1

General

Part Compiler's Comments

1991 Statement of Intent: The statement of intent attached to Ch. 532, L. 1991, provided: "A statement of intent is required for this bill because [section 5] [37-28-104] grants rulemaking authority to the board of respiratory care practitioners.

(1) In outlining the powers and responsibilities of the board of respiratory care practitioners, it is the intent of [section 5] [37-28-104] that the board have authority to adopt rules to implement and enforce [sections 1, 2, and 4 through 13] [Title 37, ch. 28] and specific authority to adopt rules regarding:

(a) license and temporary permit applications and procedures necessary to receive and process those applications;

(b) examinations and criteria for grading examinations;

(c) disciplinary standards for licensees and temporary permitholders, including definitions of conduct for which discipline may be appropriate;

(d) continuing education requirements;

(e) investigations of complaints;

(f) setting and modifying appropriate fees;

(g) a process for renewal of licenses and temporary permits, including procedures for late renewal;

(h) waiver of license requirements as provided in [section 7(2)] [37-28-202(2)]; and

(i) reciprocity conditions applicable to licensure.

(2) It is the intent of the legislature that the governor have the authority to implement staggered terms for board members during the appointment process."

Severability: Section 15, Ch. 532, L. 1991, was a severability clause.

Part Administrative Rules

ARM 24.213.101 Board organization.

37-28-101. Findings — purpose. The legislature finds and declares that the practice of respiratory care in the state affects the public health, safety, and welfare. To protect the public from the unqualified practice of respiratory care or unprofessional conduct by qualified practitioners, respiratory care is subject to regulation and control. The purpose of this chapter is to regulate the practice of respiratory care. The legislature recognizes that the practice of respiratory care is a dynamic and changing art and science that is continually evolving to include new ideas and more sophisticated techniques in patient care.

History: En. Sec. 1, Ch. 532, L. 1991.

37-28-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Board" means the board of respiratory care practitioners established in 2-15-1750.

(2) "Qualified medical direction" means the direction of:

(a) a medical director of an inpatient or outpatient respiratory care service, a respiratory care department, or a home-care agency; or

(b) a licensed physician with a special interest and knowledge about the diagnosis and treatment of respiratory problems.

(3) (a) "Respiratory care" means the care provided by a member of the allied health profession responsible for the treatment, management, diagnostic testing, and control of patients with deficiencies and abnormalities associated with the cardiopulmonary system. The term includes but is not limited to:

(i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures that are necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a physician;

(ii) transcription and implementation of the written or verbal orders of a physician regarding the practice of respiratory care;

(iii) observation and monitoring of a patient's signs and symptoms, general behavior, and physical response to respiratory care treatment and diagnostic testing, including determination of abnormal characteristics;

(iv) implementation of respiratory care protocols pursuant to a prescription by a physician; and

(v) initiation of emergency procedures prescribed by board rules.

(b) Respiratory care is not limited to a hospital setting but must be performed pursuant to a physician's order and under qualified medical direction. The term includes inhalation and respiratory therapy.

(4) "Respiratory care practitioner" means a person who has the knowledge and skill necessary to administer respiratory care and who is licensed under the provisions of part 2 of this chapter.

(5) "Student respiratory care practitioner" means a person:

(a) enrolled in a respiratory care educational program recognized by the joint review committee for respiratory therapy education and the American medical association's committee on allied health education and accreditation, or their successors;

(b) permitted to provide respiratory care under clinical supervision; and

(c) identified as a student respiratory care practitioner or "SRCP".

History: En. Sec. 2, Ch. 532, L. 1991.

Administrative Rules

ARM 24.213.301 Definitions.

37-28-103. Board meetings — procedure — seal. (1) (a) The board shall meet at least once a year. The board may convene at the request of the presiding officer or at other times the board determines necessary to transact its business.

(b) The governor shall designate the presiding officer of the board.

(2) The board shall adopt a seal by which the board may authenticate its documents.

History: En. Sec. 4, Ch. 532, L. 1991; amd. Sec. 30, Ch. 492, L. 2001.

Compiler's Comments

2001 Amendment: Chapter 492 in (1)(a) in first sentence after "at least once a year" deleted "and shall elect annually a president, vice president, and secretary-treasurer from its membership"; inserted (1)(b) regarding designation of presiding officer; and made minor changes in style. Amendment effective October 1, 2001.

Effective Date: Section 17, Ch. 532, L. 1991, provided: "[Sections 3 through 5, 14 through 16, and this section] are effective on passage and approval." Approved April 22, 1991.

Administrative Rules

ARM 24.213.201 Procedural rules.

37-28-104. Board powers and duties. (1) The board shall license, grant temporary permits, and renew the licenses or permits of duly qualified applicants.

(2) The board may adopt rules necessary to implement the provisions of this chapter.

History: En. Sec. 5, Ch. 532, L. 1991; amd. Sec. 79, Ch. 467, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 467 in (1) at beginning after "shall" deleted "examine"; deleted former (1)(b) and (1)(c) that read: "(b) establish examinations and passing scores for licensure under 37-28-202;

(c) adopt and implement rules for continuing education requirements to ensure the quality of respiratory care"; deleted former (2)(b) that read: "(b) establish relicensing requirements and procedures

that the board considers appropriate"; and made minor changes in style. Amendment effective July 1, 2005.

Effective Date: Section 17, Ch. 532, L. 1991, provided: "[Sections 3 through 5, 14 through 16, and this section] are effective on passage and approval." Approved April 22, 1991.

Part 2 Licensure

Part Compiler's Comments

1991 Statement of Intent: The statement of intent attached to Ch. 532, L. 1991, provided: "A statement of intent is required for this bill because [section 5] [37-28-104] grants rulemaking authority to the board of respiratory care practitioners.

(1) In outlining the powers and responsibilities of the board of respiratory care practitioners, it is the intent of [section 5] [37-28-104] that the board have authority to adopt rules to implement and enforce [sections 1, 2, and 4 through 13] [Title 37, ch. 28] and specific authority to adopt rules regarding:

(a) license and temporary permit applications and procedures necessary to receive and process those applications;

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(c) disciplinary standards for licensees and temporary permitholders, including definitions of conduct for which discipline may be appropriate;

(d) continuing education requirements;

(e) investigations of complaints;

(f) setting and modifying appropriate fees;

(g) a process for renewal of licenses and temporary permits, including procedures for late renewal;

(h) waiver of license requirements as provided in [section 7(2)] [37-28-202(2)]; and

(i) reciprocity conditions applicable to licensure.

(2) It is the intent of the legislature that the governor have the authority to implement staggered terms for board members during the appointment process."

Licensure — Grandfather Provision: Section 14, Ch. 532, L. 1991, provided: "The board shall grant a license to practice respiratory care without examination or completion of the requisite educational program to a person who has been performing respiratory care in this state for at least 1 year on [the effective date of this section] [effective April 22, 1991]."

Severability: Section 15, Ch. 532, L. 1991, was a severability clause.

Part Administrative Rules

ARM 24.213.402 Application for licensure.

ARM 24.213.403 Abatement of renewal fees.

ARM 24.213.415 Inactive status.

37-28-201. License required — exceptions — respiratory care not the practice of medicine. (1) Except as otherwise provided in this chapter, a person may not practice respiratory care or represent to the public that the person is a respiratory care practitioner unless licensed under the provisions of this chapter.

(2) This chapter does not prohibit:

(a) the practice of respiratory care that is an integral part of study by a student respiratory care practitioner;

(b) self-care by a patient or the gratuitous care by a friend or family member who does not purport to be a respiratory care practitioner; or

(c) respiratory care rendered in the course of an emergency.

(3) This chapter is not intended to limit, preclude, or interfere with the practice of other persons and health care providers licensed by the appropriate agencies of the state of Montana.

(4) This chapter may not be construed to permit the practice of medicine.

History: En. Sec. 6, Ch. 532, L. 1991; amd. Sec. 85, Ch. 429, L. 1995.

Compiler's Comments

1995 Amendment: Chapter 429 in (1), after "licensed", deleted "or granted a temporary permit" and at end substituted "provisions of this chapter" for "provisions of 37-28-201 through 37-28-203 and 37-28-206"; and made minor changes in style.

Severability: Section 131, Ch. 429, L. 1995, was a severability clause.

Saving Clause: Section 132, Ch. 429, L. 1995, was a saving clause.

Applicability Section 133, Ch. 429, L. 1995, provided: "[This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section]." Effective October 1, 1995.

37-28-202. Licensing requirements — examination — fees. (1) To be eligible for licensure by the board as a respiratory care practitioner, the applicant shall:

(a) submit to the board an application fee in an amount established by the board and an application demonstrating that the applicant has completed:

(i) high school or the equivalent; and

(ii) a respiratory care educational program accredited or provisionally accredited by the American medical association's committee on allied health education and accreditation in collaboration with the joint review committee for respiratory therapy education or their successor organizations; and

(b) pass an examination prescribed by the board. The board may use the entry-level examination written by the national board for respiratory care or another examination that satisfies the standards of the national commission for health certifying agencies or the commission's equivalent.

(2) A person holding a license to practice respiratory care in this state may use the title "respiratory care practitioner" and the abbreviation "RCP".

History: En. Sec. 7, Ch. 532, L. 1991; amd. Sec. 86, Ch. 429, L. 1995; amd. Sec. 80, Ch. 467, L. 2005.

Compiler's Comments

2005 Amendment: Chapter 467 in (1)(a) near middle after "board and" substituted "an application" for "a written application on a form provided by the board". Amendment effective July 1, 2005.

1995 Amendment: Chapter 429 in (1)(b), in first clause after "board", deleted "unless the examination requirement is waived under subsection (2)"; deleted former (2) that read: "(2) The board may issue a license to practice respiratory care to an applicant without requiring him to pass an examination if the applicant:

(a) is currently licensed to practice respiratory care under the laws of another state, territory, or country if the board considers the qualifications for licensure to be equivalent to those required in this state; or

(b) holds credentials, conferred by the national board for respiratory care, as a certified respiratory therapy technician or a registered respiratory therapist and affirms under oath that his credentials have not been suspended or revoked"; and made minor changes in style.

Severability: Section 131, Ch. 429, L. 1995, was a severability clause.

Saving Clause: Section 132, Ch. 429, L. 1995, was a saving clause.

Applicability Section 133, Ch. 429, L. 1995, provided: "[This act] applies to licenses applied for, complaints submitted, and proceedings begun after [the effective date of this section]." Effective October 1, 1995.

Administrative Rules

ARM 24.213.401 Fee schedule.

ARM 24.213.408 Examination.

37-28-203. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 8, Ch. 532, L. 1991; amd. Sec. 1, Ch. 392, L. 1993; amd. Sec. 87, Ch. 429, L. 1995; amd. Sec. 36, Ch. 271, L. 2003.

37-28-204 and 37-28-205 reserved.

37-28-206. Repealed. Sec. 128, Ch. 429, L. 1995.
History: En. Sec. 9, Ch. 532, L. 1991; amd. Sec. 2, Ch. 392, L. 1993.

37-28-207 through 37-28-209 reserved.

37-28-210. Repealed. Sec. 128, Ch. 429, L. 1995.
History: En. Sec. 10, Ch. 532, L. 1991.

Part 3 Miscellaneous

Part Compiler's Comments

1991 Statement of Intent: The statement of intent attached to Ch. 532, L. 1991, provided: "A statement of intent is required for this bill because [section 5] [37-28-104] grants rulemaking authority to the board of respiratory care practitioners.

(1) In outlining the powers and responsibilities of the board of respiratory care practitioners, it is the intent of [section 5] [37-28-104] that the board have authority to adopt rules to implement and enforce [sections 1, 2, and 4 through 13] [Title 37, ch. 28] and specific authority to adopt rules regarding:

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(g) a process for renewal of licenses and temporary permits, including procedures for late renewal;

(h) waiver of license requirements as provided in [section 7(2)] [37-28-202(2)]; and

(i) reciprocity conditions applicable to licensure.

(2) It is the intent of the legislature that the governor have the authority to implement staggered terms for board members during the appointment process."

Severability: Section 15, Ch. 532, L. 1991, was a severability clause.

37-28-301. Repealed. Sec. 128, Ch. 429, L. 1995.
History: En. Sec. 11, Ch. 532, L. 1991.

37-28-302. Penalty. A person convicted of violating any provision of this chapter, is guilty of a misdemeanor and shall be fined an amount not to exceed \$500, or shall be imprisoned in a county jail for a term not to exceed 6 months, or both.

History: En. Sec. 12, Ch. 532, L. 1991.

37-28-303 and 37-28-304 reserved.

37-28-305. Deposit of fees. All fees and money received by the department must be deposited in the state special revenue fund for the board's use subject to 37-1-101(6).

History: En. Sec. 13, Ch. 532, L. 1991.