

Sec. 12. Section 229.1, subsection 11, paragraph c, Code Supplement 1995, is amended to read as follows:

c. A social worker ~~who holds a master's degree in social work awarded by an accredited college or university licensed under chapter 154C.~~

Sec. 13. EFFECTIVE DATE. Sections 2 and 3 of this Act take effect July 1, 1998.

Approved April 2, 1996

CHAPTER 1036

LICENSURE OF RESPIRATORY CARE PRACTITIONERS

S.F. 2013

AN ACT requiring the licensure of respiratory care therapists and creating a board for respiratory care practitioners.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 135.1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

For the purposes of ~~chapters 152B and~~ chapter 155 and title IV, subtitle 2, excluding chapters 142B, 145B, and 146, unless otherwise defined:

Sec. 2. Section 135.11, subsections 11 and 13, Code 1995, are amended to read as follows:

11. Enforce the law relative to chapter 146 and "Health-related Professions," title IV, subtitle 3, excluding chapters ~~152B, 152D,~~ and 155.

13. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of chapters 125, ~~152B, 152D,~~ and 155 and title IV, subtitle 2, excluding chapters 142B, 145B, and 146 and for the enforcement of the various laws, the administration and supervision of which are imposed upon the department.

Sec. 3. Section 147.1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

For the purpose of this and the following chapters of this subtitle, excluding chapters ~~152B, 152C,~~ and 152D:

Sec. 4. Section 147.1, subsections 3 and 6, Code Supplement 1995, are amended to read as follows:

3. "Licensed" or "certified" when applied to a physician and surgeon, podiatric physician, osteopath, osteopathic physician and surgeon, physician assistant, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, occupational therapist, respiratory care practitioner, practitioner of cosmetology arts and sciences, practitioner of barbering, funeral director, dietitian, marital and family therapist, mental health counselor, or social worker means a person licensed under this subtitle, excluding chapters 152B,* 152C, and 152D.

6. "Profession" means medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, practice as a physician assistant, psychology, chiropractic, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, pharmacy, physical therapy, occupational therapy, respiratory care, cosmetology arts and sciences, barbering, mortuary

*See chapter 1219, §20 herein

science, marital and family therapy, mental health counseling, social work, or dietetics.

Sec. 5. Section 147.2, Code 1995, is amended to read as follows:

147.2 LICENSE REQUIRED.

A person shall not engage in the practice of medicine and surgery, podiatry, osteopathy, osteopathic medicine and surgery, psychology, chiropractic, physical therapy, nursing, dentistry, dental hygiene, optometry, speech pathology, audiology, occupational therapy, respiratory care, pharmacy, cosmetology, barbering, dietetics, or mortuary science or shall not practice as a physician assistant as defined in the following chapters of this subtitle, unless the person has obtained from the department a license for that purpose.

Sec. 6. Section 147.3, Code 1995, is amended to read as follows:

147.3 QUALIFICATIONS.

An applicant for a license to practice a profession under this subtitle, excluding chapters ~~152B~~, 152C, and 152D, is not ineligible because of age, citizenship, sex, race, religion, marital status or national origin, although the application form may require citizenship information. A board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of the profession for which the applicant requests to be licensed. Character references may be required, but shall not be obtained from licensed members of the profession.

Sec. 7. Section 147.6, Code 1995, is amended to read as follows:

147.6 CERTIFICATE PRESUMPTIVE EVIDENCE.

Every license issued under this subtitle, excluding chapters ~~152B~~, 152C, and 152D, shall be presumptive evidence of the right of the holder to practice in this state the profession therein specified.

Sec. 8. Section 147.7, Code 1995, is amended to read as follows:

147.7 DISPLAY OF LICENSE.

Every person licensed under this subtitle, excluding chapters ~~152B~~, 152C, and 152D, to practice a profession shall keep the license publicly displayed in the primary place in which the person practices.

Sec. 9. Section 147.9, Code 1995, is amended to read as follows:

147.9 CHANGE OF RESIDENCE.

When any person licensed to practice a profession under this subtitle, excluding chapters ~~152B~~, 152C, and 152D, changes a residence or place of practice the person shall notify the department.

Sec. 10. Section 147.12, unnumbered paragraph 1, Code 1995, is amended to read as follows:

For the purpose of giving examinations to applicants for licenses to practice the professions for which licenses are required by this subtitle, excluding chapters ~~152B~~, 152C, and 152D, the governor shall appoint, subject to confirmation by the senate, a board of examiners for each of the professions. The board members shall not be required to be members of professional societies or associations composed of members of their professions.

Sec. 11. Section 147.13, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 18. For respiratory care therapists, respiratory care examiners.

Sec. 12. Section 147.14, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 15. For respiratory care, one licensed physician with training in respiratory care, three respiratory care practitioners who have practiced respiratory care for a minimum of six years immediately preceding their appointment to the board and

who are recommended by the society for respiratory care, and one member not licensed to practice medicine or respiratory care who shall represent the general public. A majority of members of the board constitute a quorum.

Sec. 13. Section 147.30, Code 1995, is amended to read as follows:

147.30 TIME AND PLACE OF EXAMINATIONS.

The department shall give public notice of the time and place of all examinations to be held under this subtitle, excluding chapters ~~152B~~, 152C, and 152D. Such notice shall be given in such manner as the department may deem expedient and in ample time to allow all candidates to comply with the provisions of this subtitle, excluding chapters ~~152B~~, 152C, and 152D.

Sec. 14. Section 147.34, Code 1995, is amended to read as follows:

147.34 EXAMINATIONS.

Examinations for each profession licensed under this subtitle, excluding chapters ~~152B~~, 152C, and 152D, shall be conducted at least one time per year at such time as the department may fix in cooperation with each examining board. Examinations may be given at the state university of Iowa at the close of each school year for professions regulated by this subtitle, excluding chapters ~~152B~~, 152C, and 152D, and examinations may be given at other schools located in the state at which any of the professions regulated by this subtitle, excluding chapters ~~152B~~, 152C, and 152D, are taught. At least one session of each examining board shall be held annually at the seat of government and the locations of other sessions shall be determined by the examining board, unless otherwise ordered by the department. Applicants who fail to pass the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, applicants shall be allowed to take the examination at the discretion of the board. Examinations may be given by an examining board which are prepared and scored by persons outside the state, and examining boards may contract for such services. An examining board may make an agreement with examining boards in other states for administering a uniform examination. An applicant who has failed an examination may request in writing information from the examining board concerning the examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the examining board administers a uniform, standardized examination, the examining board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the examining board.

Sec. 15. Section 147.41, subsection 2, Code 1995, is amended to read as follows:

2. The subjects to be covered by such examination and the subjects to be covered by the final examination to be taken by such applicant after the completion of the professional course and prior to the issuance of the license, but the subjects covered in the partial and final examinations shall be the same as those specified in this subtitle, excluding chapters ~~152B~~, 152C, and 152D, for the regular examination.

Sec. 16. Section 147.44, Code 1995, is amended to read as follows:

147.44 AGREEMENTS.

For the purpose of recognizing licenses which have been issued in other states to practice any profession for which a license is required by this subtitle, excluding chapters ~~152B~~, 152C, and 152D, the department shall enter into a reciprocal agreement with every state which is certified to it by the proper examining board under the provisions of section 147.45 and with which this state does not have an existing agreement at the time of such certification.

Sec. 17. Section 147.46, subsection 1, Code 1995, is amended to read as follows:

1. PROTECTION TO LICENSEES OF THIS STATE. When the laws of any state or the rules of the authorities of said state place any requirement or disability upon any person

licensed in this state to practice any profession regulated by this subtitle, excluding chapters ~~152B~~, 152C, and 152D, which affects the right of said person to be licensed or to practice the person's profession in said state, then the same requirement or disability shall be placed upon any person licensed in said state when applying for a license to practice in this state.

Sec. 18. Section 147.52, Code 1995, is amended to read as follows:

147.52 RECIPROCITY.

When the laws of any state or the rules of the authorities of said state place any requirement or disability upon any person holding a diploma or certificate from any college in this state in which one of the professions regulated by this subtitle, excluding chapters ~~152B~~, 152C, and 152D, is taught, which affects the right of said person to be licensed in said state, the same requirement or disability shall be placed upon any person holding a diploma from a similar college situated therein, when applying for a license to practice in this state.

Sec. 19. Section 147.72, Code 1995, is amended to read as follows:

147.72 PROFESSIONAL TITLES AND ABBREVIATIONS.

Any person licensed to practice a profession under this subtitle, excluding chapters ~~152B~~, 152C, and 152D, may append to the person's name any recognized title or abbreviation, which the person is entitled to use, to designate the person's particular profession, but no other person shall assume or use such title or abbreviation, and no licensee shall advertise in such a manner as to lead the public to believe that the licensee is engaged in the practice of any other profession than the one which the licensee is licensed to practice.

Sec. 20. Section 147.73, subsection 1, Code 1995, is amended to read as follows:

1. As authorizing any person licensed to practice a profession under this subtitle, excluding chapters ~~152B~~, 152C, and 152D, to use or assume any degree or abbreviation of the same unless such degree has been conferred upon said person by an institution of learning accredited by the appropriate board herein created, together with the director of public health, or by some recognized state or national accredited agency.

Sec. 21. Section 147.74, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 18A. A respiratory care practitioner licensed under chapter 152B and this chapter may use the title "respiratory care practitioner" or the letters R.C.P. after the person's name.

Sec. 22. Section 147.80, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 24A. License to practice respiratory care, license to practice respiratory care under a reciprocal license, or renewal of a license to practice respiratory care.

Sec. 23. Section 147.83, Code 1995, is amended to read as follows:

147.83 INJUNCTION.

Any person engaging in any business or in the practice of any profession for which a license is required by this subtitle, excluding chapters ~~152B~~, 152C, and 152D, without such license may be restrained by permanent injunction.

Sec. 24. Section 147.86, Code 1995, is amended to read as follows:

147.86 PENALTIES.

Any person violating any provision of this or the following chapters of this subtitle, excluding chapters ~~152B~~, 152C, and 152D, except insofar as the provisions apply or relate to or affect the practice of pharmacy, or where a specific penalty is otherwise provided, shall be guilty of a serious misdemeanor.

Sec. 25. Section 147.87, Code 1995, is amended to read as follows:
147.87 ENFORCEMENT.

The department shall enforce the provisions of this and the following chapters of this subtitle, excluding chapters ~~152B~~, 152C, and 152D, and for that purpose may request the department of inspections and appeals to make necessary investigations. Every licensee and member of an examining board shall furnish the department or the department of inspections and appeals such evidence as the member or licensee may have relative to any alleged violation which is being investigated.

Sec. 26. Section 147.88, Code 1995, is amended to read as follows:
147.88 INSPECTIONS.

The department of inspections and appeals may perform inspections as required by this subtitle, excluding chapters ~~152B~~, 152C, and 152D, except for the board of medical examiners, board of pharmacy examiners, board of nursing, and the board of dental examiners. The department of inspections and appeals shall employ personnel related to the inspection functions.

Sec. 27. Section 147.90, Code 1995, is amended to read as follows:
147.90 RULES AND FORMS.

The Iowa department of public health and the department of inspections and appeals shall each establish the necessary rules and forms for carrying out the duties imposed upon it by this subtitle, excluding chapters ~~152B~~, 152C, and 152D.

Sec. 28. Section 147.92, Code 1995, is amended to read as follows:
147.92 ATTORNEY GENERAL.

Upon request of the department the attorney general shall institute in the name of the state the proper proceedings against any person charged by the department with violating any provision of this or the following chapters of this subtitle, excluding chapters ~~152B~~, 152C, and 152D.

Sec. 29. Section 147.93, Code 1995, is amended to read as follows:
147.93 PRIMA FACIE EVIDENCE.

The opening of an office or place of business for the practice of any profession for which a license is required by this subtitle, excluding chapters ~~152B~~, 152C, and 152D, the announcing to the public in any way the intention to practice any such profession, the use of any professional degree or designation, or of any sign, card, circular, device, or advertisement, as a practitioner of any such profession, or as a person skilled in the same, shall be prima facie evidence of engaging in the practice of such profession.

Sec. 30. Section 147.111, Code 1995, is amended to read as follows:
147.111 REPORT OF TREATMENT OF WOUNDS AND OTHER INJURIES.

Any person licensed under the provisions of this subtitle, excluding chapters ~~152B~~, 152C, and 152D, who shall administer any treatment to any person suffering a gunshot or stab wound or other serious bodily injury, as defined in section 702.18, which appears to have been received in connection with the commission of a criminal offense, or to whom an application is made for treatment of any nature because of any such gunshot or stab wound or other serious injury, as defined in section 702.18, shall at once but not later than twelve hours thereafter, report that fact to the law enforcement agency within whose jurisdiction the treatment was administered or an application therefor was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the gunshot or stab wound or other serious bodily injury occurred, stating the name of such person, the person's residence if ascertainable, and giving a brief description of the gunshot or stab wound or other serious bodily injury. Any provision of law or rule of evidence relative to confidential communications is suspended insofar as the provisions of this section are concerned.

Sec. 31. Section 152B.1, Code 1995, is amended to read as follows:

152B.1 DEFINITIONS.

As used in this chapter, unless otherwise defined or the context otherwise requires:

1. "Board" means the state board for respiratory care.

1A. "Department" means the Iowa department of public health.

1B. "Formal training" means a supervised, structured educational activity that includes preclinical didactic and laboratory activities and clinical activities approved by an accrediting agency recognized by the board, and including an evaluation of competence through a standardized testing mechanism that is determined by the board to be both valid and reliable.

2. "Medical Qualified medical director" means a licensed physician or surgeon who is a member of a hospital's or health care facility's active medical staff and who should be certified or eligible for certification by the American board of internal medicine or the American board of anesthesiology has special interest and knowledge in the diagnosis and treatment of respiratory problems, is qualified by special training or experience in the management of acute and chronic respiratory disorders, is responsible for the quality, safety, and appropriateness of the respiratory care services provided, and is readily accessible to the respiratory care practitioners to assure their competency.

3. "Respiratory care" includes "respiratory therapy" or "inhalation therapy".

3A. "Respiratory care education program" means a course of study leading to eligibility for registration or certification in respiratory care which is recognized or approved by the board.

4. "Respiratory care practitioner" or "practitioner" means a person who qualifies as a respiratory therapist or respiratory therapy technician. meets all of the following:

a. Is qualified in the practice of cardiorespiratory care and has the knowledge and skill necessary to administer respiratory care as defined in section 152B.3.

b. Is capable of serving as a resource to the physician in relation to the technical aspects of cardiorespiratory care and to safe and effective methods for administering respiratory care modalities.

c. Is able to function in situations of unsupervised patient contact requiring individual judgment.

d. Is capable of supervising, directing, or teaching less skilled personnel in the provision of respiratory care services.

5. "Respiratory therapist" means a person who has successfully completed a respiratory therapy training care education program and for training respiratory therapists and has passed the registry examination for respiratory therapists administered by the national board for respiratory care or a respiratory therapy licensure examination approved by the department board. Two years of supervised clinical experience in an acceptable location for the practice of respiratory care, as described in section 152B.4, may be substituted for the completion of a respiratory therapy training program.

6. "Respiratory therapy technician" means a person who has successfully completed a respiratory therapy training care education program and for training therapists and has passed the certification examination for respiratory therapy technicians administered by the national board for respiratory care or a respiratory therapy therapist technicians' licensure examination approved by the department board. Two years of supervised clinical experience in an acceptable location for the practice of respiratory care, as described in section 152B.4, may be substituted for the completion of a respiratory therapy training program.

7. "Respiratory therapy training program" means a program accredited by the American medical association's committee on allied health education and accreditation in cooperation with the joint review committee for respiratory therapy education and approved by the committee.

Sec. 32. Section 152B.6, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The department board shall administer and implement this chapter. The department's board's duties in these areas shall include, but are not limited to, the following:

Sec. 33. Section 152B.7, Code 1995, is amended to read as follows:
152B.7 REPRESENTATION.

A person who is qualified as a respiratory care practitioner and is licensed by the department board may use the title "respiratory care practitioner" or the letters R.C.P. after the person's name to indicate that the person is a qualified respiratory care practitioner licensed by the department board. No other person is entitled to use the title or letters or any other title or letters that indicate or imply that the person is a respiratory care practitioner, nor may a person make any representation, orally or in writing, expressly or by implication, that the person is a licensed respiratory care practitioner.

Sec. 34. NEW SECTION. 152B.7A EXCEPTIONS.

1. A person shall not practice respiratory care or represent oneself to be a respiratory care practitioner unless the person is licensed under this chapter.

2. This chapter does not prohibit any of the following:

a. The practice of respiratory care which is an integral part of the program of study by students enrolled in an accredited respiratory therapy training program approved by the board in those situations where that care is provided under the direct supervision of an appropriate clinical instructor recognized by the educational program.

b. Respiratory care services rendered in the course of an emergency.

c. Care administered in the course of assigned duties of persons in the military services.

3. This section is not intended to limit, preclude, or otherwise interfere with the practice of other health providers formally trained and licensed by this state who administer respiratory care procedures.

4. An individual who passes an examination that includes the content of one or more of the functions included in sections 152B.2 and 152B.3 shall not be prohibited from performing such procedures for which they were tested, as long as the testing body offering the examination is approved by the board.

Sec. 35. Section 152B.9, Code 1995, is amended to read as follows:
152B.9 INJUNCTION.

The department board may apply to a court for the issuance of an injunction or other appropriate restraining order against a person who is engaging in a violation of this chapter.

Sec. 36. Section 152B.11, Code Supplement 1995, is amended to read as follows:
152B.11 CONTINUING EDUCATION.

After July 1, 1991, a respiratory care practitioner shall submit evidence satisfactory to the department board that during the year preceding renewal of licensure the practitioner has completed continuing education courses as prescribed by the department board. In lieu of the continuing education, a person may successfully complete the most current version of the licensure examination.

Persons who are not licensed under this chapter but who perform respiratory care as defined by sections 152B.2 and 152B.3 shall comply with the continuing education requirements of this section. The department board shall adopt rules for the administration of this requirement.

~~This section does not apply to persons who are licensed to practice a health profession covered by chapter 147 or to any person who performs respiratory care procedures as a first responder, emergency rescue technician, emergency medical care provider, or other person functioning as part of a rescue unit or in a hospital as authorized by chapter 147A, or to persons whose function with respect to respiratory care is limited to the home delivery and connection of oxygen tanks.~~

Sec. 37. Section 152B.12, Code 1995, is amended to read as follows:
152B.12 SUSPENSION AND REVOCATION OF LICENSES.

The ~~department~~ board may suspend, revoke or impose probationary conditions upon a license issued pursuant to rules adopted in accordance with section 152B.6.

Sec. 38. Section 152B.13, Code 1995, is amended to read as follows:

152B.13 ~~ADVISORY COMMITTEE~~ STATE BOARD FOR RESPIRATORY CARE.

~~1. A state board for respiratory care advisory committee is established to provide advice to the department regarding approval of continuing education programs and drafting of rules pursuant to section 152B.6 administer this chapter. Membership of the board shall be established pursuant to section 147.14, subsection 15.~~

~~The members of the advisory committee shall include two licensed physicians with recognized training and experience in respiratory care, two respiratory care practitioners, and one public member. Not more than a simple majority of the advisory committee board shall be of one gender. Members shall be appointed by the governor, subject to confirmation by the senate, and shall serve three-year terms beginning and ending in accordance with section 69.19. A member may not serve more than three consecutive terms. Members shall be compensated for their actual and necessary expenses incurred in the performance of their duties. Expense moneys paid to the members shall be paid from funds appropriated to the department board. Each member of the committee board may also be eligible to receive compensation as provided in section 7E.6.~~

3. The board shall:

a. Examine, license, and renew the licenses of qualified applicants.

b. Maintain an up-to-date list of every person licensed to practice respiratory care under this chapter. The list shall show a licensee's last known place of employment, last known place of residence, and the date and number of the licensee's license.

c. Cause the prosecution of all persons violating this chapter and incur necessary expenses for the prosecution.

Sec. 39. NEW SECTION. 152B.14 LICENSURE THROUGH PRIOR EXAMINATION OR PRACTICE.

1. The board shall issue a license to practice respiratory care to an applicant who, on July 1, 1996, has passed an examination administered by the state or a national agency approved by the board.

2. Other applicants who have not passed these examinations or their equivalent on July 1, 1996, and who, through written evidence, verified by oath, demonstrate that they are presently functioning in the capacity of a respiratory care practitioner as defined by this chapter, shall be given a temporary license to practice respiratory care for a period of thirty-six months from the effective date of this Act. Such applicants must pass a licensure examination administered or approved by the board within thirty-six months after the effective date of this Act in order to continue to practice respiratory care.

Sec. 40. Section 272C.1, subsection 6, paragraph aa, Code 1995, is amended to read as follows:

aa. ~~The Iowa department of public health~~ state board of respiratory care in licensing respiratory care practitioners pursuant to chapter 152B.

Approved April 2, 1996