

REFERENCE TITLE: nursing board; respiratory therapists

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HB 2741

Introduced by  
Representative Lopes

AN ACT

AMENDING SECTIONS 32-1602, 32-1603, 32-3501, 41-1092 AND 41-3012.04, ARIZONA REVISED STATUTES; REPEALING SECTIONS 32-3502, 32-3503, 32-3505, 32-3506 AND 41-3017.04, ARIZONA REVISED STATUTES; RELATING TO RESPIRATORY CARE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1602, Arizona Revised Statutes, is amended to  
3 read:

4 32-1602. State board of nursing

5 A. ~~There shall be a~~ THE state board of nursing ~~which shall consist~~ IS  
6 ESTABLISHED CONSISTING of ~~nine~~ THE FOLLOWING members appointed by the  
7 governor~~:-~~ :

8 1. Five ~~members shall be~~ registered nurses. ~~;-~~

9 2. Two PUBLIC members. ~~shall represent the public and~~

10 3. Two ~~members shall be~~ licensed practical nurses.

11 4. THREE RESPIRATORY THERAPISTS.

12 5. ONE CERTIFIED NURSING ASSISTANT OR A REGISTERED NURSE WHO IS  
13 EMPLOYED AS AN INSTRUCTOR OR COORDINATOR OF AN APPROVED NURSING ASSISTANT  
14 PROGRAM.

15 B. Members shall be appointed for a term of five years, to begin and  
16 end on June 30.

17 ~~B-~~ C. On or before May 1 each year and at any other time a vacancy on  
18 the board occurs, the governor shall make an appointment or appointments to  
19 the board. Appointment to fill a vacancy other than by expiration shall be  
20 for the unexpired term. No person shall serve more than two consecutive  
21 terms as a member of the board.

22 ~~C-~~ D. The governor may remove any person from the board for neglect  
23 of any duty imposed by law or for incompetency or unprofessional or  
24 dishonorable conduct.

25 Sec. 2. Section 32-1603, Arizona Revised Statutes, is amended to read:

26 32-1603. Qualifications of board members

27 A. Each professional nurse member of the board shall:

28 1. Be a resident of the state.

29 2. Be a graduate of an approved professional nursing program.

30 3. Be licensed as a professional nurse in this state.

31 4. Have had at least five years' experience in nursing following  
32 graduation, including executive, supervisory or teaching experience in  
33 nursing education or nursing service.

34 5. Have been actively engaged in the practice of nursing or nursing  
35 activities for at least three years preceding the appointment.

36 B. Each licensed practical nurse member of the board shall:

37 1. Be a resident of this state.

38 2. Be a graduate of an approved practical nursing program.

39 3. Be licensed as a licensed practical nurse in this state.

40 4. Have had at least five years' experience in practical nursing  
41 following graduation.

42 5. Have been actively engaged in the practice of nursing for at least  
43 three years preceding the appointment.

44 C. Each public member of the board shall be a person who:

1           1. Is not licensed pursuant to chapter 7, 8, 11, 13, 14, 15.1, 16, 17,  
2 18, 19, 19.1, 21, 25 or 29 of this title or this chapter as an individual  
3 health care provider.

4           2. Is not an employee of any health care institution licensed pursuant  
5 to title 36, chapter 4 or any authorized insurer providing disability  
6 insurance coverage in this state.

7           3. Does not have a financial interest as a provider in the delivery of  
8 health care services.

9           D. EACH RESPIRATORY THERAPIST BOARD MEMBER SHALL HOLD AN ACTIVE  
10 LICENSE IN GOOD STANDING ISSUED BY THIS STATE AND HAVE AT LEAST FIVE YEARS OF  
11 EXPERIENCE IN RESPIRATORY CARE.

12           ~~D.~~ E. Each member of the board shall take and subscribe to the oath  
13 prescribed by law for state officers, which shall be filed with the secretary  
14 of state.

15           Sec. 3. Section 32-3501, Arizona Revised Statutes, is amended to read:  
16 32-3501. Definitions

17           In this chapter, unless the context otherwise requires:

18           1. "Board" means the ~~board of respiratory care examiners~~ STATE BOARD  
19 OF NURSING.

20           2. "Diagnostic testing" includes obtaining physiologic samples and  
21 determining acid-base status and blood gas values from blood samples and  
22 pulmonary function measurements.

23           3. "Licensed respiratory care practitioner" means a respiratory  
24 therapist or respiratory therapy technician licensed pursuant to this  
25 chapter.

26           4. "Medical direction" means direction by a physician licensed  
27 pursuant to chapter 13 or 17 of this title.

28           5. "Practice of respiratory care" means direct and indirect  
29 respiratory care services performed in a clinic, hospital, skilled nursing  
30 facility or private dwelling or other place deemed appropriate or necessary  
31 by the board in accordance with the prescription or verbal order of a  
32 physician and performed under qualified medical direction. These services  
33 include:

34           (a) Administering pharmacological, diagnostic and therapeutic agents  
35 related to respiratory care procedures and necessary to implement a  
36 treatment, disease prevention, pulmonary rehabilitative or diagnostic regimen  
37 prescribed by a physician.

38           (b) Transcribing and implementing the written or verbal orders of a  
39 physician pertaining to the practice of respiratory care and observing and  
40 monitoring signs and symptoms, general behavior, general physical response to  
41 respiratory care treatment and diagnostic testing, including a determination  
42 of whether these signs, symptoms, reactions, behavior or general response  
43 ~~exhibits~~ EXHIBIT abnormal characteristics.

44           (c) Implementing appropriate reporting, referral, respiratory care  
45 protocols or changes in treatment based on observed abnormalities and

1 pursuant to a prescription by a physician licensed pursuant to chapter 13 or  
2 17 of this title.

3 (d) Initiating emergency procedures pursuant to board rules or as  
4 otherwise permitted in this chapter.

5 (e) Respiratory therapy.

6 (f) Inhalation therapy.

7 6. "Respiratory therapist" means a person who successfully completes a  
8 respiratory therapy training program approved by the board.

9 7. "Respiratory therapy technician" means a person who successfully  
10 completes a training program for respiratory therapy technicians approved by  
11 the board.

12 8. "Respiratory therapy training program" means a program **THAT IS**  
13 accredited by the American medical association's committee on allied health  
14 education and accreditation in collaboration with the joint review committee  
15 for respiratory therapy education **AND THAT IS** adopted by the board.

16 ~~9. "Therapeutics" includes the following:~~

17 ~~(a) Applying and monitoring oxygen therapy.~~

18 ~~(b) Administering pharmacological agents to the cardiopulmonary~~  
19 ~~systems.~~

20 ~~(c) Ventilation therapy.~~

21 ~~(d) Artificial airway care.~~

22 ~~(e) Bronchial hygiene therapy.~~

23 ~~(f) Cardiopulmonary resuscitation.~~

24 ~~(g) Respiratory rehabilitation therapy.~~

25 ~~(h) Barometric therapy.~~

26 ~~(i) Assisting physicians licensed pursuant to chapter 13 or 17 of this~~  
27 ~~title with hemodynamic monitoring.~~

28 ~~10.~~ 9. "Unprofessional conduct" includes the following acts:

29 (a) Committing a felony, whether or not involving moral turpitude, or  
30 a misdemeanor involving moral turpitude.

31 (b) Habitual intemperance in the use of alcohol.

32 (c) Illegal use of narcotic or hypnotic drugs or substances.

33 (d) Gross incompetence, repeated incompetence or incompetence  
34 resulting in injury to a patient.

35 (e) Having professional connection with or lending the name of the  
36 licensee to an illegal practitioner of respiratory therapy or any of the  
37 other healing arts.

38 (f) Failing to refer a patient whose condition is beyond the training  
39 or ability of the respiratory therapist to another professional qualified to  
40 provide such service.

41 (g) Immorality or misconduct that tends to discredit the respiratory  
42 therapy profession.

43 (h) Refusal, revocation or suspension of a license by any other state,  
44 territory, district or country, unless it can be shown that this was not  
45 caused by reasons which relate to the person's ability to safely and

1 skillfully practice respiratory therapy or to an act of unprofessional  
2 conduct prescribed in this paragraph.

3 (i) Any conduct or practice which is contrary to recognized standards  
4 of ethics of the respiratory therapy profession or any conduct or practice  
5 which does or might constitute a danger to the health, welfare or safety of  
6 the patient or the public.

7 (j) Any conduct, practice or condition which does or might impair the  
8 person's ability to safely and skillfully practice respiratory therapy.

9 (k) Violating or attempting to violate, directly or indirectly, or  
10 assisting in or abetting the violation of or conspiring to violate a  
11 provision of this chapter.

12 (l) Failing to report to the board an incident or incidents which  
13 appear to show the existence of a cause for disciplinary action or that a  
14 licensed respiratory care practitioner is or may be professionally  
15 incompetent or is or may be mentally or physically unable to engage safely in  
16 the practice of respiratory care.

17 Sec. 4. Repeal

18 Sections 32-3502, 32-3503, 32-3505 and 32-3506, Arizona Revised  
19 Statutes, are repealed.

20 Sec. 5. Section 41-1092, Arizona Revised Statutes, is amended to read:

21 41-1092. Definitions

22 In this article, unless the context otherwise requires:

23 1. "Administrative law judge" means an individual or an agency head,  
24 board or commission that sits as an administrative law judge, that conducts  
25 administrative hearings in a contested case or an appealable agency action  
26 and that makes decisions regarding the contested case or appealable agency  
27 action.

28 2. "Administrative law judge decision" means the findings of fact,  
29 conclusions of law and recommendations or decisions issued by an  
30 administrative law judge.

31 3. "Appealable agency action" means an action that determines the  
32 legal rights, duties or privileges of a party and that is not a contested  
33 case. Appealable agency actions do not include interim orders by  
34 self-supporting regulatory boards or rules, orders, standards or statements  
35 of policy of general application issued by an administrative agency to  
36 implement, interpret or make specific the legislation enforced or  
37 administered by it, nor does it mean or include rules concerning the internal  
38 management of the agency that do not affect private rights or interests. For  
39 the purposes of this paragraph, administrative hearing does not include a  
40 public hearing held for the purpose of receiving public comment on a proposed  
41 agency action.

42 4. "Director" means the director of the office of administrative  
43 hearings.

44 5. "Final administrative decision" means a decision by an agency that  
45 is subject to judicial review pursuant to title 12, chapter 7, article 6.

- 1           6. "Office" means the office of administrative hearings.  
2           7. "Self-supporting regulatory board" means any one of the following:  
3           (a) The ARIZONA state board of accountancy.  
4           (b) The state board of appraisal.  
5           (c) The board of barbers.  
6           (d) The board of behavioral health examiners.  
7           (e) The Arizona state boxing commission.  
8           (f) The state board of chiropractic examiners.  
9           (g) The board of cosmetology.  
10          (h) The state board of dental examiners.  
11          (i) The state board of funeral directors and embalmers.  
12          (j) The Arizona game and fish commission.  
13          (k) The board of homeopathic medical examiners.  
14          (l) The Arizona medical board.  
15          (m) The naturopathic physicians board of medical examiners.  
16          (n) The state board of nursing.  
17          (o) The board of examiners of nursing care institution administrators  
18 and adult care home managers.  
19          (p) The board of occupational therapy examiners.  
20          (q) The state board of dispensing opticians.  
21          (r) The state board of optometry.  
22          (s) The Arizona board of osteopathic examiners in medicine and  
23 surgery.  
24          (t) The Arizona peace officer standards and training board.  
25          (u) The Arizona state board of pharmacy.  
26          (v) The board of physical therapy examiners.  
27          (w) The state board of podiatry examiners.  
28          (x) The state board for private postsecondary education.  
29          (y) The state board of psychologist examiners.  
30          ~~(z) The board of respiratory care examiners.~~  
31          ~~(aa)~~ (z) The structural pest control commission.  
32          ~~(bb)~~ (aa) The state board of technical registration.  
33          ~~(cc)~~ (bb) The Arizona state veterinary medical examining board.  
34          ~~(dd)~~ (cc) The acupuncture board of examiners.  
35          ~~(ee)~~ (dd) The Arizona regulatory board of physician assistants.  
36          ~~(ff)~~ (ee) The board of athletic training.  
37          ~~(gg)~~ (ff) The board of massage therapy.  
38          Sec. 6. Section 41-3012.04, Arizona Revised Statutes, is amended to  
39 read:  
40          41-3012.04. State board of nursing; termination July 1, 2012  
41          A. The state board of nursing terminates on July 1, 2012.  
42          B. Title 32, ~~chapter~~ CHAPTERS 15 AND 35 is repealed on January 1,  
43 2013.  
44          Sec. 7. Repeal  
45          Section 41-3017.04, Arizona Revised Statutes, is repealed.

1           Sec. 8. Succession; transfer of powers and authority

2           A. As provided by this act, the state board of nursing succeeds to the  
3 authority, powers, duties and responsibilities of the board of respiratory  
4 care examiners.

5           B. This act does not alter the effect of any actions that were taken  
6 or impair the valid obligations of the board of respiratory care examiners  
7 before the effective date of this act.

8           C. Administrative rules and orders that were adopted by the board of  
9 respiratory care examiners continue in effect until superseded by  
10 administrative action by the state board of nursing.

11           D. All administrative matters, contracts and judicial and  
12 quasi-judicial actions, whether completed, pending or in process, of the  
13 board of respiratory care examiners on the effective date of this act are  
14 transferred to and retain the same status with the state board of nursing.

15           E. All certificates, licenses, registrations, permits and other  
16 indicia of qualification and authority that were issued by the board of  
17 respiratory care examiners retain their validity for the duration of their  
18 terms of validity as provided by law.

19           F. All equipment, records, furnishings and other property, all data  
20 and investigative findings and all appropriated monies that remain unexpended  
21 and unencumbered on the effective date of this act of the board of  
22 respiratory care examiners are transferred to the state board of nursing.

23           Sec. 9. Transfer of monies

24           All monies in the board of respiratory care examiners fund established  
25 by section 32-3505, Arizona Revised Statutes, as repealed by this act, that  
26 remain unexpended and unencumbered on the effective date of this act are  
27 transferred to the board of nursing fund.

28           Sec. 10. Initial terms of respiratory therapist members of the  
29 state board of nursing

30           A. Notwithstanding section 32-1602, Arizona Revised Statutes, as  
31 amended by this act, the initial terms of the respiratory therapist members  
32 of the board are:

- 33           1. One term ending June 30, 2011.  
34           2. One term ending June 30, 2012.  
35           3. One term ending June 30, 2013.

36           B. The governor shall make all subsequent appointments as prescribed  
37 by statute.

38           Sec. 11. State board of nursing; board of respiratory care  
39 examiners; report on effect of merger

40           On or before January 1, 2010, the executive director of the state board  
41 of nursing shall submit a written report to the governor, the president of  
42 the senate and the speaker of the house of representatives on whether there  
43 is any evidence that the merger of the state board of nursing and the board  
44 of respiratory care examiners improved efficiency in licensing, discipline  
45 and regulation of the professions.