

House Bill 634

In The House

February 4, 1981

Introduced and referred
to Committee on State
Administration.

February 18, 1981

Committee recommend bill
do not pass.

HOUSE BILL NO. 634

Lashub

INTRODUCED BY *Bengton Wampler* *Mancha* *Bryenne*

Johnson Hager *Corn* *Richard* *Manning* *Nelson*
Alvarado

A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A BOARD OF RESPIRATORY THERAPY AND CARDIOPULMONARY TECHNOLOGY; PROVIDING FOR ITS POWERS AND DUTIES; REQUIRING A LICENSE FOR THE PRACTICE OF RESPIRATORY THERAPY AND CARDIOPULMONARY TECHNOLOGY; AND PROVIDING PENALTIES FOR VIOLATIONS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Board of respiratory therapy and cardiopulmonary technologists. (1) There is a board of respiratory therapy and cardiopulmonary technologists.

(2) The board consists of seven members appointed by the governor. The members are:

(a) two respiratory therapists who shall have passed the examination of the national board of respiratory therapy;

(b) two cardiopulmonary technologists who shall have passed the examination of the national society for cardiopulmonary technologists;

(c) two physicians licensed to practice medicine in this state, one of whom shall be a respiratory specialist and one of whom shall be a cardiac specialist; and

(d) one consumer of respiratory therapy or

cardiopulmonary technology services.

(3) Appointments shall be for 3-year terms with no person eligible to serve more than two full consecutive terms.

(4) Members specified in subsections (2)(a) through (2)(c) of this section shall be residents of this state who have engaged in the active practice of their profession for at least 2 years.

(5) The board is allocated to the department of administration for administrative purposes only as prescribed in 2-15-121.

Section 2. Purpose. The legislature declares that the practice of respiratory therapy and cardiopulmonary technology in Montana affects the public health, safety, and welfare and should therefore be subject to regulation and control in the public interest in order to protect the public from the unauthorized and unqualified practice of respiratory therapy and cardiopulmonary technology and from unprofessional conduct by persons desiring to practice the same.

Section 3. Definitions. In [sections 4 through 17], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Board" means the board of respiratory therapy and cardiopulmonary technology provided for in [section 1].

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1 (2) "Cardiopulmonary technology" means the conducting
 2 of diagnostic testing procedures for the evaluation of heart
 3 and lung functions and diseases, as prescribed and directed
 4 by a physician. Such procedures include but are not limited
 5 to pulmonary function studies, blood gas laboratory studies,
 6 noninvasive cardiology studies, bronchoscopy and motility
 7 studies, cardiac catheterization procedures, vascular
 8 studies, electrocardiograph tests, physiological monitoring
 9 in catheterization laboratories, surgery, and critical care
 10 units.

11 (3) "Department" means the department of professional
 12 and occupational licensing.

13 (4) "Respiratory therapy" means the use of apparatus,
 14 environmental control systems, humidification, aerosols,
 15 medications, ventilatory support, bronchopulmonary drainage
 16 and exercises, respiratory rehabilitation, assistance with
 17 cardiopulmonary resuscitation, and maintenance of natural,
 18 artificial, and mechanical airways, including the
 19 measurement of ventilatory volumes, pressure flows, blood
 20 gas analysis, and other related physiologic monitorings, as
 21 prescribed and directed by a physician, all to measure,
 22 assist, and control the functions of the human respiratory
 23 system.

24 Section 4. Exemptions. Nothing in [sections 5 through
 25 17] may be construed to limit or regulate the qualified

1 members of other professions licensed or certified under the
 2 laws of this state, such as physicians, speech pathologists,
 3 nurses, physical therapists, and osteopaths, from doing work
 4 in the nature of respiratory therapy or cardiopulmonary
 5 technology consistent with their training and the codes of
 6 ethics of their respective professions if they do not hold
 7 themselves out to the public by title or description
 8 incorporating the words "respiratory therapy" or
 9 "cardiopulmonary technology".

10 Section 5. Organization -- meetings -- powers and
 11 duties. The board shall:

12 (1) elect annually a president, vice-president, and
 13 secretary-treasurer from its membership;

14 (2) hold a regular meeting each year and shall hold
 15 special meetings at times and places as a majority of the
 16 board designates. No more than four meetings may be held in
 17 any 1 year. A majority of the board constitutes a quorum.

18 (3) promulgate rules necessary to carry out the
 19 provisions of [sections 5 through 17];

20 (4) administer, coordinate, and enforce the provisions
 21 of [sections 6 through 17];

22 (5) make recommendations to the governor and the
 23 legislature regarding new and revised programs and
 24 legislation relating to respiratory therapy and
 25 cardiopulmonary technology that may benefit the public;

1 (6) adopt a seal by which the board shall authenticate
2 its documents; and

3 (7) approve educational programs of respiratory
4 therapy and cardiopulmonary technology that grant a
5 certificate of attendance and completion of the program.

6 Section 6. Compensation of members -- expenses. The
7 members of the board shall receive for each day during which
8 they are actually engaged in the discharge of their duties
9 such expenses as are provided for in 2-18-501 through
10 2-18-503 for meals, lodging, and transportation.

11 Section 7. Unlawful to practice without license. It is
12 unlawful for a person to practice respiratory therapy or
13 cardiopulmonary technology in this state without first
14 obtaining a license or permit from the board under [sections
15 3 through 14].

16 Section 8. Application -- qualifications. (1) Each
17 applicant for licensure as a respiratory therapist or
18 cardiopulmonary technologist shall:

19 (a) have received a certificate of completion of a
20 program in respiratory therapy or cardiopulmonary technology
21 approved by the board;

22 (b) be of good moral character;

23 (c) not be addicted to intemperate use of alcohol or
24 narcotic drugs; and

25 (d) have passed an examination as provided in [section

1 9].

2 (2) Application for licensure shall be made to the
3 department on a form provided by the department, at least 21
4 days prior to a meeting of the board.

5 Section 9. Examination -- scope. (1) Each applicant
6 for a license shall be examined by the board or the
7 department on his knowledge in whatever theoretical or
8 applied fields of respiratory therapy or cardiopulmonary
9 technology that the board considers appropriate. The
10 candidate may also be examined with regard to his
11 professional skills and judgment in the use of professional
12 techniques and methods.

13 (2) An applicant who fails his first examination may
14 be reexamined at a subsequent date established by the board
15 upon payment of another examination fee.

16 (3) The requirements of subsection (1) of this section
17 are waived until January 1, 1986.

18 Section 10. Issuance of license -- certificate as
19 evidence. The department shall license as a respiratory
20 therapist or cardiopulmonary technologist each applicant who
21 proves to the satisfaction of the board his fitness for a
22 license under [section 8]. The department shall issue to
23 each person licensed a license certificate, which is prima
24 facie evidence of the right of the person to whom it is
25 issued to represent himself as a licensed respiratory

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1 therapist or cardiopulmonary technologist, subject to the
2 conditions and limitations of [sections 14 through 17].

3 Section 11. Temporary permits. The department may
4 issue a permit to an applicant not qualifying for the
5 issuance of a license under the provisions of [section 9]
6 but who has paid any permit fee required by the board and
7 has demonstrated, to the satisfaction of the board, the
8 fulfillment of all licensing requirements except the passing
9 of any required examination. Permits issued under
10 provisions of this section shall be valid for a period not
11 to exceed 12 months and may be renewed under the provisions
12 for original issuance.

13 Section 12. Issuance of other documents. The board may
14 issue to licensees or permittees such other cards,
15 certificates, or documents as it considers necessary or
16 convenient for the proper administration of this chapter.

17 Section 13. Biennial renewal -- reissuance of license.
18 (1) Licenses expire on December 31 of the first
19 even-numbered year following the year of their issuance and
20 on December 31 of every even-numbered year thereafter.

21 (2) A license shall be renewed by the board upon
22 payment of a renewal fee set by the board and the submission
23 of a renewal application containing such information as the
24 board considers necessary to show that the applicant for
25 renewal is a respiratory therapist or cardiopulmonary

1 technologist in good standing under the provisions of
2 [sections 1 through 17].

3 (3) A respiratory therapist or cardiopulmonary
4 technologist who has been licensed in Montana, whose license
5 has not been revoked or suspended, and who has temporarily
6 ceased practice as such for not more than 5 years may apply
7 for reissuance of a license upon complying with the
8 provisions of this section and payment of a fee established
9 by the board.

10 Section 14. Fees. (1) Nonrefundable application,
11 license, renewal, and permit fees may be adopted and charged
12 by the board in an amount determined by the board, not to
13 exceed the cost of processing or issuing the application,
14 license, renewal, or permit.

15 (2) All fees collected by the board or the department
16 under this section shall be deposited in the earmarked
17 revenue fund for the use of the board, subject to
18 37-1-101(6).

19 Section 15. Revocation or suspension of license. A
20 license or permit may be suspended for a fixed period or may
21 be revoked, or such therapist or technologist may be
22 censured, reprimanded, or otherwise disciplined as
23 determined by the board if, after a hearing before the board
24 conducted pursuant to the Montana Administrative Procedure
25 Act, it is determined that he:

1 (1) is guilty of fraud or deceit in activities as a
2 therapist or technologist or has been guilty of any fraud or
3 deceit in procuring the license or permit;

4 (2) has been convicted in a court of competent
5 jurisdiction of a crime involving moral turpitude;

6 (3) is a habitual drunkard, is addicted to the use of
7 narcotics or other drugs having a similar effect, or is not
8 mentally competent;

9 (4) is guilty of unethical conduct, as defined by
10 rules promulgated by the board, or has been guilty of
11 incompetence or negligence in his activities as a therapist
12 or technologist.

13 Section 16. Inspections. The board may inspect the
14 place of business of any licensee or permittee at any
15 reasonable time to determine compliance with [sections 1
16 through 17].

17 Section 17. Penalty for violation. Any person who
18 engages in the practice of respiratory therapy or
19 cardiopulmonary technology without first obtaining a license
20 or permit from the board or who represents himself to be
21 licensed to engage in such practice or practices without
22 actually being licensed by the board is guilty of an offense
23 and, upon conviction, is punishable by a fine not to exceed
24 \$500 or imprisonment for 6 months, or both. Each day of the
25 violation constitutes a separate offense.

1 Section 18. Codification instruction. Section 1 is
2 intended to be codified as an integral part of Title 2,
3 chapter 15, and the provisions of Title 2, chapter 15, apply
4 to section 1.

-End-

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