

JAN 28 2009

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# A BILL FOR AN ACT

RELATING TO HEALTHCARE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to title 25 to be appropriately designated  
3 and to read as follows:

4 "CHAPTER

5 RESPIRATORY CARE PRACTITIONERS

6 § -1 Definitions. For the purposes of this chapter:

7 "Board" means the respiratory care practitioner board.

8 "Department" means the department of commerce and consumer  
9 affairs.

10 "Director" means the director of commerce and consumer  
11 affairs.

12 "Respiratory care practitioner" means a person who provides  
13 therapy, management, rehabilitation, support services for  
14 diagnostic evaluation, and care of patients with deficiencies  
15 and abnormalities which affect the pulmonary system under the  
16 overall direction of a licensed physician, including:



- 1 (1) Direct and indirect pulmonary care services that are  
2 safe, aseptic, preventative, and restorative to the  
3 patient;
- 4 (2) The teaching of techniques relating to respiratory  
5 care;
- 6 (3) Direct and indirect respiratory care services,  
7 including the administration of pharmacological,  
8 diagnostic, and therapeutic care related to  
9 respiratory care procedures necessary to implement  
10 treatment, disease prevention, and pulmonary  
11 rehabilitative or diagnostic regimen prescribed by a  
12 physician or nurse;
- 13 (4) Observation and monitoring of signs, symptoms,  
14 reactions, and physical responses to respiratory care  
15 treatment and diagnostic testing;
- 16 (5) Diagnostic or therapeutic use of the following:
  - 17 (A) Administration of medical gases, excluding  
18 general anesthesia;
  - 19 (B) Aerosols, humidification, environmental control  
20 systems, or biomedical therapy;
  - 21 (C) Pharmacological care related to respiratory care  
22 procedures;



1 (D) Mechanical or physiological ventilatory support,  
2 including maintenance of natural airways and  
3 insertion and maintenance of artificial airways;

4 (E) Cardiopulmonary resuscitation; or

5 (F) Respiratory protocol and evaluation, and  
6 diagnostic and testing techniques required for  
7 implementation of respiratory care protocols; and

8 (6) The transcription and implementation of the written  
9 and verbal orders of a physician pertaining to the  
10 practice of respiratory care.

11 § -2 **Limitations of respiratory care practitioner**

12 **license.** Nothing in this chapter shall be construed as  
13 authorizing a respiratory care practitioner to practice medicine  
14 or perform surgery or any other form of healing except as  
15 authorized by the sections of this chapter.

16 § -3 **License required.** No person without a license as a  
17 respiratory care practitioner shall use the title "respiratory  
18 care practitioner," or like title, or perform the duties of a  
19 respiratory care practitioner; provided that this chapter shall  
20 not prohibit any practice of respiratory therapy that is an  
21 integral part of a program of study for students enrolled in an  
22 accredited respiratory therapy program.



1           §   -4 Powers and duties of the director. In addition to  
2 any other powers and duties authorized by law, the director  
3 shall:

- 4           (1) Adopt rules pursuant to chapter 91 to develop  
5 standards for licensure;
- 6           (2) Prepare and administer examinations sponsored by the  
7 American Association for Respiratory Care;
- 8           (3) Issue, renew, suspend, and revoke licenses;
- 9           (4) Investigate and conduct hearings regarding any  
10 violation of this chapter or any rules adopted to  
11 implement this chapter; and
- 12           (5) Establish a fee schedule for the administration and  
13 enforcement of this chapter, including but not limited  
14 to fees for original licensure, renewal, and license  
15 restoration.

16           §   -5 Respiratory care practitioner board; established.

17 (a) There is established within the department of commerce and  
18 consumer affairs for administrative purposes the state  
19 respiratory care practitioner board.

20 (b) The director shall appoint five members to the board.  
21 Three of these members shall have at least five years of  
22 experience in the State in the practice of respiratory care.



1 (c) The director shall consider the recommendations of the  
2 board on questions involving standards of professional conduct,  
3 discipline, continuing education requirements, and  
4 qualifications for licensure under this chapter.

5 (d) The board shall conduct investigations of allegations  
6 of licensee misconduct pursuant to section 92-17, and shall keep  
7 a record of all its proceedings and activities. The provisions  
8 of chapter 92F shall prevail in the disclosure of information by  
9 the board.

10 § -6 **Qualifications for license.** Notwithstanding any  
11 other law to the contrary, an individual shall meet the  
12 following requirements in order to qualify for a respiratory  
13 care license:

- 14 (1) Apply in writing on a form prescribed by the  
15 department and submit the fee set by the department  
16 for application;
- 17 (2) Successfully complete a respiratory care training  
18 program approved by the American Association for  
19 Respiratory Care;
- 20 (3) Pass a background check that shall include a review of  
21 the applicant's respiratory care practitioner  
22 licensure history in other jurisdictions, including a



1 review of any alleged misconduct or neglect in the  
2 practice of respiratory care on the part of the  
3 applicant; and

4 (4) Pass an examination for the practice of respiratory  
5 care within five years of making an application;  
6 provided that individuals who have graduated from a  
7 respiratory care practitioner education program prior  
8 to January 1, 2002, shall not be required to take an  
9 examination.

10 § -7 **Disciplinary actions.** (a) The director may  
11 revoke, suspend, deny, or refuse to renew a license, place a  
12 licensee on probation, or issue a letter of admonition upon  
13 proof that the licensee:

- 14 (1) Has procured or attempted to procure a license by  
15 fraud, deceit, misrepresentation, misleading omission,  
16 or material misstatement of fact;
- 17 (2) Has been convicted of a felony as provided under  
18 section 701-107;
- 19 (3) Has wilfully or negligently acted in a manner  
20 inconsistent with the health or safety of persons  
21 under the individual's care;



- 1           (4) Has had a license to practice respiratory care or any  
2           other health care occupation suspended or revoked, or  
3           has otherwise been subject to discipline relating to  
4           the individual's practice of respiratory care, in any  
5           other jurisdiction;
- 6           (5) Has committed a fraudulent insurance act;
- 7           (6) Excessively or habitually uses alcohol or drugs;  
8           provided that the director shall not discipline an  
9           individual under this paragraph if the individual is  
10          enrolled in a substance abuse program approved by the  
11          department; or
- 12          (7) Has a physical or mental disability that renders the  
13          individual incapable of safely administering  
14          respiratory care services.
- 15          (b) If an allegation of conduct described in subsection  
16          (a) is made against a licensee, the respiratory care  
17          practitioner board shall conduct an investigation pursuant to  
18          section 92-17.
- 19          (c) In addition to suspension, revocation, denial, or  
20          refusal to renew a license, the director shall fine a person  
21          found to have violated any provision of this chapter or any rule



1 adopted by the director under this chapter not less than \$100  
2 nor more than \$1,000 for each violation."

3 SECTION 2. This Act shall take effect upon its approval.  
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INTRODUCED BY: Therese Chun Caldwell  
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**Report Title:**

Respiratory Care Practitioners; Licensing

**Description:**

Establishes licensing requirements for respiratory care practitioners.

