
A BILL FOR AN ACT

RELATING TO HEALTHCARE.

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

1 SECTION 1. The legislature finds that the practice of
2 respiratory care in Hawaii affects the public health, safety,
3 and welfare of people in the State. Accordingly, the practice
4 of respiratory care should be subject to regulation and control
5 in order to protect the public from the unqualified practice of
6 respiratory care and from unprofessional conduct by persons
7 licensed to practice respiratory care.

8 The legislature further finds that the practice of
9 respiratory care is a dynamic and changing science, the practice
10 of which continues to evolve with more sophisticated techniques
11 and clinical modalities in patient care.

12 The purpose of this Act is to regulate the practice of
13 respiratory care by establishing a state respiratory care board
14 and licensure requirements.

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

1 "CHAPTER

2 RESPIRATORY CARE PRACTITIONERS

3 § -1 Definitions. For the purposes of this chapter:

4 "Board" means the respiratory care practitioner board.

5 "Department" means the department of commerce and consumer
6 affairs.

7 "Director" means the director of commerce and consumer
8 affairs.

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

14 (1) Direct and indirect pulmonary care services that are
15 safe, aseptic, preventative, and restorative to the
16 patient;

17 (2) The teaching of techniques relating to respiratory
18 care;

19 (3) Direct and indirect respiratory care services,
20 including the administration of pharmacological,
21 diagnostic, and therapeutic care related to
22 respiratory care procedures necessary to implement

- 1 treatment, disease prevention, and pulmonary
2 rehabilitative or diagnostic regimen prescribed by a
3 physician or nurse;
- 4 (4) Observation and monitoring of signs, symptoms,
5 reactions, and physical responses to respiratory care
6 treatment and diagnostic testing;
- 7 (5) Diagnostic or therapeutic use of the following:
- 8 (A) Administration of medical gases, excluding
9 general anesthesia;
- 10 (B) Aerosols, humidification, environmental control
11 systems, or biomedical therapy;
- 12 (C) Pharmacological care related to respiratory care
13 procedures;
- 14 (D) Mechanical or physiological ventilatory support,
15 including maintenance of natural airways and
16 insertion and maintenance of artificial airways;
- 17 (E) Cardiopulmonary resuscitation; or
- 18 (F) Respiratory protocol and evaluation, and
19 diagnostic and testing techniques required for
20 implementation of respiratory care protocols; and

1 (6) The transcription and implementation of the written
2 and verbal orders of a physician pertaining to the
3 practice of respiratory care.

4 § -2 **Limitations of respiratory care practitioner**

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

9 § -3 **License required.** No person without a license as a
10 respiratory care practitioner shall use the title "respiratory
11 care practitioner," or like title, or perform the duties of a
12 respiratory care practitioner; provided that this chapter shall
13 not prohibit any practice of respiratory therapy that is an
14 integral part of a program of study for students enrolled in an
15 accredited respiratory therapy program.

16 § -4 **Powers and duties of the director.** In addition to
17 any other powers and duties authorized by law, the director
18 shall:

- 19 (1) Adopt rules pursuant to chapter 91 to develop
20 standards for licensure;
- 21 (2) Prepare and administer examinations sponsored by the
22 American Association for Respiratory Care;

- 1 (3) Issue, renew, suspend, and revoke licenses;
- 2 (4) Investigate and conduct hearings regarding any
- 3 violation of this chapter or any rules adopted to
- 4 implement this chapter; and
- 5 (5) Establish a fee schedule for the administration and
- 6 enforcement of this chapter, including but not limited
- 7 to fees for original licensure, renewal, and license
- 8 restoration.

9 **§ -5 Respiratory care practitioner board; established.**

10 (a) There is established within the department of commerce and

11 consumer affairs for administrative purposes the state

12 respiratory care practitioner board.

13 (b) The director shall appoint five members to the board.

14 Three of these members shall have at least five years of

15 experience in the State in the practice of respiratory care.

16 (c) The director shall consider the recommendations of the

17 board on questions involving standards of professional conduct,

18 discipline, continuing education requirements, and

19 qualifications for licensure under this chapter.

20 (d) The board shall conduct investigations of allegations

21 of licensee misconduct pursuant to section 92-17, and shall keep

22 a record of all its proceedings and activities. The provisions

1 of chapter 92F shall prevail in the disclosure of information by
2 the board.

3 **§ -6 Qualifications for license.** Notwithstanding any
4 other law to the contrary, an individual shall meet the
5 following requirements in order to qualify for a respiratory
6 care license:

- 7 (1) Apply in writing on a form prescribed by the
8 department and submit the fee set by the department
9 for application;
- 10 (2) Successfully complete a respiratory care training
11 program approved by the American Association for
12 Respiratory Care;
- 13 (3) Pass a background check that shall include a review of
14 the applicant's respiratory care practitioner
15 licensure history in other jurisdictions, including a
16 review of any alleged misconduct or neglect in the
17 practice of respiratory care on the part of the
18 applicant; and
- 19 (4) Pass an examination for the practice of respiratory
20 care within five years of making an application;
21 provided that individuals who have graduated from a
22 respiratory care practitioner education program prior

1 to January 1, 2002, shall not be required to take an
2 examination.

3 § -7 **Disciplinary actions.** (a) The director may
4 revoke, suspend, deny, or refuse to renew a license, place a
5 licensee on probation, or issue a letter of admonition upon
6 proof that the licensee:

- 7 (1) Has procured or attempted to procure a license by
8 fraud, deceit, misrepresentation, misleading omission,
9 or material misstatement of fact;
- 10 (2) Has been convicted of a felony as provided under
11 section 701-107;
- 12 (3) Has wilfully or negligently acted in a manner
13 inconsistent with the health or safety of persons
14 under the individual's care;
- 15 (4) Has had a license to practice respiratory care or any
16 other health care occupation suspended or revoked, or
17 has otherwise been subject to discipline relating to
18 the individual's practice of respiratory care, in any
19 other jurisdiction;
- 20 (5) Has committed a fraudulent insurance act;
- 21 (6) Excessively or habitually uses alcohol or drugs;
- 22 provided that the director shall not discipline an

1 individual under this paragraph if the individual is
2 enrolled in a substance abuse program approved by the
3 department; or

4 (7) Has a physical or mental disability that renders the
5 individual incapable of safely administering
6 respiratory care services.

7 (b) If an allegation of conduct described in subsection
8 (a) is made against a licensee, the respiratory care
9 practitioner board shall conduct an investigation pursuant to
10 section 92-17.

11 (c) In addition to suspension, revocation, denial, or
12 refusal to renew a license, the director shall fine a person
13 found to have violated any provision of this chapter or any rule
14 adopted by the director under this chapter not less than \$100
15 nor more than \$1,000 for each violation."

16 SECTION 3. Section 26H-6, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§26H-6 New regulatory measures.** New regulatory measures
19 being considered for enactment that, if enacted, would subject
20 unregulated professions and vocations to licensing or other
21 regulatory controls shall be referred to the auditor for
22 analysis[-]; except where the legislature finds that it is in

1 the best interest for certain health care professions to be
2 licensed for participation in federal programs. Referral shall
3 be by concurrent resolution that identifies a specific
4 legislative bill to be analyzed. The analysis required by this
5 section shall set forth the probable effects of the proposed
6 regulatory measure and assess whether its enactment is
7 consistent with the policies set forth in section 26H-2. The
8 analysis also shall assess alternative forms of regulation. The
9 auditor shall submit each report of analysis to the
10 legislature."

11 SECTION 4. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect upon its approval.

Report Title:

Respiratory Care Practitioners; Licensing

Description:

Establishes licensing requirements for respiratory care practitioners. (SD1)