

JAN 28 2009

S.B. NO. 1632

A BILL FOR AN ACT

RELATING TO RESPIRATORY CARE.

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 be appropriately designated and to read
17 as follows:



1 "CHAPTER

2 RESPIRATORY CARE

3 § -1 Definitions. As used in this chapter:

4 "Approved school for respiratory practitioners", "approved
5 training program for certified respiratory therapists", and
6 "approved training program for registered respiratory
7 therapists" mean a school or training program determined by the
8 board to provide a course of instruction in respiratory care
9 that is adequate to meet the purposes of this chapter.

10 "Board" means the respiratory care board.

11 "Department" means the department of health.

12 "Director" means the director of health.

13 "Licensed" means holding a license issued by the board when
14 used in conjunction with the title "respiratory care
15 practitioner", "registered respiratory care therapist", or
16 "certified respiratory care therapist".

17 "Practice of respiratory care" means the assessment,
18 diagnosis, intervention, and monitoring of patients requiring
19 emergent and non-emergent respiratory intervention, including:

20 (1) Disaster preparedness and support;

21 (2) Emergency actions to correct life-threatening
22 respiratory events for patients of all ages;



- 1 (3) The initiation of emergency procedures and protocols
2 under the rules of the board pursuant to this chapter;
- 3 (4) The initiation and management of life-support
4 ventilator equipment;
- 5 (5) The administration of pharmacological, diagnostic, and
6 therapeutic agents related to respiratory care
7 procedures necessary to implement a treatment, disease
8 prevention, pulmonary rehabilitative, or diagnostic
9 regimen prescribed by a physician;
- 10 (6) The transcription and implementation of the written,
11 verbal, or telecommunicated orders of a physician
12 relating to the practice of respiratory care;
- 13 (7) The observation and monitoring of signs and symptoms,
14 general behavior, and general physical response to
15 respiratory care treatment and diagnostic testing,
16 including determination of whether signs, symptoms,
17 reactions, behavior, or a general response exhibits
18 abnormal characteristics; and
- 19 (8) The implementation, based on observed abnormalities,
20 or appropriate reporting, or referral of respiratory
21 care protocols or changes in treatment pursuant to the
22 written, verbal, or telecommunicated orders of a



1 person licensed to practice medicine under the laws of
2 the State.

3 The practice of respiratory care may be performed in any
4 clinic, hospital, skilled nursing facility, private dwelling, or
5 other place deemed appropriate or necessary by the board; in
6 accordance with the written verbal or telecommunicated order of
7 a physician, and shall be performed under physician supervision
8 or orders.

9 "Respiratory care education program" means a program of
10 respiratory care education which is accredited by the Committee
11 on Accreditation for Respiratory Care or its equivalent.

12 "Respiratory care practitioner" means:

- 13 (1) A person duly licensed by the board;
- 14 (2) A person employed in the practice of respiratory care
15 who has the knowledge and skill necessary to
16 administer respiratory care as defined in pursuant to
17 this chapter;
- 18 (3) A person who is capable of serving as a resource to
19 the physician and other healthcare providers in
20 relation to the clinical and technical aspects of
21 respiratory care and as to the safe and effective
22 methods for administering respiratory care modalities;



1 (4) A person who is able to function as a respiratory care
2 practitioner in situations of unsupervised patient
3 contact requiring great individual judgment; and

4 (5) A person capable of supervising, directing, or
5 teaching less skilled personnel in the provision of
6 respiratory therapy services.

7 "Respiratory care services" means services provided under
8 physician supervision or under the order of a licensed
9 physician, and in accordance with protocols established by a
10 hospital or the board, that include:

11 (1) Assistance with cardiopulmonary resuscitation;

12 (2) Ventilation support, including the maintenance and
13 management of life support systems;

14 (3) Administration of medications to the cardiopulmonary
15 system;

16 (4) With specialized training acceptable to the board,
17 administration of medications by routes other than the
18 respiratory route under the direct supervision of a
19 physician;

20 (5) Therapeutic and diagnostic use of pressurized medical
21 gases and administration apparatus, and environmental
22 control systems, humidification and aerosols;



- 1 (6) Use of therapeutics modalities to augment secretion
- 2 management, lung inflation, bronchopulmonary drainage,
- 3 and monitor breathing exercises;
- 4 (7) Respiratory rehabilitation and pulmonary disease
- 5 education and prevention;
- 6 (8) Maintenance of natural airways, including the
- 7 insertion of, and maintenance of, artificial airways;
- 8 (9) Disease management services, procedures and
- 9 consulting, including but not limited to asthma,
- 10 chronic obstructive pulmonary disease, and smoking
- 11 cessation;
- 12 (10) Assistance with bronchoscopy procedures for diagnostic
- 13 and therapeutic purposes;
- 14 (11) Invasive procedures, such as intravascular
- 15 catheterization, and specimen collection and analysis;
- 16 blood for gas transport, acid/base determinations, and
- 17 indicators for metabolic processes; and sputum for
- 18 diagnostic purposes;
- 19 (12) Pulmonary function testing and other related
- 20 physiological monitoring of the cardiopulmonary
- 21 systems;
- 22 (13) Hyperbaric oxygen therapy;



- 1 (14) Non-invasive metabolic monitoring;
- 2 (15) Capnography and hemodynamic monitoring and
- 3 interpretation;
- 4 (16) Sleep diagnostic studies; and
- 5 (17) Air or ground ambulance transport.

6 "Supervision" means a licensed respiratory care
7 practitioner or physician is immediately available for the
8 purpose of communication, consultation, and assistance.

9 § -2 **Respiratory care board; establishment; appointment.**

10 (a) There is established within the department of health for
11 administrative purposes, the respiratory care board. Members of
12 the board shall be appointed and may be removed by the governor
13 in the manner prescribed in section 26-34.

14 (b) The board shall consist of eleven members as follows:

- 15 (1) Two persons shall be physicians recommended by the
- 16 Hawaii Society for Respiratory Care;
- 17 (2) Four persons, each shall be registered respiratory
- 18 care practitioners, practicing in the State for a
- 19 period of not less than one year immediately preceding
- 20 their appointment to the board, and recommended by the
- 21 state affiliate of the American Association for
- 22 Respiratory Care;



- 1 (3) Two persons shall be representatives of the health
2 care community from local hospitals;
- 3 (4) Two persons shall be representatives of the home
4 health care community; and
- 5 (5) One person shall be from the general public.
- 6 (c) The terms of office of the board members shall be
7 determined by the board.
- 8 (d) The board shall meet at least annually and shall elect
9 a chairperson and vice chairperson from its physician members
10 and from its respiratory care practitioner members. The board
11 may convene at the request of the chairperson, or as determined
12 by the board.
- 13 (e) A majority of the members of the board, including the
14 chairperson or vice chairperson, shall constitute a quorum at
15 any meeting and a majority of the required quorum is sufficient
16 for the board to take action by vote.
- 17 (f) The board may appoint and employ a qualified person
18 who shall not be a member of the board to serve as the
19 administrative secretary to the board, and define the duties of
20 the administrative secretary.



1 (g) Members of the board shall serve without compensation,
2 but shall be reimbursed for expenses, including travel expenses,
3 necessary for the performance of their duties.

4 § -3 Powers and duties of the board. (a) In addition
5 to any other powers and duties authorized by law, the board
6 shall:

- 7 (1) Determine the qualifications and fitness of applicants
8 for licensure, renewal of licenses, temporary
9 licenses, and reciprocal licenses to practice
10 respiratory care;
- 11 (2) Examine, approve, issue, deny, revoke, suspend, and
12 renew the licenses of duly qualified applicants to
13 practice respiratory care;
- 14 (3) Establish standards of professional responsibility and
15 practice for persons licensed by the board;
- 16 (4) Keep a record of all proceedings of the board that
17 shall be made available to the public for inspection
18 during reasonable business hours;
- 19 (5) Conduct investigations, subpoena individuals and
20 records, and do all things necessary and proper to
21 discipline persons licensed under this chapter and to
22 enforce the provisions of this chapter. Conduct



- 1 hearings upon charges calling for discipline of a
2 licensee, or denial, revocation or suspension of a
3 license;
- 4 (6) Establish disciplinary criteria and procedures,
5 including due process procedures regarding complaints;
- 6 (7) Adopt rules that are necessary to conduct its business
7 and carry out the purposes of this chapter;
- 8 (8) Maintain public records of persons licensed by the
9 board;
- 10 (9) Enter into agreements or contracts, consistent with
11 state law, with outside organizations for the purpose
12 of developing, administering, grading, or reporting
13 the results of licensure examinations; provided that
14 the organization shall be capable of meeting the
15 standards of the National Commission for Health
16 Certifying Agencies, or its equivalent. The licensure
17 examinations shall be validated and nationally
18 recognized as testing respiratory care competencies;
19 and
- 20 (10) Establish continuing education requirements for
21 renewal of a license.



1 § -4 **Licenses required.** (a) No person shall practice
2 or offer to practice as a respiratory care practitioner,
3 respiratory care therapist, or respiratory care technician
4 without an appropriate license previously obtained and
5 maintained in good standing in compliance with this chapter and
6 the rules of the board. It shall be unlawful for any person not
7 appropriately licensed under this chapter to practice or offer
8 to practice respiratory care.

9 (b) Every person licensed as a respiratory care
10 practitioner shall be subject to a biennial license fee (initial
11 and renewal) payable to the department. The failure of any
12 licensee to pay the licensee's fee shall be grounds for
13 revocation of the licensee's license.

14 After July 1, 2010, the license period shall be biennial.
15 The biennial period shall begin thirty days after the end of the
16 licensee's birth month.

17 § -5 **Licensure requirements.** (a) Application for a
18 license shall be made on an application form to be furnished by
19 the board. An applicant shall provide the following information
20 on the application form:

21 (1) The applicant's legal name;



- 1 (2) The applicant's current residence and business mailing
- 2 addresses and phone numbers;
- 3 (3) The applicant's social security number;
- 4 (4) Proof that the applicant is a United States citizen, a
- 5 United States national, or an alien authorized to work
- 6 in the United States;
- 7 (5) Proof that the applicant has completed a board
- 8 approved four year high school course of study or the
- 9 equivalent;
- 10 (6) Proof that the applicant has successfully completed an
- 11 accredited respiratory care educational program
- 12 approved by the board;
- 13 (7) Proof that the applicant has passed an examination
- 14 administered by the State or by a national agency
- 15 approved by the board, except where otherwise provided
- 16 in this chapter;
- 17 (8) The date and place of any conviction of a penal crime
- 18 directly related to the profession or vocation in
- 19 which the applicant is applying for licensure, unless
- 20 the conviction has been expunged or annulled, or is
- 21 otherwise precluded from consideration by section
- 22 831-3.1;



- 1 (9) Disclosure of similar licensure in any state or
- 2 territory;
- 3 (10) Disclosure of disciplinary action by any state or
- 4 territory against any license held by the applicant;
- 5 and
- 6 (11) Any other information the licensing authority may
- 7 require to investigate the applicant's qualifications
- 8 for licensure.

9 (b) Failure to provide the above information and pay the
10 required fees shall be grounds to deny the application for
11 licensure.

12 § -6 **Issuance of license.** Upon payment of the
13 prescribed fees, the board shall issue a license to any
14 individual who meets the requirements of this chapter.

15 § -7 **Licensure by endorsement.** The board shall issue a
16 license to practice respiratory care by endorsement; provided
17 that:

- 18 (1) The applicant is currently licensed or registered to
- 19 practice respiratory care under the laws of another
- 20 state, territory, or country if the qualifications of
- 21 the applicant are deemed by the board to be equivalent
- 22 to those required in the State; or



1 (2) The applicant holds credentials, conferred by the
2 National Board for Respiratory Care or its successor
3 organization, as a certified respiratory therapist or
4 as a registered respiratory therapist; provided that
5 the credentials have not been suspended or revoked.

6 § -8 Fees; disposition. (a) Application, examination,
7 reexamination, license, renewal, late renewal penalty fees,
8 inactive, and other reasonable and necessary fees relating to
9 administration of this chapter shall be as provided in rules
10 adopted by the board pursuant to chapter 91.

11 (b) Fees assessed shall defray all costs to be incurred by
12 the board to support the operation of the respiratory care
13 practitioner licensure program.

14 § -9 Exemptions. (a) This chapter does not prohibit
15 any persons legally regulated in the State by any other law from
16 engaging in the practice for which they are authorized provided
17 they do not represent themselves by the title of "respiratory
18 practitioner", "licensed respiratory practitioner", "respiratory
19 therapist", or "respiratory technician."

20 (b) This chapter does not prohibit:

21 (1) The practice of respiratory care that is an integral
22 part of the program of study by students enrolled in



1 an accredited respiratory care education program
2 approved by the board. Students enrolled in
3 respiratory care education programs shall be
4 identified as "student RT" and shall only provide
5 respiratory care under the direct supervision of an
6 appropriate clinical instructor recognized by the
7 education program;

8 (2) Self-care by a patient, or gratuitous care by a friend
9 or family member who does not represent or hold
10 himself out to be a respiratory care practitioner;

11 (3) Respiratory care services rendered in the course of an
12 emergency;

13 (4) Respiratory care administered in the course of
14 assigned duties of persons in the military services;
15 and

16 (5) The delivery, set-up, and monitoring of medical
17 devices, gases and equipment, and the maintenance
18 thereof by a non-licensed person for the express
19 purpose of self-care by a patient or gratuitous care
20 by a friend or family member. Any patient monitoring,
21 assessment, or other procedures designed to evaluate
22 the effectiveness of prescribed respiratory care shall



1 be performed by or pursuant to the delegation of a
2 licensed respiratory care practitioner.

3 § -10 **Revocation, suspension, denial, or condition of**
4 **licenses; fines.** In addition to any other acts or conditions
5 provided by law, the board may refuse to renew, reinstate, or
6 restore, or may deny, revoke, suspend, fine, or condition in any
7 manner any license for any one or more of the following acts or
8 conditions on the part of the applicant or licensed respiratory
9 care practitioner:

10 (1) Conviction by a court of competent jurisdiction of a
11 crime that the board has determined to be of a nature
12 that renders the individual convicted unfit to
13 practice respiratory care;

14 (2) Failure to report in writing to the board any
15 disciplinary decision or rejection of license
16 application or renewal related to the practice of
17 respiratory care issued against the licensed
18 respiratory care practitioner or the applicant in any
19 jurisdiction within thirty days of the disciplinary
20 decision or within twenty days of rejection of
21 licensure;



- 1 (3) Violation of recognized ethical standards for
- 2 respiratory care practitioners as set by the National
- 3 Board for Respiratory Care;
- 4 (4) Use of fraud, deception, or misrepresentation in
- 5 obtaining a license;
- 6 (5) Revocation, suspension, or other disciplinary action
- 7 by another state, territory, federal agency, or
- 8 country against the respiratory care practitioner or
- 9 applicant for any reason provided under this section;
- 10 or
- 11 (6) Other just and sufficient cause that renders an
- 12 individual unfit to practice respiratory care.

13 § -11 **Hearings; appeals.** The board shall establish a

14 hearing and appeals process for persons who wish to appeal their

15 revocation, suspension, denial, or condition of license.

16 § -12 **Prohibited acts; penalties.** (a) No individual

17 shall:

- 18 (1) Use in connection with the person's name any
- 19 designation tending to imply that the individual is a
- 20 licensed respiratory care practitioner unless the
- 21 individual is duly licensed and authorized under this
- 22 chapter; or



1 (2) Make a representation that the individual is a
2 licensed respiratory care practitioner during the time
3 the person's license issued under this chapter is
4 forfeited, inactive, terminated, suspended, or
5 revoked.

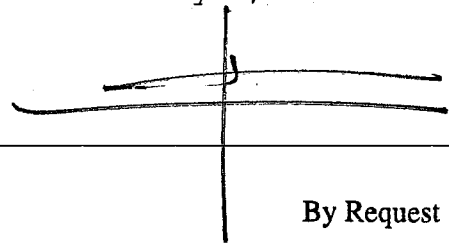
6 (b) Any individual who violates this section shall be
7 subject to a fine of not more than \$1,000 and each day violation
8 shall be deemed a separate offense.

9 § -13 Rules. The department of health may adopt rules
10 pursuant chapter 91 as necessary for the purpose of this
11 chapter."

12 SECTION 3. This Act shall take effect on July 1, 2009.

13

INTRODUCED BY: _____



By Request



Report Title:

Respiratory Care; Board of Respiratory Care; Licensure

Description:

Establishes the respiratory care board and establishes a licensure program required for respiratory care practitioners.

