
A BILL FOR AN ACT

RELATING TO HEALTH 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 should be regulated to protect the public from
3 unqualified practitioners and from unprofessional conduct by
4 persons licensed to practice respiratory care. The legislature
5 also recognizes the practice of respiratory care to be a dynamic
6 and changing art and science, the practice of which continues to
7 evolve with more sophisticated techniques and clinical
8 modalities in patient care.

9 The purpose of this Act is to protect the public health,
10 safety, and welfare, by regulating the practice of respiratory
11 care.

12 SECTION 2. The Hawaii Revised Statutes is amended by
13 adding a new chapter to be appropriately designated and to read
14 as follows:

15 "CHAPTER

16 **RESPIRATORY CARE PRACTICE ACT**

17 § -1 **Definitions.** As used in this chapter, unless the
18 context otherwise requires:



1 "Board" means the Hawaii board for respiratory care.

2 "Continuing education" means educational activities
3 primarily designed to keep respiratory care practitioners
4 informed of developments in the respiratory care field or any
5 special areas of practice engaged in by respiratory care
6 practitioners.

7 "Direct supervision" means a situation where a licensed
8 respiratory care practitioner or physician is immediately
9 available for the purpose of communication, consultation, and
10 assistance.

11 "Formal education" means a supervised, structured
12 educational activity that incorporates pre-clinical didactic and
13 laboratory activities, and clinical activities; provided that
14 the education is approved by an accrediting agency recognized by
15 the board and includes an evaluation of competence through a
16 standardized testing mechanism determined by the board to be
17 valid and reliable.

18 "Physician supervision" means the authority and
19 responsibility of a licensed physician to direct the performance
20 of activities as established by policies, procedures, and
21 protocols for the safe and appropriate completion of services.



1 "Practice of respiratory care" means the assessment,
2 diagnosis, intervention, and monitoring for patients requiring
3 emergent and nonemergent respiratory interventions. The term
4 includes:

- 5 (1) Emergency actions to correct life-threatening
6 respiratory events for patients of all ages;
- 7 (2) The initiation of emergency procedures and protocols
8 under the regulations of the board or as otherwise
9 permitted in this chapter;
- 10 (3) The initiation and management of life-support
11 ventilator equipment;
- 12 (4) The administration of pharmacological, diagnostic, and
13 therapeutic agents related to respiratory care
14 procedures necessary to implement a treatment, disease
15 prevention, or pulmonary rehabilitative or diagnostic
16 regimen prescribed by a physician;
- 17 (5) The transcription and implementation of the written,
18 verbal, or telecommunicated orders of a physician
19 pertaining to the practice of respiratory care;
- 20 (6) The observation and monitoring of signs and symptoms,
21 general behavior, and general physical response to
22 respiratory care treatment and diagnostic testing,



1 including determinations of whether such signs,
2 symptoms, behaviors, or responses exhibit abnormal
3 characteristics; and

4 (7) The implementation, based on observed abnormalities,
5 of appropriate reporting, referral, or respiratory
6 care protocols or changes in treatment pursuant to the
7 written, verbal, or telecommunicated orders of a
8 person licensed to practice medicine under the laws of
9 the State.

10 "Protocol" means a written agreement of medical care plan
11 delegating professional responsibilities to a person who is
12 qualified by training, competency, experience, or licensure to
13 perform such responsibilities.

14 "Respiratory care education program" means a program of
15 respiratory care education accredited by the Committee on
16 Accreditation for Respiratory Care or their successor
17 organizations.

18 "Respiratory care practitioner" means a person who is:

19 (1) Duly licensed by the board;

20 (2) Employed in the practice of respiratory care and who
21 has the knowledge and skill necessary to administer



1 the practice of respiratory care or respiratory care
2 services;

3 (3) Capable of serving as a resource to the physician and
4 other healthcare providers in relation to the clinical
5 and technical aspects of respiratory care and as to
6 the safe and effective methods for administering
7 respiratory care modalities;

8 (4) Able to function in situations of unsupervised patient
9 contact requiring great individual judgment; and

10 (5) Capable of supervising, directing, or teaching less
11 skilled personnel in the provision of respiratory
12 therapy services.

13 "Respiratory care services" includes the following
14 activities performed under physician supervision or under the
15 order of a licensed physician, and in accordance with protocols
16 established by a hospital or the board:

17 (1) Assistance with cardiopulmonary resuscitation;

18 (2) Ventilatory support, including the maintenance and
19 management of life support systems;

20 (3) Administration of medications to the cardiopulmonary
21 system;



- 1 (4) With specialized training authorized by the board,
2 administration of medications by routes other than the
3 respiratory route under the direct supervision of a
4 physician;
- 5 (5) Therapeutic and diagnostic use of pressurized medical
6 gases and administration apparatuses, environmental
7 control systems, humidification, and aerosols;
- 8 (6) Use of therapeutics modalities to augment secretion
9 management, lung inflation, and bronchopulmonary
10 drainage, and to monitor breathing exercises;
- 11 (7) Respiratory rehabilitation and pulmonary disease
12 education and prevention;
- 13 (8) Maintenance of natural airways, including the
14 insertion of, and maintenance of, artificial airways;
- 15 (9) Disease management services, procedures, and
16 consulting, including those relating to asthma,
17 chronic obstructive pulmonary disease, and smoking
18 cessation;
- 19 (10) Assistance with bronchoscopy procedures for diagnostic
20 and therapeutic purposes;
- 21 (11) Invasive procedures, such as intravascular
22 catheterization, specimen collection and analysis,



1 blood for gas transport, acid/base determinations and
2 indicators for metabolic processes and sputum for
3 diagnostic purposes;

4 (12) Pulmonary function testing, and other related
5 physiological monitoring of the cardiopulmonary
6 systems;

7 (13) Hyperbaric oxygen therapy;

8 (14) Noninvasive metabolic monitoring;

9 (15) Capnography and hemodynamic monitoring and
10 interpretation;

11 (16) Sleep diagnostic studies; and

12 (17) Air or ground ambulance transport.

13 "Special training" means a deliberate, systematic,
14 educational activity in the affective, psychomotor, and
15 cognitive domains, intended to develop new proficiencies with an
16 application in mind and presented with an attention to needs,
17 objectives, activities, and a defined means of evaluation.

18 § -2 **Hawaii board for respiratory care.** (a) There is
19 established within the department of commerce and consumer
20 affairs for administrative purposes the Hawaii board for
21 respiratory care to administer the provisions of this chapter.

22 The board shall consist of the following seven members who shall



1 all be citizens of the United States and residents of this
2 state:

3 (1) Four members engaged in the practice of respiratory
4 care for a period of not less than one year
5 immediately preceding their appointment to the board,
6 and recommended by the state affiliate of the American
7 Association for Respiratory Care;

8 (2) A physician recommended by the Hawaii Society for
9 Respiratory Care;

10 (3) A member of the general public; and

11 (4) One at-large member selected from among, but not
12 limited to:

13 (A) Hospital representatives; and

14 (B) Representatives of the home health care industry.

15 (b) The terms of office of board members shall be as
16 determined by the board.

17 § -3 **Board operating procedures.** (a) The board shall
18 elect a chairperson and vice chairperson from the members
19 described in section -2(a)(1) and (2).

20 (b) The board shall meet at least annually and may convene
21 at the request of the chairperson, or as determined by the
22 board.



1 (c) A majority of all members to which the board is
2 entitled shall constitute a quorum to do business, and any
3 action taken by the board shall be approved by a simple majority
4 vote of the quorum.

5 (d) The board may appoint and employ a qualified person,
6 who shall not be a member of the board, to serve as the
7 administrative secretary to the board, and whose duties shall be
8 defined by the board.

9 (e) Members of the board shall serve without compensation
10 but shall be reimbursed for expenses, including travel expenses,
11 necessary for the performance of their duties.

12 § -4 **Board powers and responsibilities.** The board
13 shall:

- 14 (1) Determine the qualifications and fitness of applicants
15 for licensure, license renewals, temporary licenses,
16 and reciprocal licenses to practice respiratory care;
- 17 (2) Examine, approve, issue, deny, revoke, suspend, and
18 renew the licenses of duly qualified applicants to
19 practice respiratory care;
- 20 (3) Establish standards of professional responsibility and
21 practice for persons licensed by the board;



- 1 (4) Keep a record of all proceedings of the board, which
2 shall be made available to the public for inspection
3 during reasonable business hours;
- 4 (5) Conduct investigations, subpoena individuals and
5 records, and do all things necessary and proper to
6 discipline persons licensed under this chapter and to
7 enforce this chapter;
- 8 (6) Conduct hearings upon charges calling for discipline
9 of a licensee, or denial, revocation, or suspension of
10 a license;
- 11 (7) Adopt any rules necessary to conduct the board's
12 business, carry out board duties, and administer this
13 chapter;
- 14 (8) Maintain a public record of persons licensed by the
15 board;
- 16 (9) Enter into agreements or contracts, consistent with
17 state law, with other organizations for the purpose of
18 developing, administering, grading, or reporting the
19 results of licensure examinations. Such organizations
20 shall be capable of meeting the standards of the
21 National Commission for Health Certifying Agencies, or
22 its equivalent or successor organization. The



1 licensure examinations shall be validated and
2 nationally recognized as testing respiratory care
3 competencies; and

4 (10) Establish continuing education requirements for
5 license renewals.

6 § -5 **Requirements for licensure.** (a) Upon payment of
7 a fee, an applicant for a license to practice respiratory care
8 shall submit to the board written evidence, verified by oath,
9 that the applicant:

- 10 (1) Is eighteen years of age;
 - 11 (2) Has completed an approved four-year high school course
12 of study or the equivalent thereof as determined by
13 the appropriate educational agency;
 - 14 (3) Has successfully completed an accredited respiratory
15 care education program;
 - 16 (4) Has passed an examination administered by the State or
17 by a national agency approved by the board;
 - 18 (5) Has paid the required fees; and
 - 19 (6) Meets all other requirements established by the board.
- 20 (b) If an applicant fails to complete the requirements for

21 licensure within days from the date of filing, the
22 application shall be deemed abandoned.



1 (c) The board shall issue a license to practice
2 respiratory care by endorsement to:

3 (1) An applicant who is currently licensed or registered
4 to practice respiratory care under the laws of another
5 state, territory, or country if the qualifications of
6 the applicant are deemed by the board to be equivalent
7 to those required in this state; or

8 (2) Applicants holding credentials, conferred by the
9 National Board for Respiratory Care or its successor
10 organization, as a certified respiratory therapist
11 and/or as a registered respiratory therapist; provided
12 that such credentials have not been suspended or
13 revoked.

14 (d) A license issued under this chapter shall be subject
15 to biennial renewal.

16 § -6 Professional identification. (a) A person who
17 does not hold a license as a respiratory care practitioner or
18 whose license has been suspended or revoked shall not engage in
19 any of the following:

20 (1) Use in connection with the person's practice the words
21 "respiratory care professional," "respiratory
22 therapist," "respiratory care practitioner,"



1 "certified respiratory care practitioner," "licensed
 2 respiratory therapist," or "respiratory therapy
 3 technician"; or use the designations "R.C.P.,"
 4 "R.R.T.," or "L.R.T."; or use any other words,
 5 letters, abbreviations, or insignia indicating or
 6 implying that the person is a respiratory care
 7 practitioner; and

8 (2) Directly or by implication represent in any way that
 9 the person is a respiratory care practitioner.

10 (b) A licensee shall show the licensee's license when
 11 requested.

12 § -7 **Renewal of license.** (a) A license shall be
 13 renewed except as hereafter provided. The board shall mail
 14 notices of renewal at least calendar days prior to
 15 expiration of the license of every person to whom a license was
 16 issued or renewed during the preceding renewal period. The
 17 licensee shall complete the notice of renewal and return the
 18 notice to the board with the renewal fee before the date the
 19 license expires.

20 (b) Upon receipt of the notice of renewal and the fee, the
 21 board shall verify the contents of the notice and shall issue



1 the licensee a license for the current renewal period, which
2 shall be valid for the period stated thereon.

3 (c) The board shall establish continuing education
4 requirements for biennial renewal of the license.

5 (d) A licensee who allows a license to lapse by failure to
6 renew may be reinstated by the board upon payment of the renewal
7 fee and a reinstatement fee; provided that such request for
8 reinstatement is made within days of the end of the renewal
9 period.

10 (e) A respiratory care practitioner who does not engage in
11 the practice of respiratory care during the succeeding renewal
12 period is not required to pay the renewal fee as long as the
13 practitioner remains inactive. A practitioner seeking to resume
14 the practice of respiratory care shall notify the board of the
15 practitioner's intent and shall satisfy the requirements of this
16 chapter, in addition to remitting the current renewal fee and
17 the reinstatement fee.

18 § -8 Fees and disposition of revenue. (a) All fees,
19 including application fees, licensing fees, renewal fees, and
20 reinstatement fees shall be established by rules adopted by the
21 board.



1 (b) Fees received by the board and monies collected under
2 this chapter shall be deposited into the general fund.

3 § -9 **Disciplinary criteria.** (a) The board may revoke,
4 suspend, or refuse to renew any license, or place on probation
5 or otherwise reprimand a licensee or temporary licensee holder,
6 or deny a license to an applicant if it finds that the person:

7 (1) Committed fraud or deceit in procuring or attempting
8 to procure a license or renewal of a license to
9 practice respiratory care;

10 (2) Is unfit or incompetent by reason of negligence or
11 other causes of incompetence;

12 (3) Is habitually intemperate in the use of alcoholic
13 beverages;

14 (4) Is addicted to, or has improperly obtained, possessed,
15 used, or distributed habit-forming drugs or narcotics;

16 (5) Has committed dishonest or unethical conduct;

17 (6) Has practiced respiratory care after the person's
18 license has expired or has been suspended;

19 (7) Has practiced respiratory care under cover of any
20 license illegally or fraudulently obtained or issued;

21 (8) Has violated or aided or abetted others in violating
22 any provision of this chapter; or



1 (9) Has been convicted of a felony that materially affects
2 the person's ability to safely practice respiratory
3 care.

4 § -10 **Complaints; board investigations.** (a) Upon the
5 filing of a written complaint with the board, charging a person
6 with any of the acts described in section -9, the
7 administrative secretary or other authorized employee of the
8 board shall make an investigation. If the board finds
9 reasonable grounds for the complaint, a time and place for a
10 hearing shall be set, notice of which shall be served on the
11 licensee or applicant at least calendar days prior thereto.
12 The notice shall be by personal service or by certified or
13 registered mail sent to the last known address of the person who
14 is the subject of the complaint.

15 (b) The board may petition the circuit court to issue
16 subpoenas for the attendance of witnesses and the production of
17 necessary evidence in any hearing before the board. Upon
18 request of the respondent or his counsel, the board shall
19 petition the court to issue subpoenas on behalf of the
20 respondent. The court upon petition may issue such subpoenas as
21 it deems necessary.



1 (c) Unless otherwise provided in this chapter, hearing
2 procedures shall be established by rules adopted by the board.
3 A person aggrieved by a decision of the board may file an appeal
4 for judicial review pursuant to chapter 91.

5 § -11 **Exceptions.** (a) No person shall practice
6 respiratory care or represent oneself to be a respiratory care
7 practitioner unless the person is licensed under this chapter,
8 except as otherwise provided by this chapter.

9 (b) This chapter shall not prohibit:

10 (1) The practice of respiratory care that is an integral
11 part of the program of study by students enrolled in
12 an accredited respiratory care education program
13 approved by the board. Students enrolled in
14 respiratory care education programs shall be
15 identified as "student RT" and shall only provide
16 respiratory care under the direct supervision of an
17 appropriate clinical instructor recognized by the
18 education program;

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



- 1 (3) Respiratory care services rendered in the course of an
- 2 emergency;
- 3 (4) Respiratory care administered in the course of
- 4 assigned duties of persons in the military services;
- 5 (5) The delivery, set-up, and monitoring of medical
- 6 devices, gases, and equipment and the maintenance
- 7 thereof by a non-licensed person for the express
- 8 purpose of self-care by a patient or gratuitous care
- 9 by a friend or family member, where any patient
- 10 monitoring, assessment, or other procedures designed
- 11 to evaluate the effectiveness of prescribed
- 12 respiratory care are performed by or pursuant to the
- 13 delegation of a licensed respiratory care
- 14 practitioner; or
- 15 (6) The respiratory care practitioner from performing
- 16 advances in the art and techniques of respiratory care
- 17 learned through formal or special training approved by
- 18 the board.
- 19 (c) Nothing in this chapter is intended to limit,
- 20 preclude, or otherwise interfere with the practice of other
- 21 persons licensed by appropriate agencies of the State from



1 performing a respiratory care procedure that is within the scope
2 of practice of the licensee.

3 (d) Individuals who have passed an examination that
4 includes content in one or more of the functions included in
5 this section shall not be prohibited from performing such
6 procedures for which the individual has been tested; provided
7 that the testing body offering the examination is approved by
8 the board.

9 § -12 Practice of medicine prohibited. Nothing in this
10 chapter shall be construed to permit the practice of medicine.

11 § -13 Offenses. (a) It is a misdemeanor for any
12 person to:

13 (1) Sell, fraudulently obtain, or furnish any respiratory
14 care license or record, or aid or abet therein;

15 (2) Practice respiratory care under cover of any
16 respiratory care diploma, license, or record illegally
17 or fraudulently obtained or issued;

18 (3) Practice respiratory care unless duly licensed to do
19 so under the provisions of this chapter;

20 (4) Impersonate in any manner or pretend to be a
21 "respiratory care professional," "respiratory
22 therapist," "respiratory care practitioner,"



1 "certified respiratory care practitioner," "licensed
2 respiratory therapist," or "respiratory therapy
3 technician"; or use the designation "R.C.P.," "R.R.T."
4 or "L.R.T."; or use any other words, letters,
5 abbreviations, or insignia indicating or implying that
6 the person is a respiratory care practitioner, unless
7 duly authorized by license to practice under the
8 provisions of this chapter;

9 (5) Practice respiratory care while the person's license
10 is suspended, revoked, or expired;

11 (6) Fail to notify the board of the suspension, probation,
12 or revocation of any past or currently held license
13 required to practice respiratory care in this or any
14 other jurisdiction;

15 (7) Knowingly employ unlicensed persons in the capacity of
16 a respiratory care practitioner;

17 (8) Make false representations or impersonate or act as a
18 proxy for another person or allow or aid any person to
19 impersonate another person in connection with any
20 examination or application for licensing or request to
21 be examined or licensed; or

22 (9) Otherwise violate any provision of this chapter.

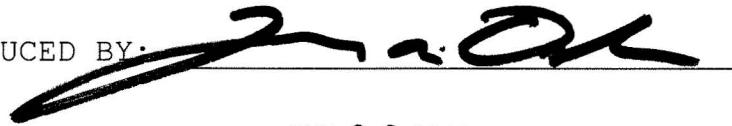


1 § -14 **Severability.** If any provision of this chapter
2 or the application thereof to any person or circumstance is held
3 invalid, the invalidity shall not affect other provisions or
4 applications of this chapter that can be given effect without
5 the invalid provision or application, and to this end the
6 provisions of this chapter are severable."

7 SECTION 3. This Act shall take effect upon its approval.

8

INTRODUCED BY:

A handwritten signature in black ink, appearing to be "J. A. ...", written over a horizontal line.

JAN 28 2009



Report Title:

Respiratory Care Practitioners; Licensing

Description:

Establishes requirements for the regulation of respiratory care practitioners.

