

---

---

# 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 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 authorizing the director of commerce and  
14 consumer affairs to establish and regulate licensure  
15 requirements for respiratory care practitioners.



1 SECTION 2. 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 "Department" means the department of commerce and consumer  
8 affairs.

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

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

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

19 (2) The teaching of techniques relating to respiratory  
20 care;

21 (3) Direct and indirect respiratory care services,  
22 including the administration of pharmacological,



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



1 and

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

5 **§ -2 Limitations of respiratory care practitioner**

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

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

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

20 (1) Adopt rules pursuant to chapter 91 to develop  
21 standards for licensure;



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

11 **§ -5 Respiratory care practitioner advisory board;**

12 **established.** (a) The director may appoint a five-member  
13 respiratory care practitioner advisory board within the  
14 department. No fewer than three members of the advisory board  
15 shall have at least five years of experience in the state in the  
16 practice of respiratory care.

17 (b) The director shall establish rules on standards of  
18 professional conduct, discipline, continuing education  
19 requirements, and qualifications for licensure under this  
20 chapter.

21 (c) The director or the director's designee shall conduct  
22 investigations of allegations of licensee misconduct pursuant to



1 section 92-17, and shall keep a record of all proceedings and  
2 activities. The provisions of chapter 92F shall prevail in the  
3 disclosure of information by the board.

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

- 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 and a review  
16 of any alleged misconduct or neglect in the practice  
17 of respiratory care on the part of the applicant; and
- 18 (4) Pass an examination for the practice of respiratory  
19 care within five years of making an application;  
20 provided that individuals who have graduated from a  
21 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;
- 11 (3) Has wilfully or negligently acted in a manner  
12 inconsistent with the health or safety of any person  
13 under the individual's care;
- 14 (4) Has had a license to practice respiratory care or any  
15 other health care occupation suspended or revoked, or  
16 has otherwise been subject to discipline relating to  
17 the individual's practice of respiratory care, in any  
18 jurisdiction;
- 19 (5) Has committed a fraudulent insurance act;
- 20 (6) Excessively or habitually uses alcohol or drugs;  
21 provided that the director shall not discipline an  
22 individual under this paragraph if the individual is



1 enrolled in a substance abuse program approved by the  
2 department; or

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

6 (b) If an allegation of conduct described in subsection  
7 (a) is made against a licensee, the director shall conduct an  
8 investigation pursuant to section 92-17.

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

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

16 "**§26H-6 New regulatory measures.** New regulatory measures  
17 being considered for enactment that, if enacted, would subject  
18 unregulated professions and vocations to licensing or other  
19 regulatory controls shall be referred to the auditor for  
20 analysis[-]; except where the legislature finds that it is in  
21 the best interest for certain health care professions to be  
22 licensed for participation in federal programs. Referral shall





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

9 SECTION 4. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on July 1, 2090.



**Report Title:**

Respiratory Care Practitioners; Licensing

**Description:**

Establishes licensing requirements for respiratory care practitioners. (SB1332 HD1)

