

A bill for an act

relating to health occupation; licensing respiratory therapists; amending
Minnesota Statutes 2008, sections 147C.01; 147C.05; 147C.10; 147C.15;
147C.20; 147C.25; 147C.30; 147C.35; 147C.40.

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

Section 1. Minnesota Statutes 2008, section 147C.01, is amended to read:

147C.01 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Advisory council.** "Advisory council" means the Respiratory Care
~~Practitioner~~ Advisory Council established under section 147C.35.

Subd. 3. **Approved education program.** "Approved education program" means a
university, college, or other postsecondary education program leading to eligibility for
registry or certification in respiratory care, that, at the time the student completes the
program, is accredited by a national accrediting organization approved by the board.

Subd. 4. **Board.** "Board" means the Board of Medical Practice or its designee.

Subd. 5. **Contact hour.** "Contact hour" means an instructional session of 50
consecutive minutes, excluding coffee breaks, registration, meals without a speaker, and
social activities.

Subd. 6. **Credential.** "Credential" means a license, ~~permit, certification, registration,~~
or other evidence of qualification or authorization to engage in respiratory care practice in
this state or any other state.

Subd. 7. **Credentialing examination.** "Credentialing examination" means an
examination administered by the National Board for Respiratory Care ~~or other national~~
~~testing organization approved by the board,~~ its successor organization, or the Canadian

Society for Respiratory Care for credentialing as a ~~certified respiratory therapy technician,~~
~~registered~~ respiratory therapist; or other title indicating an entry or advanced level
respiratory care practitioner.

Subd. 8. **Health care facility.** "Health care facility" means a hospital as defined in
section 144.50, subdivision 2, a medical facility as defined in section 144.561, subdivision
1, paragraph (b), or a nursing home as defined in section 144A.01, subdivision 5, a
long-term acute care facility, a subacute care facility, an outpatient clinic, a physician's
office, a rehabilitation facility, or a hospice.

Subd. 9. **Qualified medical direction.** "Qualified medical direction" means
direction from a licensed physician who is on the staff or is a consultant of a health care
facility or home care agency or home medical equipment provider and who has a special
interest in and knowledge of the diagnosis and treatment of deficiencies, abnormalities,
and diseases of the cardiopulmonary system.

Subd. 10. **Respiratory care.** "Respiratory care" means the provision of services
described under section 147C.05 for the assessment, treatment, education, management,
evaluation, and care of patients with deficiencies, abnormalities, and diseases of the
cardiopulmonary system, under the ~~guidance of qualified medical direction~~ supervision of
a physician and pursuant to a referral, or verbal, written, or telecommunicated order from
a physician ~~who has medical responsibility for the patient,~~ nurse practitioner, or physician
assistant. ~~It~~ Respiratory care includes, but is not limited to, education pertaining to health
promotion, ~~and~~ disease prevention and management, patient care, and treatment.

Sec. 2. Minnesota Statutes 2008, section 147C.05, is amended to read:

147C.05 SCOPE OF PRACTICE.

(a) The practice of respiratory care by a ~~registered~~ licensed respiratory ~~care~~
~~practitioner~~ therapist includes, but is not limited to, the following services:

(1) providing and monitoring therapeutic administration of medical gases, aerosols,
humidification, and pharmacological agents related to respiratory care procedures, but not
including administration of general anesthesia;

(2) carrying out therapeutic application and monitoring of mechanical ventilatory
support;

(3) providing cardiopulmonary resuscitation and maintenance of natural airways and
insertion and maintenance of artificial airways;

(4) assessing and monitoring signs, symptoms, and general behavior relating to, and
general physical response to, respiratory care treatment or evaluation for treatment and

diagnostic testing, including determination of whether the signs, symptoms, reactions, behavior, or general response exhibit abnormal characteristics;

(5) obtaining physiological specimens and interpreting physiological data including:

(i) analyzing arterial and venous blood gases;

(ii) assessing respiratory secretions;

(iii) measuring ventilatory volumes, pressures, and flows;

(iv) testing pulmonary function;

(v) testing and studying the cardiopulmonary system; and

(vi) diagnostic and therapeutic testing of breathing patterns related to sleep disorders;

(6) assisting hemodynamic monitoring and support of the cardiopulmonary system;

(7) assessing and making suggestions for modifications in the treatment regimen based on abnormalities, protocols, or changes in patient response to respiratory care treatment;

(8) providing cardiopulmonary rehabilitation including respiratory-care related educational components, postural drainage, chest physiotherapy, breathing exercises, aerosolized administration of medications, and equipment use and maintenance;

(9) instructing patients and their families in techniques for the prevention, alleviation, and rehabilitation of deficiencies, abnormalities, and diseases of the cardiopulmonary system; ~~and~~

(10) transcribing and implementing verbal, written, or telecommunicated orders from a physician, nurse practitioner, or physician assistant ~~orders~~ for respiratory care services;

(11) tobacco cessation and prevention programs; and

(12) disease management programs, including but not limited to, asthma and chronic obstructive pulmonary disease.

~~(b) Patient service by a practitioner must be limited to:~~

~~(1) services within the training and experience of the practitioner; and~~

~~(2) services within the parameters of the laws, rules, and standards of the facilities in which the respiratory care practitioner practices.~~

~~(c) Respiratory care services provided by a registered respiratory care practitioner, whether delivered in a health care facility or the patient's residence, must not be provided except upon referral from a physician.~~

(b) This section does not prohibit a respiratory therapist from performing advances in the art and techniques of respiratory care learned through formal or specialized training as approved by the Respiratory Care Advisory Council.

~~(d)~~ (c) This section does not prohibit an individual licensed or ~~registered~~ credentialed as a respiratory therapist in another state or country from providing respiratory care in an

emergency in this state, providing respiratory care as a member of an organ harvesting team, or from providing respiratory care on board an ambulance as part of an ambulance treatment team.

Sec. 3. Minnesota Statutes 2008, section 147C.10, is amended to read:

147C.10 UNLICENSED PRACTICE PROHIBITED; PROTECTED TITLES AND RESTRICTIONS ON USE.

Subdivision 1. **Protected titles.** ~~No individual may~~ A person who does not hold a license or temporary permit under this chapter as a respiratory therapist or whose license or permit has lapsed, been suspended, or revoked may not use the title "Minnesota registered licensed respiratory care practitioner therapist," "registered licensed respiratory care practitioner therapist," "respiratory care practitioner," "respiratory therapist," "respiratory therapy (or care) technician," "inhalation therapist," or "inhalation therapy technician," or use, in connection with the individual's name, the letters "RCP," "RT" or "LRT" or any other titles, words, letters, abbreviations, or insignia indicating or implying that the individual is eligible for registration licensure by the state as a respiratory care practitioner therapist unless the individual has been registered licensed as a respiratory care practitioner therapist according to this chapter.

Subd. 1a. **Unlicensed practice prohibited.** No person shall practice respiratory care unless the person is licensed as a respiratory therapist under this chapter except as otherwise provided under this chapter.

Subd. 2. **Other health care practitioners.** ~~(a) Nonphysician individuals practicing in a health care occupation or profession are not restricted in the provision of services included in section 147C.05, as long as they do not hold themselves out as respiratory care practitioners by or through the use of the titles provided in subdivision 1 in association with provision of these services. Nothing in this chapter shall prohibit the practice of any profession or occupation licensed or registered by the state by any person duly licensed or registered to practice the profession or occupation or to perform any act that falls within the scope of practice of the profession or occupation.~~

~~(b) Physician practitioners are exempt from this chapter.~~

~~(c)~~ Nothing in this chapter shall be construed to require registration of a respiratory care license for:

(1) a respiratory care practitioner student enrolled in a respiratory therapy or polysomnography technology education program accredited by the Commission on Accreditation of Allied Health Education Programs, its successor organization, or another national recognized accrediting organization approved by the board; and

(2) a respiratory ~~care practitioner~~ employed in the service of the federal government therapist as a member of the United States armed forces while performing duties incident to that ~~employment~~ duty;

(3) an individual employed by a durable medical equipment provider or home medical equipment provider who delivers, sets up, or maintains respiratory care equipment, but does not perform assessment, education, or evaluation of the patient;

(4) self-care by a patient or gratuitous care by a friend or relative who does not purport to be a licensed respiratory therapist; or

(5) an individual employed in a sleep lab or center as a polysomnographic technologist under the supervision of a licensed physician.

Subd. 3. **Penalty.** A person who violates ~~subdivision 1~~ this section is guilty of a gross misdemeanor.

Subd. 4. **Identification of ~~registered~~ licensed practitioners.** Respiratory ~~care practitioners~~ registered therapists licensed in Minnesota shall wear name tags that identify them as respiratory ~~care practitioners~~ therapists while in a professional setting. If not written in full, this must be designated as ~~RCP~~ "RT" or "LRT". A student attending ~~a an~~ an accredited respiratory therapy training education program or a tutorial intern program must be identified as a student respiratory ~~care practitioner~~ therapist. This abbreviated designation is Student ~~RCP~~ RT. Unregulated individuals who work in an assisting respiratory role under the supervision of respiratory ~~care practitioners~~ therapists must be identified as respiratory ~~care~~ therapy assistants or aides.

Sec. 4. Minnesota Statutes 2008, section 147C.15, is amended to read:

147C.15 ~~REGISTRATION~~ LICENSURE REQUIREMENTS.

Subdivision 1. **General requirements for ~~registration~~ licensure.** To be eligible for ~~registration~~ a license, an applicant, with the exception of those seeking ~~registration~~ licensure by reciprocity under subdivision 2, must:

(1) submit a completed application on forms provided by the board along with all fees required under section 147C.40 that includes:

(i) the applicant's name, Social Security number, home address, e-mail address, and telephone number, and business address and telephone number;

(ii) the name and location of the respiratory ~~care~~ therapy education program the applicant completed;

(iii) a list of degrees received from educational institutions;

(iv) a description of the applicant's professional training beyond the first degree received;

(v) the applicant's work history for the five years preceding the application, including the average number of hours worked per week;

(vi) a list of registrations, certifications, and licenses held in other jurisdictions;

(vii) a description of any other jurisdiction's refusal to credential the applicant;

(viii) a description of all professional disciplinary actions initiated against the applicant in any jurisdiction; and

(ix) any history of drug or alcohol abuse, and any misdemeanor or felony conviction;

(2) submit a certificate of completion from an approved education program;

(3) achieve a qualifying score on a credentialing examination within five years prior to application for registration;

(4) submit a verified copy of a valid and current credential, issued by the National Board for Respiratory Care or other board-approved national organization, as a certified respiratory ~~therapy technician~~ therapist, registered respiratory therapist, or other entry or advanced level respiratory ~~care practitioner~~ therapist designation;

(5) submit additional information as requested by the board, including providing any additional information necessary to ensure that the applicant is able to practice with reasonable skill and safety to the public;

(6) sign a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief; and

(7) sign a waiver authorizing the board to obtain access to the applicant's records in this or any other state in which the applicant has completed an approved education program or engaged in the practice of respiratory ~~care~~ therapy.

Subd. 2. **Registration Licensure by reciprocity.** To be eligible for ~~registration~~ licensure by reciprocity, the applicant must be credentialed by the National Board for Respiratory Care or other board-approved organization and have worked at least eight weeks of the previous five years as a respiratory ~~care practitioner~~ therapist and must:

(1) submit the application materials and fees as required by subdivision 1, clauses (1), (4), (5), (6), and (7);

(2) provide a verified copy from the appropriate government body of a current and unrestricted credential or license for the practice of respiratory ~~care~~ therapy in another jurisdiction that has initial credentialing requirements equivalent to or higher than the requirements in subdivision 1; and

(3) provide letters of verification from the appropriate government body in each jurisdiction in which the applicant holds a credential or license. Each letter must state the applicant's name, date of birth, credential number, date of issuance, a statement regarding

disciplinary actions, if any, taken against the applicant, and the terms under which the credential was issued.

Subd. 3. **Temporary permit.** The board may issue a temporary permit to practice as a respiratory ~~care practitioner~~ therapist to an applicant eligible for ~~registration~~ licensure under this section if the application for ~~registration~~ licensure is complete, all applicable requirements in this section have been met, and a nonrefundable fee set by the board has been paid. The permit remains valid only until the meeting of the board at which a decision is made on the respiratory ~~care practitioner's~~ therapist's application for ~~registration~~ licensure.

~~Subd. 4. **Temporary registration.** The board may issue temporary registration as a respiratory care practitioner for a period of one year to an applicant for registration under this section if the application for registration is complete, all applicable requirements have been met with exception of completion of a credentialing examination, and a nonrefundable fee set by the board has been paid. A respiratory care practitioner with temporary registration may qualify for full registration status upon submission of verified documentation that the respiratory care practitioner has achieved a qualifying score on a credentialing examination within one year after receiving temporary registration status. Temporary registration may not be renewed.~~

~~Subd. 5. **Practice limitations with temporary registration.** A respiratory care practitioner with temporary registration is limited to working under the direct supervision of a registered respiratory care practitioner or physician able to provide qualified medical direction. The respiratory care practitioner or physician must be present in the health care facility or readily available by telecommunication at the time the respiratory care services are being provided. A registered respiratory care practitioner may supervise no more than two respiratory care practitioners with temporary registration status.~~

Subd. 6. **Registration License expiration.** ~~Registrations~~ Licenses issued under this chapter expire annually.

Subd. 7. **Renewal.** (a) To be eligible for ~~registration~~ license renewal a ~~registrant~~ licensee must:

(1) annually, or as determined by the board, complete a renewal application on a form provided by the board;

(2) submit the renewal fee;

(3) provide evidence every two years of a total of 24 hours of continuing education approved by the board as described in section 147C.25; and

(4) submit any additional information requested by the board to clarify information presented in the renewal application. The information must be submitted within 30 days after the board's request, or the renewal request is nullified.

(b) Applicants for renewal who have not practiced the equivalent of eight full weeks during the past five years must achieve a passing score on retaking the credentialing examination, ~~or complete no less than eight weeks of advisory council-approved supervised clinical experience having a broad base of treatment modalities and patient care.~~

Subd. 8. **Change of address.** A ~~registrant licensee~~ who changes addresses must inform the board within 30 days, in writing, of the change of address. All notices or other correspondence mailed to or served on a ~~registrant licensee~~ by the board at the ~~registrant's licensee's~~ address on file with the board shall be considered as having been received by the ~~registrant licensee~~.

Subd. 9. **Registration License renewal notice.** At least 30 days before the ~~registration license~~ renewal date, the board shall send out a renewal notice to the last known address of the ~~registrant licensee~~ on file. The notice must include a renewal application and a notice of fees required for renewal. It must also inform the ~~registrant licensee~~ that ~~registration the license~~ will expire without further action by the board if an application for ~~registration license~~ renewal is not received before the deadline for renewal. The ~~registrant's licensee's~~ failure to receive this notice shall not relieve the ~~registrant licensee~~ of the obligation to meet the deadline and other requirements for ~~registration license~~ renewal. Failure to receive this notice is not grounds for challenging expiration of ~~registered licensure~~ status.

Subd. 10. **Renewal deadline.** The renewal application and fee must be postmarked on or before July 1 of the year of renewal or as determined by the board. If the postmark is illegible, the application shall be considered timely if received by the third working day after the deadline.

~~Subd. 11. **Inactive status and return to active status.** (a) A registration may be placed in inactive status upon application to the board by the registrant and upon payment of an inactive status fee.~~

~~(b) Registrants seeking restoration to active from inactive status must pay the current renewal fees and all unpaid back inactive fees. They must meet the criteria for renewal specified in subdivision 7, including continuing education hours equivalent to one hour for each month of inactive status, prior to submitting an application to regain registered status. If the inactive status extends beyond five years, a qualifying score on a credentialing examination, or completion of an advisory council-approved eight-week supervised clinical training experience is required. If the registrant intends to regain active registration~~

by means of eight weeks of advisory council-approved clinical training experience, the registrant shall be granted temporary registration for a period of no longer than six months.

Subd. 12. **Registration Licensure following lapse of registration licensed status for two years or less.** For any individual whose registration status license has lapsed for two years or less, to regain registration status a license, the individual must:

- (1) apply for registration license renewal according to subdivision 7;
- (2) document compliance with the continuing education requirements of section 147C.25 since the registrant's licensee's initial registration licensure or last renewal; and
- (3) submit the fees required under section 147C.40 for the period not registered licensed, including the fee for late renewal.

Subd. 13. **Cancellation due to nonrenewal.** The board shall not renew, reissue, reinstate, or restore a registration license that has lapsed and has not been renewed within two annual registration renewal cycles starting July 1997. A registrant licensee whose registration license is canceled for nonrenewal must obtain a new registration license by applying for registration licensure and fulfilling all requirements then in existence for initial registration licensure as a respiratory care practitioner therapist.

Subd. 14. **Cancellation of registration license in good standing.** (a) A registrant licensee holding an active registration license as a respiratory care practitioner therapist in the state may, upon approval of the board, be granted registration license cancellation if the board is not investigating the person as a result of a complaint or information received or if the board has not begun disciplinary proceedings against the registrant licensee. Such action by the board shall be reported as a cancellation of registration a license in good standing.

(b) A registrant licensee who receives board approval for registration license cancellation is not entitled to a refund of any registration licensure fees paid for the registration license year in which cancellation of the registration license occurred.

(c) To obtain registration a license after cancellation, a registrant licensee must obtain a new registration license by applying for registration licensure and fulfilling the requirements then in existence for obtaining initial registration licensure as a respiratory care practitioner therapist.

Sec. 5. Minnesota Statutes 2008, section 147C.20, is amended to read:

147C.20 BOARD ACTION ON APPLICATIONS FOR REGISTRATION LICENSURE.

(a) The board shall act on each application for registration licensure according to paragraphs (b) to (d).

(b) The board shall determine if the applicant meets the requirements for ~~registration~~ licensure under section 147C.15. The board or advisory council may investigate information provided by an applicant to determine whether the information is accurate and complete.

(c) The board shall notify each applicant in writing of action taken on the application, the grounds for denying ~~registration~~ licensure if ~~registration~~ licensure is denied, and the applicant's right to review under paragraph (d).

(d) Applicants denied ~~registration~~ licensure may make a written request to the board, within 30 days of the board's notice, to appear before the advisory council or its designee and for the advisory council to review the board's decision to deny the applicant's ~~registration~~ licensure. After reviewing the denial, the advisory council shall make a recommendation to the board as to whether the denial shall be affirmed. Each applicant is allowed only one request for review per yearly ~~registration~~ licensure period.

Sec. 6. Minnesota Statutes 2008, section 147C.25, is amended to read:

147C.25 CONTINUING EDUCATION REQUIREMENTS.

Subdivision 1. **Number of required contact hours.** Two years after the date of initial ~~registration~~ licensure, and every two years thereafter, a ~~registrant~~ licensee applying for ~~registration~~ license renewal must complete a minimum of 24 contact hours of board-approved continuing education in the two years preceding ~~registration~~ license renewal and attest to completion of continuing education requirements by reporting to the board.

Subd. 2. **Approved programs.** The board shall approve continuing education programs that have been approved for continuing education credit by the American Association of Respiratory Care or the Minnesota Society for Respiratory Care or their successor organizations. The board shall also approve programs substantially related to respiratory ~~care~~ therapy that are sponsored by an accredited university or college, medical school, state or national medical association, national medical specialty society, or that are approved for continuing education credit by the Minnesota Board of Nursing.

Subd. 3. **Approval of continuing education programs.** The board shall also approve continuing education programs that do not meet the requirements of subdivision 2 but that meet the following criteria:

(1) the program content directly relates to the practice of respiratory ~~care~~ therapy;

(2) each member of the program faculty is knowledgeable in the subject matter as demonstrated by a degree from an accredited education program, verifiable experience in

11.1 the field of respiratory ~~care~~ therapy, special training in the subject matter, or experience
11.2 teaching in the subject area;

11.3 (3) the program lasts at least one contact hour;

11.4 (4) there are specific, measurable, written objectives, consistent with the program,
11.5 describing the expected outcomes for the participants; and

11.6 (5) the program sponsor has a mechanism to verify participation and maintains
11.7 attendance records for three years.

11.8 Subd. 4. **Hospital, health care facility, or medical company in-services.** Hospital,
11.9 health care facility, or medical company in-service programs may qualify for continuing
11.10 education credits provided they meet the requirements of this section.

11.11 Subd. 5. **Accumulation of contact hours.** A ~~registrant~~ licensee may not apply
11.12 contact hours acquired in one two-year reporting period to a future continuing education
11.13 reporting period.

11.14 Subd. 6. **Verification of continuing education credits.** The board shall periodically
11.15 select a random sample of ~~registrants~~ licensees and require those ~~registrants~~ licensees to
11.16 supply the board with evidence of having completed the continuing education to which
11.17 they attested. Documentation may come directly from the ~~registrant~~ licensee or from state
11.18 or national organizations that maintain continuing education records.

11.19 Subd. 7. **Restriction on continuing education topics.** A ~~registrant~~ licensee may
11.20 apply no more than a combined total of eight hours of continuing education in the areas
11.21 of management, risk management, personal growth, and educational techniques to a
11.22 two-year reporting period.

11.23 Subd. 8. **Credit for credentialing examination.** A ~~registrant~~ licensee may fulfill
11.24 the continuing education requirements for a two-year reporting period by achieving a
11.25 qualifying score on one of the credentialing examinations or a specialty credentialing
11.26 examination of the National Board for Respiratory Care or another board-approved testing
11.27 organization. A ~~registrant~~ licensee may achieve 12 hours of continuing education credit
11.28 by completing a National Board for Respiratory Care or other board-approved testing
11.29 organization's specialty examination.

11.30 Sec. 7. Minnesota Statutes 2008, section 147C.30, is amended to read:

11.31 **147C.30 DISCIPLINE; REPORTING.**

11.32 For purposes of this chapter, ~~registered~~ licensed respiratory ~~care practitioners~~
11.33 therapists and applicants are subject to the provisions of sections 147.091 to 147.162.

12.1 Sec. 8. Minnesota Statutes 2008, section 147C.35, is amended to read:

12.2 **147C.35 RESPIRATORY CARE ~~PRACTITIONER~~ ADVISORY COUNCIL.**

12.3 Subdivision 1. **Membership.** The board shall appoint a seven-member Respiratory
12.4 Care ~~Practitioner~~ Advisory Council consisting of two public members as defined in section
12.5 214.02, three ~~registered~~ licensed respiratory ~~care practitioners~~ therapists, and two licensed
12.6 physicians with expertise in respiratory care.

12.7 Subd. 2. **Organization.** The advisory council shall be organized and administered
12.8 under section 15.059.

12.9 Subd. 3. **Duties.** The advisory council shall:

12.10 (1) advise the board regarding standards for respiratory ~~care practitioners~~ therapists;

12.11 (2) provide for distribution of information regarding respiratory ~~care practitioner~~
12.12 therapy standards;

12.13 (3) advise the board on enforcement of sections 147.091 to 147.162;

12.14 (4) review applications and recommend granting or denying ~~registration~~ licensure
12.15 or ~~registration~~ license renewal;

12.16 (5) advise the board on issues related to receiving and investigating complaints,
12.17 conducting hearings, and imposing disciplinary action in relation to complaints against
12.18 respiratory ~~care practitioners~~ therapists;

12.19 (6) advise the board regarding approval of continuing education programs using the
12.20 criteria in section 147C.25, subdivision 3; and

12.21 (7) perform other duties authorized for advisory councils by chapter 214, as directed
12.22 by the board.

12.23 Sec. 9. Minnesota Statutes 2008, section 147C.40, is amended to read:

12.24 **147C.40 FEES.**

12.25 Subdivision 1. **Fees.** The board shall adopt rules setting:

12.26 (1) ~~registration~~ licensure fees;

12.27 (2) renewal fees;

12.28 (3) late fees;

12.29 (4) inactive status fees; and

12.30 (5) fees for temporary permits; ~~and~~

12.31 ~~(6) fees for temporary registration.~~

12.32 Subd. 2. **Proration of fees.** The board may prorate the initial annual ~~registration~~
12.33 license fee. All ~~registrants~~ licensees are required to pay the full fee upon ~~registration~~
12.34 license renewal.

- 13.1 Subd. 3. **Penalty fee for late renewals.** An application for ~~registration~~ license
- 13.2 renewal submitted after the deadline must be accompanied by a late fee in addition to the
- 13.3 required fees.
- 13.4 Subd. 4. **Nonrefundable fees.** All of the fees in subdivision 1 are nonrefundable.