

Subd. 6. **PROMOTIONAL ACTIVITIES.** All promotional materials for public cost-share programs for tree planting shall address the eligibility of private nursery planting stock.

Sec. 6. SPECIAL EXTENSION OF TIMBER PERMITS.

Timber sale permits issued under Minnesota Statutes, sections 90.101, 90.121, 90.151, and 90.191, that would otherwise expire in 1997 are extended for one year. Extensions issued under this section shall be without interest, and any timber cut during the period of this extension or remaining uncut at the expiration of this extension shall be billed at the stumpage rates of the original sale. Extensions granted under Minnesota Statutes, section 90.193, from January 1, 1997, to the effective date of this section, due to a lack of suitable winter logging conditions or suitable economic conditions, shall be granted without interest, and any timber cut during the period of this extension or remaining uncut at the expiration of this extension shall be billed at the stumpage rate of the original sale.

Sec. 7. EFFECTIVE DATE.

Section 6 is effective the day following final enactment.

Presented to the governor May 7, 1997

Signed by the governor May 8, 1997, 11:25 a.m.

CHAPTER 120—S.F.No. 741

An act relating to health; regulating the practice of respiratory care; establishing the requirements for registration and regulation of respiratory care practitioners; providing for continuing education, fees, reporting obligations, disciplinary actions, and for an advisory council; providing criminal penalties; creating a physician assistant advisory council; proposing coding for new law in Minnesota Statutes, chapter 147A; proposing coding for new law as Minnesota Statutes, chapter 147C; repealing Minnesota Rules, parts 4762.0010; 4762.0020; 4762.0030; 4762.0040; 4762.0050; 4762.0060; 4762.0065; 4762.0070; 4762.0080; 4762.0090; 4762.0100; 4762.0200; and 4762.0300.

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

Section 1. [147A.27] PHYSICIAN ASSISTANT ADVISORY COUNCIL.

Subdivision 1. **MEMBERSHIP.** The physician assistant advisory council is created and is composed of seven persons appointed by the board. The seven persons must include:

- (1) two public members, as defined in section 214.02;
- (2) three physician assistants registered under this chapter; and
- (3) two licensed physicians with experience supervising physician assistants.

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Subd. 2. **ORGANIZATION.** The council shall be organized and administered under section 15.059, except that the advisory council shall expire on June 30, 2007.

Subd. 3. **DUTIES.** The council shall advise the board regarding:

- (1) physician assistant registration standards;
- (2) enforcement of grounds for discipline;
- (3) distribution of information regarding physician assistant registration standards;
- (4) applications and recommendations of applicants for registration or registration renewal; and
- (5) complaints and recommendations to the board regarding disciplinary matters and proceedings concerning applicants and registrants according to sections 214.10; 214.103; and 214.13, subdivisions 6 and 7.

The council shall perform other duties authorized for the council by chapter 214 as directed by the board.

Sec. 2. [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 post-secondary 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 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, or a hospice.

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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 and pursuant to a referral from a physician who has medical responsibility for the patient. It includes education pertaining to health promotion and disease prevention, patient care, and treatment.

Sec. 3. **[147C.05] SCOPE OF PRACTICE.**

(a) The practice of respiratory care by a registered respiratory care practitioner 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 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;

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(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 physician orders for respiratory care services.

(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.

Sec. 4. [147C.10] PROTECTED TITLES AND RESTRICTIONS ON USE.

Subdivision 1. **PROTECTED TITLES.** No individual may use the title "Minnesota registered respiratory care practitioner," "registered respiratory care practitioner," "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," or any other titles, words, letters, abbreviations, or insignia indicating or implying that the individual is eligible for registration by the state as a respiratory care practitioner unless the individual has been registered as a respiratory care practitioner according to 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.

(b) Physician practitioners are exempt from this chapter.

(c) Nothing in this chapter shall be construed to require registration of:

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

(2) a respiratory care practitioner employed in the service of the federal government while performing duties incident to that employment.

Subd. 3. **PENALTY.** A person who violates subdivision 1 is guilty of a gross misdemeanor.

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

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Sec. 5. [147C.15] REGISTRATION REQUIREMENTS.

Subdivision 1. GENERAL REQUIREMENTS FOR REGISTRATION. To be eligible for registration, an applicant, with the exception of those seeking registration 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 and telephone number, and business address and telephone number;

(ii) the name and location of the respiratory care 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, registered respiratory therapist, or other entry or advanced level respiratory care practitioner 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.

Subd. 2. REGISTRATION BY RECIPROCITY. To be eligible for registration by reciprocity, the applicant must be credentialed by the National Board for Respiratory

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Care or other board-approved organization and have worked at least eight weeks of the previous five years as a respiratory care practitioner 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 for the practice of respiratory care 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. 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 to an applicant eligible for registration under this section if the application for registration 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 application for registration.

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 EXPIRATION. Registrations issued under this chapter expire annually.

Subd. 7. RENEWAL. (a) To be eligible for registration renewal a registrant 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;

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(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 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 by the board at the registrant's address on file with the board shall be considered as having been received by the registrant.

Subd. 9. REGISTRATION RENEWAL NOTICE. At least 30 days before the registration renewal date, the board shall send out a renewal notice to the last known address of the registrant on file. The notice must include a renewal application and a notice of fees required for renewal. It must also inform the registrant that registration will expire without further action by the board if an application for registration renewal is not received before the deadline for renewal. The registrant's failure to receive this notice shall not relieve the registrant of the obligation to meet the deadline and other requirements for registration renewal. Failure to receive this notice is not grounds for challenging expiration of registered 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 FOLLOWING LAPSE OF REGISTRATION STATUS FOR TWO YEARS OR LESS. For any individual whose registration status has lapsed for two years or less, to regain registration status, the individual must:

(1) apply for registration renewal according to subdivision 7;

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(2) document compliance with the continuing education requirements of section 147C.25 since the registrant's initial registration or last renewal; and

(3) submit the fees required under section 147C.40 for the period not registered, including the fee for late renewal.

Subd. 13. CANCELLATION DUE TO NONRENEWAL. The board shall not re-new, reissue, reinstate, or restore a registration that has lapsed and has not been renewed within two annual registration renewal cycles starting July 1997. A registrant whose registration is canceled for nonrenewal must obtain a new registration by applying for registration and fulfilling all requirements then in existence for initial registration as a respiratory care practitioner.

Subd. 14. CANCELLATION OF REGISTRATION IN GOOD STANDING.
(a) A registrant holding active registration as a respiratory care practitioner in the state may, upon approval of the board, be granted registration 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. Such action by the board shall be reported as a cancellation of registration in good standing.

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

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

Sec. 6. [147C.20] BOARD ACTION ON APPLICATIONS FOR REGISTRATION.

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

(b) The board shall determine if the applicant meets the requirements for registration 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 if registration is denied, and the applicant's right to review under paragraph (d).

(d) Applicants denied registration may make a written request to the board, within 30 days of the board's notice, to appear before the advisory council and for the advisory council to review the board's decision to deny the applicant's registration. 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 period.

Sec. 7. [147C.25] CONTINUING EDUCATION REQUIREMENTS.

Subdivision 1. NUMBER OF REQUIRED CONTACT HOURS. Two years after the date of initial registration, and every two years thereafter, a registrant applying for registration renewal must complete a minimum of 24 contact hours of board-approved

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continuing education in the two years preceding registration 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 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;
- (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 the field of respiratory care, special training in the subject matter, or experience teaching in the subject area;
- (3) the program lasts at least one contact hour;
- (4) there are specific, measurable, written objectives, consistent with the program, describing the expected outcomes for the participants; and
- (5) the program sponsor has a mechanism to verify participation and maintains attendance records for three years.

Subd. 4. HOSPITAL, HEALTH CARE FACILITY, OR MEDICAL COMPANY IN-SERVICES. Hospital, health care facility, or medical company in-service programs may qualify for continuing education credits provided they meet the requirements of this section.

Subd. 5. ACCUMULATION OF CONTACT HOURS. A registrant may not apply contact hours acquired in one two-year reporting period to a future continuing education reporting period.

Subd. 6. VERIFICATION OF CONTINUING EDUCATION CREDITS. The board shall periodically select a random sample of registrants and require those registrants to supply the board with evidence of having completed the continuing education to which they attested. Documentation may come directly from the registrant or from state or national organizations that maintain continuing education records.

Subd. 7. RESTRICTION ON CONTINUING EDUCATION TOPICS. A registrant may apply no more than a combined total of eight hours of continuing education in the areas of management, risk management, personal growth, and educational techniques to a two-year reporting period.

Subd. 8. CREDIT FOR CREDENTIALING EXAMINATION. A registrant may fulfill the continuing education requirements for a two-year reporting period by achieving a qualifying score on one of the credentialing examinations or a specialty credentialing examination of the National Board for Respiratory Care or another board-ap-

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proved testing organization. A registrant may achieve 12 hours of continuing education credit by completing a National Board for Respiratory Care or other board-approved testing organization's specialty examination.

Sec. 8. [147C.30] DISCIPLINE; REPORTING.

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

Sec. 9. [147C.35] RESPIRATORY CARE PRACTITIONER ADVISORY COUNCIL.

Subdivision 1. MEMBERSHIP. The board shall appoint a seven-member respiratory care practitioner advisory council consisting of two public members as defined in section 214.02, three registered respiratory care practitioners, and two licensed physicians with expertise in respiratory care.

Subd. 2. ORGANIZATION. The advisory council shall be organized and administered under section 15.059. The council expires June 30, 2001.

Subd. 3. DUTIES. The advisory council shall:

- (1) advise the board regarding standards for respiratory care practitioners;
- (2) provide for distribution of information regarding respiratory care practitioner standards;
- (3) advise the board on enforcement of sections 147.091 to 147.162;
- (4) review applications and recommend granting or denying registration or registration renewal;
- (5) advise the board on issues related to receiving and investigating complaints, conducting hearings, and imposing disciplinary action in relation to complaints against respiratory care practitioners;
- (6) advise the board regarding approval of continuing education programs using the criteria in section 147C.25, subdivision 3; and
- (7) perform other duties authorized for advisory councils by chapter 214, as directed by the board.

Sec. 10. [147C.40] FEES.

Subdivision 1. FEES. The board shall adopt rules setting:

- (1) registration fees;
- (2) renewal fees;
- (3) late fees;
- (4) inactive status fees;
- (5) fees for temporary permits; and
- (6) fees for temporary registration.

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Subd. 2. **PRORATION OF FEES.** The board may prorate the initial annual registration fee. All registrants are required to pay the full fee upon registration renewal.

Subd. 3. **PENALTY FEE FOR LATE RENEWALS.** An application for registration renewal submitted after the deadline must be accompanied by a late fee in addition to the required fees.

Subd. 4. **NONREFUNDABLE FEES.** All of the fees in subdivision 1 are nonrefundable.

Sec. 11. PHYSICIAN ASSISTANT ADVISORY COUNCIL MEMBERSHIP.

The current members of the physician assistant advisory council, appointed pursuant to Minnesota Rules, part 5600.2665, shall continue to serve until their terms expire.

Sec. 12. REPEALER.

Minnesota Rules, parts 4762.0010; 4762.0020; 4762.0030; 4762.0040; 4762.0050; 4762.0060; 4762.0065; 4762.0070; 4762.0080; 4762.0090; 4762.0100; 4762.0200; and 4762.0300, are repealed.

Sec. 13. EFFECTIVE DATE.

Sections 2 to 10 and 12 are effective August 1, 1997, except that, until August 1, 1998, applicants for initial registration need not meet the credentialing requirement within five years prior to registration. Fees in effect on the day before the effective date of section 12 remain in effect until the board changes them by rule.

Presented to the governor May 7, 1997

Signed by the governor May 8, 1997, 11:30 a.m.

CHAPTER 121—S.F.No. 156

An act relating to consumer protection; regulating interest payments on utility deposits; amending Minnesota Statutes 1996, section 325E.02.

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

Section 1. Minnesota Statutes 1996, section 325E.02, is amended to read:

325E.02 CUSTOMER DEPOSITS.

Any customer deposit required before commencement of service by a privately or publicly owned water, gas, telephone, cable television, electric light, heat, or power company shall be subject to the following:

(a) Upon termination of service with all bills paid, the deposit shall be returned to the customer within 45 days, less any deductions made in accordance with paragraph (c).

(b) Interest shall be paid on deposits in excess of \$20 at the rate of six not less than three percent per year. The company may, at its option, pay the interest at intervals it chooses but at least annually, by direct payment, or as a credit on bills.

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